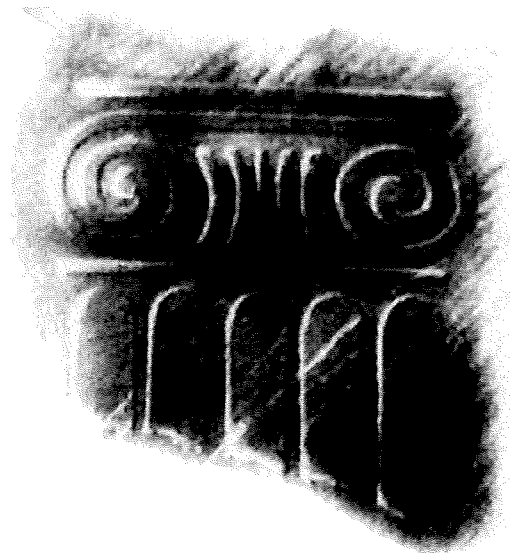


# TAS / CAS

Tribunal Arbitral du Sport  
Court of Arbitration for Sport  
Tribunal Arbitral del Deporte



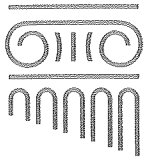
ARBITRAL AWARD

Tuzlaspor A.S., Turkey

v.

FIFA, Switzerland  
U.S. Thionville Lusitanos, France  
C.S. Orne Amneville, France  
& Arnouville F.A.S., France

CAS 2023/A/9682 - Lausanne, January 2024



**TAS / CAS**

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

**CAS 2023/A/9682 Tuzlaspor A.S. v. FIFA, U.S. Thionville Lusitanos, C.S. Orne Amnéville, Arnouville F.A.S.**

**ARBITRAL AWARD**

delivered by the

**COURT OF ARBITRATION FOR SPORT**

sitting in the following composition:

Sole Arbitrator: Mr Patrick Grandjean, Attorney-at-law, Belmont-sur-Lausanne, Switzerland

in the arbitration between

**Tuzlaspor A.S.**, Tuzla, Istanbul, Turkey

Jointly represented by Mr Juan de Dios Crespo Pérez, Attorney-at-law, Ruiz-Huerta & Crespo Sports Lawyers, Valence, Spain and Mr Ercan Sevdimbaş, Attorney-at-law, Sevdimbaş Law Firm, Istanbul, Turkey

**- Appellant -**

and

**Fédération Internationale de Football Association**, Zurich, Switzerland

Represented by Mr Saverio Paolo Spera, Senior Legal Counsel at its Litigation Department

**- First Respondent -**

**Union Sportive Thionville Lusitanos**, Thionville, France

Represented by Mr François Ventrici, its President

**- Second Respondent -**

**Club Sportif Orne Amnéville**, Amnéville, France

Represented by Mr Camille Rosso, addressee of the Allocation Statement TC-357, which is at the center of these arbitration proceedings

**- Third Respondent -**

**Association Sportive Arnouville Football**, Arnouville, France

Represented by Mr Steeven Assuied, its President

**- Fourth Respondent -**

## I. PARTIES

1. Tuzlaspor A.S. is a football club with its registered office in Tuzla, Istanbul, Turkey (“Tuzlaspor”). It is a member of the Turkish Football Federation (“TFF”), itself affiliated with the Fédération Internationale de Football Association.
2. The Fédération Internationale de Football Association (“FIFA”) is an association under Swiss law and has its registered office in Zurich, Switzerland. FIFA is the governing body of international football at worldwide level. It exercises regulatory, supervisory and disciplinary functions over continental confederations, national associations, clubs, officials and players worldwide.
3. Union Sportive Thionville Lusitanos is a football club with its registered office in Thionville, France (“U.S. Thionville Lusitanos” or “Respondent 2”). It is a member of the French Football Federation (“FFF”), itself affiliated with the FIFA.
4. Club Sportif Orne Amnéville is a football club with its registered office in Amnéville, France (“C.S. Orne Amnéville” or “Respondent 3”). It is a member of the FFF.
5. Association Sportive Arnouville Football is a football club with its registered office in Arnouville, France (“Arnouville F.A.S.” or “Respondent 4”). It is a member of the FFF.

## II. FACTUAL BACKGROUND

### A. Introduction

6. Below is a summary of the relevant facts and allegations based on the Appellant’s and FIFA’s written submissions and evidence. Respondents 2, 3 and 4 failed to file their answer within the prescribed deadline. References to additional facts and allegations found in the written submissions and evidence will be made, where relevant, in connection with the legal analysis that follows. While the Sole Arbitrator has considered all the facts, allegations, legal arguments, and evidence submitted by the Appellant and FIFA in the present proceedings, he refers in his award only to the submissions and evidence he deems necessary to explain his reasoning.

### B. The FIFA Clearing House

7. The present dispute is about the training compensation to be paid by Tuzlaspor to Respondents 2, 3, and 4 following the first professional registration of Mr Baran Kobotan, a football player born on 10 January 2005 and of Turkish nationality.
8. Pursuant to Article 20 and Annexe 4 of the applicable Regulations on the Status and Transfer of Players (“RSTP”), “*Training compensation shall be paid to a player’s training club(s): (1) when a player is registered for the first time as a professional, and (2) each time a professional is transferred until the end of the calendar year of his 23rd birthday. The obligation to pay training compensation arises whether the transfer takes*

*place during or at the end of the player's contract. The provisions concerning training compensation are set out in Annexe 4 of these regulations."*

9. The training compensation system ensures that training clubs are adequately rewarded for the efforts they invest in the training of their young players. Indeed, the objective of the training compensation system is to ensure that training clubs are adequately compensated for the costs incurred in the training of their young players. This concept aims to maintain a competitive balance between clubs and allows them to continue to train and improve the development of their players, knowing that they will be adequately compensated for their efforts. Training compensation therefore plays an important role in the development of young players and in maintaining the stability and integrity of the sport (CAS 2017/A/5103 para. 50).
10. Until fall 2022 and provided that they were aware that the requirements of Article 20 RSTP had been met ("Training Compensation Trigger"), training clubs had to submit a claim in the FIFA Transfer Matching System ("TMS") within two years and 30 days of registration. These claims were managed by the FIFA general secretariat and, in the absence of a dispute, the amounts due were paid directly by the player's new club to the player's former training clubs.
11. The above process, based on a claim system, generated a growing gap between payments due and payments actually made, as many training clubs were unaware of the existence of Training Compensation Triggers (for instance, they were unaware of the international/domestic transfer or the first professional registration of a player trained by them in the past; they are not familiar with the procedure set out in Annex 4 of the RSTP or did not use it properly). In its Answer, FIFA claims that *"at the time of the creation of the Clearing House, it was estimated that close to USD 400 million would be distributed each year to training clubs, which at the time were only receiving approximately USD 70-80 million per year."*
12. Against this background, FIFA has decided to close this gap by shifting from a claims system to an automatic entitlement system, achieved through the FIFA Clearing House ("FCH"), with the following two main objectives. The first one is to centralize, process and automate payments between clubs, initially relating to training compensation and solidarity contributions ("Training Rewards"). The second is to promote financial transparency and integrity within the international transfer system. These objectives are materialized in Article 1.2 of the FIFA Clearing House Regulations ("FCHR"). At the present time the focus is on Training Rewards but is expected to expand to other type of fees, such as agent fees or transfer fees. According to FIFA, over 10,000 training clubs will be affected each year.
13. On 22 October 2022, the FIFA Council approved the FCHR, which came into force on 16 November 2022.
14. The FCH requires the following three steps (as explained in an introductory video at [www.fifa.com/legal/football-regulatory/clearing-house](http://www.fifa.com/legal/football-regulatory/clearing-house)):

- Step 1: Clubs must ensure that all their players are properly registered with their Association from the age of 12. Member Associations (“MAs”) must have their domestic electronic systems updated with the player’s most recent career information, synchronized with FIFA’s own platforms.
  - Step 2: When a player is transferred or registered as a professional for the first time, FIFA TMS will automatically query the system of the MAs for registration data to be included in the Electronic Player Passport (“EPP”). The parties may provide additional information and the FIFA administration will determine the final version of the EPP. This final version will form the basis for the Allocation Statement which will be submitted to the FCH for payment processing. According to the definition contained in the FCHR, the Allocation Statement is “*the document issued by the FIFA general secretariat to the FCH that provides it with the necessary information to process payments, notably the paying and receiving parties and the amounts to be distributed*” (see definition in FCHR).
  - Step 3: The FCH is a regulated financial institution based in France that will process payments between clubs. Upon receipt of the Allocation Statement, the FCH will conduct a compliance assessment of all the clubs involved in the Training Rewards to make sure that international financial regulations are respected. Once the clubs have passed the compliance assessment, the new club will be required to pay the relevant amount to the FCH, which will distribute the Training Rewards to the pertinent training clubs.
15. In the present dispute, Step 2 is particularly relevant and consists of the following phases:
- Pursuant to Articles 5 and 8 FCHR, the first registration of a player as a professional constitutes a Training Rewards Trigger and generates a provisional EPP.
  - The Inspection Period: The provisional EPP will be available for inspection in TMS by all MAs and clubs for ten days after generation (Article 8.2 FCHR). Training MAs with registration information about the player automatically participate in the review process.
  - The EPP Review Process: Upon completion of the Inspection Period, the FIFA general secretariat will open an EPP review process in TMS and “*invite the following parties to participate: a) the member associations that have provided registration information relating to the player through the FIFA Connect interface; b) their relevant affiliated club(s); c) the new club and its member association [...]*” (Article 9.1 FCHR). This EPP review process shall last ten days but can be extended by the FIFA general secretariat at its discretion (Article 9.2 FCHR). During this phase, the MAs may review and/or request the amendment of any registration information (Article 9.3 FCH), the new club of the player may provide waivers of Training Rewards from the training clubs of the player (Article 9.7 FCHR) and the respective training clubs may challenge the validity of the waiver provided by the new club (Article 9.8 FCHR).

- FIFA Determination: After completion of the EPP Review Process, the FIFA general secretariat evaluates any request to amend registration information and any documentation provided, including proof of waivers and proof of contract offers. It may request further information or documentation. In particular, the FIFA general secretariat may request any party involved in an EPP Review Process, whether during or after the EPP Review Process, to provide its position as to the entitlement of a club to receive Training Rewards (e.g. with respect to the alleged registration of a player, the validity of a waiver or a contract offer) (Article 10.2 FCHR).
- The Final EPP: Following the completion of its evaluation, the FIFA general secretariat will decide on the registration information to be incorporated and amended in the final EPP. In the event of situations of legal or factual complexity, the FIFA general secretariat can transfer the complete file to the FIFA Dispute Resolution Chamber (“DRC”) *“and the EPP review process is paused pending a decision”*. The DRC will decide on the final EPP (Article 10.3).
- Allocation Statement: The FIFA general secretariat will notify the final EPP (together with the decision by the DRC) and the Allocation Statement to all parties that participated in the EPP Review Process (Article 10.5 FCHR).

***C. The Player’s first registration as a professional***

16. Mr Baran Kobotan is a football player born on 10 January 2005 and of Turkish nationality (the “Player”).
17. It is undisputed that, until 30 January 2023, the Player was registered with the following clubs as an amateur:
  - With Arnouville F.A.S:
    - from 01.01.2017 to 30.06.2017 (number of days of registration: 181)
    - from 01.07.2017 to 31.12.2017 (number of days of registration: 184)
    - from 01.01.2018 to 30.06.2018 (number of days of registration: 181)
    - from 27.07.2018 to 31.12.2018 (number of days of registration: 158)
    - from 01.01.2019 to 30.06.2019 (number of days of registration: 181)
  - With C.S. Orne Amnéville
    - from 26.08.2019 to 31.12.2019 (number of days of registration: 128)
    - from 01.01.2020 to 30.06.2020 (number of days of registration: 182)
  - With U.S. Thionville Lusitanos:
    - from 01.07.2020 to 31.12.2020 (number of days of registration: 184)
    - from 01.01.2021 to 30.06.2021 (number of days of registration: 181)
    - from 25.08.2021 to 31.12.2021 (number of days of registration: 129)
    - from 01.01.2022 to 30.06.2022 (number of days of registration: 181)
    - from 05.09.2022 to 31.12.2022 (number of days of registration: 118)
    - from 01.01.2023 to 29.01.2023 (number of days of registration: 29)

18. It is also undisputed that, at the relevant time, Arnouville F.A.S and C.S. Orne Amnéville fell into “category 4” within the meaning of the FIFA training costs and categorisation of clubs in connection with training compensation. So was U.S. Thionville Lusitanos, until 2021 when it turned into a “category 3” club.
19. In the beginning of 2023, Tuzlaspor approached U.S. Thionville Lusitanos in order to acquire the Player’s services. In this context and on 20 January 2023, the Respondents 2, 3 and 4 signed the following statement:

*“There is no objection from our Club for Player Baran Kobatan and Tuzlaspor A.Ş. to sign a Professional Football Player Agreement.*

*By signing this document, we also accept and undertake that we completely waive our training compensation and solidarity contribution rights according to FIFA RSTP, that we will not make any demands in this regard and that we consent to the transfer of the Player free of charge.”*

20. On 30 January 2023, the Player signed his first professional contract with Tuzlaspor.

***D. The final EPP and the Allocation Statement regarding the Player***

21. Pursuant to Article 5 FCHR, the first registration of the Player as a professional on 30 January 2023 constituted a Training Rewards Trigger. Articles 5.9 and 5.10 FCHR govern the specific situation of a “*First registration as a professional at a different member association from that where the player was most recently registered as an amateur.*” These provisions state the following:

*“5.9: The first registration of a player as a professional at a different member association from that where the player was most recently registered as an amateur shall be entered in TMS as an international transfer as required by the RSTP and its Annexe 3.*

*5.10: TMS will identify, from the information provided in the international transfer instruction, the first registration of a player as a professional, which may trigger an entitlement to training rewards pursuant to the RSTP*

22. On 30 January 2023, a provisional EPP was generated in accordance with Article 8 FCHR and the 10-day Inspection Period started.
23. On 10 February 2023, the EPP Review Process was initiated with the participation of Tuzlaspor, Respondents 2, 3, 4, the TTF and the FFF.
24. On 10 February 2023, the TFF uploaded in TMS a copy of the “*Employment contract*” and a “*Proof of registration*”.
25. On 17 February 2023, the FFF uploaded in TMS a “*Proof of Registration*”.
26. Tuzlaspor did not intervene in the EPP Review Process.

27. On 21 February 2023, the provisional EPP was “*moved into validation*”.
28. On 28 February 2023 and through TMS, FIFA sent to Tuzlaspor a message entitled “*IMPORTANT: Request for submission of documentation in the EPP*”, which had the following content:

*“Please note that your club or member association is participating in this electronic player passport (EPP) and that its review phase is now closed.*

*We noticed that new registration information concerning the player in question has been included in the EPP by the participating member association(s) during the review process, in line with article 9 of FIFA Clearing House regulations.*

*Based on the above, please be informed that the said new registration information is now available to you in the EPP.*

*In accordance with art. 10 par. 1 and 10 par. 2 of the Clearing House regulations, we kindly ask you to provide any documentation relevant to the entitlement to training rewards of any relevant club in the EPP, including but not limited to waivers or contract offers provided by the training clubs of the player, by no later than 6 March 2023 [...].”*

29. Tuzlaspor did not act on this request within the prescribed deadline.
30. On 5 May 2023 and after completion of the EPP review as well as of its evaluation, the FIFA general secretariat decided on the registration information to be incorporated in the final EPP, corresponding to EPP17023, which was approved. Simultaneously, the Allocation Statement TC-357 was generated, with the following conclusion:

*“8. [Tuzlaspor] shall pay training compensation to the training club(s) of the player in the total amount of EUR 90,191.77.*

*9. The following training club(s) shall receive the following payment(s).*

*9.1. The training club U.S. THIONVILLE LUSITANOS (FFF) shall receive training compensation payments from the new club of the player in the amount of EUR 57,465.67.*

*9.2. The training club C.S. ORNE AMNEVILLE (FFF) shall receive training compensation payments from the new club of the player in the amount of EUR 8,479.53.*

*9.3. The training club ARNOUVILLE F.A.S. (FFF) shall receive training compensation payments from the new club of the player in the amount of EUR 24,246.57.*

*10. The payments defined in this Allocation Statement shall be made through the FIFA Clearing House entity (FCH), in accordance with articles 12, 13 and 14 of the FCHR. The FCH will contact the new club, the relevant training clubs and the relevant member associations to process these payments*

*11. According to the relevant provisions of RSTP and FCHR, it is the new club that will be required to pay training rewards due to the training clubs concerned,*



*and the new club may not assign responsibility to pay the amount requested to any other party.*

12. *Pursuant to article 57 paragraph 1 of the FIFA Statutes and in accordance with article 10 of the FCHR, this decision may be appealed before the Court of Arbitration for Sport within 21 days of notification. The final EPP will remain available in TMS.”*
31. On 5 May 2023, Tuzlaspor, the Respondents 2, 3 and 4 were notified of the Allocation Statement decision issued by the FIFA general secretariat (the “Appealed Decision”).
32. On 6 May 2023, Tuzlaspor responded for the first time to the message of 28 February 2023 in the following terms:

*“The documents required to be uploaded in the epp process about the waiver were not uploaded to the system due to reasons beyond the control of the club. For this reason, there seem to be costs that should not actually exist. Regarding this, can we upload the waiver of training documents as invoices for those payments that should not actually be? or in this case, should we follow an appeal process against epp?”*
33. In its Answer filed in these arbitration proceedings, FIFA confirmed that “[in] reply to a further (belated) query, FIFA explained to Tuzlaspor that, pursuant to Article 10 (5) FCHR, the notification of the EPP and the Allocation Statement to all the parties in the EPP review process is considered a final decision by the FIFA general secretariat for the purposes of Article 57 (1) FIFA Statutes and may be appealed to CAS within the statutory time limit”.

### **III. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT**

34. On 25 May 2023, Tuzlaspor filed a Statement of Appeal with the Court of Arbitration for Sport (“CAS”) against the Appealed Decision in accordance with Article R47 *et seq.* of the Code of Sports-related Arbitration (the “Code”).
35. On 31 May 2023, the CAS Court Office acknowledged receipt of Tuzlaspor’s Statement of Appeal and of its payment of the CAS Court Office fee. It invited the Respondents to comment within five days on Tuzlaspor’s request to refer the present matter to a sole arbitrator. With this respect, the Respondents’ attention was drawn to the fact that in the absence of an answer or in case of disagreement, it would be for the President of the CAS Appeals Arbitration Division, or her Deputy, to decide the issue, taking into account the circumstances of the case, in accordance with Article R50 of the Code. The Respondents were also required to state within five days whether they accepted Tuzlaspor’s petition for a 15-day extension of its deadline to file its Appeal Brief.
36. On 1 June 2023, U.S. Thionville Lusitanos requested from the CAS Court Office to send a French version of the documents submitted so far.

37. On 5 June 2023, both Tuzlaspor and FIFA confirmed that they had no objection to a bilingual (French – English) procedure. With regard to the composition of the Arbitration Panel, FIFA requested that the matter be submitted to a three-member panel, which Tuzlaspor agreed to, provided that the Respondents pay their shares of the advance of costs.
38. On 8 June 2023, given FIFA's consent and in the absence of any objection from the other Respondents, the CAS Court Office confirmed that Tuzlaspor's request for an extension of its deadline for filing its Appeal Brief was granted.
39. On 8 June 2023, all of the Respondents confirmed that they had no objection to a bilingual procedure but refused to pay their shares of the advance of costs. However, FIFA maintained its request that the case be heard by a panel of three arbitrators.
40. On 8 and 9 June 2023, Tuzlaspor maintained its request to refer the dispute to a sole arbitrator and agreed to the implementation of a bilingual procedure.
41. On 14 June 2023, the CAS Court Office informed the Parties that the President of the CAS Appeals Arbitration Division had decided to refer this matter to a sole arbitrator, pursuant to article R50 (1) of the Code.
42. On 20 June 2023 and within the extended time-limit, Tuzlaspor filed its Appeal Brief in accordance with Article R51 of the Code.
43. On 21 June 2023, the CAS Court Office acknowledged receipt of Tuzlaspor's Appeal Brief and invited the Respondents to file their Answer within twenty days.
44. On 22 June 2023, FIFA informed the CAS Court Office that it would not pay its share of the advance of costs and requested the time limit to file its Answer to be fixed once the advance of costs had been fully paid by Tuzlaspor.
45. On 10 July 2023, Respondent 2 requested an extension of the deadline to file its Answer until the end of July 2023, which was eventually granted following Tuzlaspor's tacit consent.
46. On 11 July 2023, the CAS Court Office took good note that Respondents 3 and 4 did not submit their Answer within the prescribed time limit.
47. On 4 August 2023, the CAS Court Office took good note of the request of Respondent 2 filed on 31 July 2023, that the time limit to file its Answer be set once the advance of costs had been fully paid by Tuzlaspor.
48. On 4 August 2023, the CAS Court Office acknowledged receipt of Tuzlaspor's payment of its share of the advance of costs and invited FIFA and Respondent 2 to submit their Answer within 20 days.
49. On 8 August 2023, FIFA requested a 10-day extension of the deadline to file its Answer, which was eventually granted.

50. On 5 September 2023, the CAS Court Office acknowledged receipt of the Answer filed by FIFA on 4 September 2023 and noted that Respondent 2 failed to submit its Answer within the prescribed time limit. It invited the Parties to state whether they prefer a hearing to be held in this matter or for the Sole Arbitrator to issue an award based solely on the Parties' written submissions.
51. On 5 September 2023, Tuzlaspor confirmed to the CAS Court Office that it preferred for a hearing to be held in this matter while, on 8 September 2023, FIFA confirmed that it did not consider a hearing necessary. Respondents 2, 3 and 4 did not taken position regarding a hearing, within the prescribed time limit.
52. On 11 September 2023, the CAS Court Office informed the Parties that the Deputy President of the CAS Appeals Arbitration Division had appointed Mr Patrick Grandjean, Attorney-at-law, Belmont-sur-Lausanne, Switzerland as Sole Arbitrator.
53. On 27 September 2023, the CAS Court office informed the Parties that the Sole Arbitrator deemed himself sufficiently well informed to issue his decision solely on the basis of the written submissions and sent them the Order of Procedure. This order was returned duly signed by Tuzlaspor on the same day, by Respondent 2 on 3 October 2023 and by FIFA on 4 October 2023. Respondents 3 and 4 failed to return a signed copy of this document within the prescribed deadline.

#### IV. SUBMISSIONS OF THE PARTIES

##### A. *The Appellant*

54. In its Appeal Brief, Tuzlaspor submitted the following requests for relief:

*“Considering the above, the Appellant herein requests:*

- 1. To accept this Statement of Appeal against the [Appealed Decision];*
- 2. Adopt an award to set aside the decision appealed and to determine that the Appellant shall not pay any training compensation to any club.*
- 3. To condemn [FIFA] to the payment of the whole CAS administration costs and arbitrators' fees – if any.*
- 4. That [FIFA] shall pay the legal fees of the Club regarding this procedure.”*

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

- On 6 February 2023, Turkey was struck by a major earthquake, prompting the declaration of a three-month state of emergency for the whole country starting as from 9 February 2023. “[All] sport events, including the football competitions were called off in the country till March 2023, when, still during the state of emergency, the clubs were facing such a difficult situation to still recover from the shock and suffer cause by the earthquake.” Due to this unforeseeable circumstance, Tuzlaspor was unable to deal with the “Request for submission of

*documentation in the EPP*” sent via TMS on 28 February 2023 and was not in a position to upload in TMS the waivers signed by the Respondents 2, 3 and 4.

- *“It is also important to highlight that this [is] a new process the clubs are dealing with, so they are not used to it and the situation was difficult enough to, in addition, start a new process and being able to comply with it properly.”*
- *“As it is widely accepted, an earthquake is an event of force majeure and there is no doubt that this exceptional and extraordinary situation can be subsumed inside of the reasonable justification to not being able to fulfill the TMS obligations, and the breach of not uploading the waiver documents in the TMS should be understood as justified”.*
- On 12 May 2023, Tuzlaspor *“asked the FIFA Clearing House to open a second EPP process in order to upload the documents regarding the waiver of training fees received by the Club from former clubs of the Player, taking into account the force majeure situation that happened in Turkey that prevented the Club from uploading the abovementioned documents in TMS before”.* With *“a big lack of humanity”* and in response to Tuzlaspor, the FCH advised that, in accordance with the relevant regulations, the waivers had to be uploaded in TMS as part of the review process, which was completed and resulted in the notification of the Appealed Decision on 5 May 2023. According to Tuzlaspor, the FCH confirmed that *“in line with the FCHR, the said notified documents are then final, and only subject to appeal before the Court of Arbitration for Sport within 21 days as indicated in the notifications of relevance”.* In other words, Tuzlaspor had no other choice but to challenge the Appealed Decision before the CAS.
- The waivers signed on 20 January 2023 by Respondents 2, 3 and 4 are perfectly valid as they comply with FIFA Regulations and Swiss law. In several CAS precedents, Panels have also concluded that it is possible for clubs to waive their right to training compensation. *“[It] is crystal clear from the conclusive evidence attached in the claim, and the unambiguous wording of the documents signed, that the three clubs entitled to training compensation regarding Baran Kobatan truly and clearly waived its rights to training compensation and solidarity contribution according to the FIFA RSTP.”*
- With its Appealed Decision, FIFA is forcing Tuzlaspor to make payments to Respondents 2, 3 and 4 for a claim that they do not have and that does not exist.

## ***B. The Respondents***

### FIFA

56. In its Answer, FIFA submitted the following requests for relief:

*“Based on the foregoing, FIFA respectfully requests CAS to issue an award on the merits:*

- (a) rejecting the reliefs sought by the Appellant;*
- (b) confirming the Appealed Decision; and*
- (c) ordering the Appellant to bear the full costs of these arbitration proceedings-”*

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

- The Player was first registered as a professional with Tuzlaspor, which is therefore liable to pay training compensation to Respondents 2, 3 and 4, unless they have waived their rights. In such a situation and in accordance with Article 9.7 FCHR, Tuzlaspor was under the obligation to upload in TMS any waiver of this right by the Player’s former training clubs. Tuzlaspor did not comply within the prescribed deadline, despite being expressly requested to do so.
- The FCH is a key component of the ongoing transfer system reform and is design namely to protect the integrity of the football transfer system, enhance and promote financial transparency, prevent fraudulent conduct in the football transfer system while ensuring that clubs of MAs are treated and remunerated fairly for the work they put in during the early phases of a player’s career. There was an important gap between Training Rewards that are due and Training Rewards that are actually paid to training clubs. This imbalance has now been mitigated by the introduction of a process to automatically calculate and distribute Training Rewards. This new system comes with a review process involving the relevant clubs and MAs, *“which allows FIFA to determine the EPP’s final version, thereby creating transparency, ensuring accuracy, and facilitating the calculation of training rewards.”*
- *“[At] the time of the creation of the Clearing House, it was estimated that close to USD 400 million would be distributed each year to training clubs, which at the time were only receiving approximately USD 70-80 million per year”.*
- The FCH will process an extremely large number of EPP, generating thereby a considerably higher amount of Training Rewards. *“Compared with the average of 1,000/1,200 claims that were previously solved yearly, the massive increase in numbers is plain to see. In particular, around 300 to 400 EPPs are solved every week.”*
- *“The described aim of financial transparency/integrity and the avoidance of fraudulent conducts in this numerical context determines, amongst other things, the clear need for a strict application of the rules.”* It is imperative that the FCHR are applied and complied with strictly.
- From an administrative standpoint, in view of the very large number of parameters and interests to be taken into account, it would be highly challenging

- for FIFA to (i) allow exceptions to the rules (such as Article 9 FCHR) every time a club does not comply with the regulatory obligations imposed on it and (ii) “*examine the seriousness of the club’s allegation (such as the unfounded force majeure belated claim as in the present case)*”. “*More importantly, this would – inter alia – undermine one of the purposes of the introduction of an automatized system in the first place: the efficiency of the payment*” (emphasis by FIFA).
- “*The ‘flexibility’ that [Tuzlaspor] indirectly seems to invoke (under the label of ‘humanity’...) also presents the problem of creating uncertainty in the system. This, in turns, runs the risk of undermining another crucial purpose of the FCH in the first place, which is the avoidance of fraudulent conducts*” (emphasis by FIFA), such as new clubs forcing training clubs to sign late waivers with the sole purpose of circumventing the FCHR.
  - In the present case, given that Respondents 2, 3 and 4 have allegedly waived their rights to training compensation, Tuzlaspor should be able to recover from these clubs the amounts, which will be allocated to them through the FCH.
  - An earthquake certainly can qualify as a case of force majeure. However, it still remains to be seen whether this natural disaster has made it impossible or extremely difficult for Tuzlaspor to comply with its obligations under the FCHR. In the present case, Tuzlaspor failed “*to demonstrate how and why the task it was required to perform by the FCHR (i.e., uploading a document on TMS) was rendered impossible beyond any resistance by that event*” (emphasis by FIFA). In this respect, it should be noted that:
    - the earthquake in question hit southern and central Turkey, as well as northern and western Syria, and not northern Turkey, where the Club is based. “*In particular, it shall be the case to emphasise that the epicentre of the earthquake was around the city of Gaziantep, whereas Tuzla is a municipality of Istanbul – the two being about **1,100 Km apart***” (emphasis by FIFA).
    - “*the 3-month state of emergency was not declared country-wide as the Appellant contends (without evidence, as per the rest of its submission), but only in the 10 provinces worst affected*”, which does not include the province of Istanbul, where Tuzlaspor is located.
  - “*A quick look at the Club’s activity on TMS during the period from February to May 2023 dispels any residual doubts one might possibly have. During this time, in fact, the Club: (i) logged on TMS on a regular basis (almost daily), (ii) performed various activities on the platform and (iii) **even accessed the EPP in question** (precisely on 17 February 2023, 22 February 2023, 10 March 2023 and various times in May 2023) **without – however- ever uploading any waivers***” (emphasis by FIFA).
  - “[Tuzlaspor] was not prevented from performing any activity on TMS due to force majeure, it simply did not upload the waivers. To conclude, then, there is no other

*way to describe [Tuzlaspor's] conduct but as one of inexcusable negligence”*  
(emphasis by FIFA).

Respondents 2, 3 and 4

58. Although duly invited by the CAS Court Office, Respondents 2, 3 and 4 did not file their Answer to the Appeal Brief.

**V. JURISDICTION**

59. The jurisdiction of the CAS, which is not disputed, derives from Article 57 (1) of the applicable FIFA Statutes, Article 10.5 FCHR and Article R47 of the Code. It is further confirmed by the Order of Procedure duly signed by the Tuzlaspor, FIFA and Respondent 2.
60. It follows that the CAS has jurisdiction to decide on the present dispute.
61. Under Article R57 of the Code, the Sole Arbitrator has the full power to review the facts and the law.

**VI. ADMISSIBILITY**

62. The appeal is admissible as Tuzlaspor submitted it within the deadline provided by Article R49 of the Code as well as by Articles 57 (1) of the applicable FIFA Statutes and 10.5 FCHR. It complies with all the other requirements set forth by Article R48 of the Code.

**VII. APPLICABLE LAW**

63. Article R58 of the 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 the Panel deems appropriate. In the latter case, the Panel shall give reasons for its decision.”*

64. Pursuant to Article 56 (2) of the applicable 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”.
65. Pursuant to Article 19 FCHR, “[These] Regulations shall apply to all transactions in which the trigger for the entitlement of training rewards occurs as from the day on which these Regulations enter into force”.
66. On 30 January 2023, the Player signed his first professional contract with Tuzlaspor, which triggered an entitlement to Training Rewards pursuant to the RSTP. This

happened after 1 July 2022 and 16 November 2022, which are the dates when the FIFA Statutes, edition May 2022, and the FCHR, edition October 2022, came into force.

67. These are the editions of the rules and regulations, which the Sole Arbitrator will rely on to adjudicate this case.

### VIII. MERITS

68. Tuzlaspor claims that, due to the earthquake that occurred in Turkey on 6 February 2023, it was prevented from following up on the “*Request for submission of documentation in the EPP*” sent by FIFA via TMS on 28 February 2023 and from uploading in TMS the waivers signed by Respondents 2, 3 and 4. Conversely, FIFA contends that, in the circumstances of the case, Tuzlaspor’s conduct can only be characterized as inexcusable negligence and the FCHR must be rigorously enforced.

69. The main issues to be resolved by the Sole Arbitrator are:

- A. Did Tuzlaspor face unforeseeable obstacles beyond its control, which prevented it from uploading the waivers in TMS within the set time limit?
- B. With its appeal before the CAS, can Tuzlaspor compel the FIFA general secretariat to consider the waivers signed by Respondents 2, 3 and 4 and, thereby, remedy its omission of not uploading them in TMS within the established timeframes?

70. The Sole Arbitrator will address these issues in turn below.

**A.- *Did Tuzlaspor face unforeseeable obstacles beyond its control, which prevented it from uploading the waivers into the TMS within the set time limit?***

71. On 6 February 2023, an earthquake of a magnitude of 7.8 struck southern and central Turkey and northern and western Syria. Over 50,000 people died and hundreds of thousands were left homeless. According to information available on the Internet, the epicentre of the earthquake was more than 1,000 km from the province of Istanbul, of which Tuzla is a district and where only minor tremors were felt. This tragic event deeply disturbed the entire nation but also the global community. It is also very credible, as stated by Tuzlaspor’s counsel, in a mail sent to FIFA on 12 May 2023 that “*many employees of the client club lost their lives in the said earthquake*”.

72. Tuzlaspor claims that this earthquake created a situation of force majeure, rendering the performance of its obligation under the FCHR temporarily impossible.

73. Article 22.2 FCHR states that “*Cases of force majeure shall be decided by the FIFA Council, whose decisions are final*”. Tuzlaspor has neither alleged nor proven that the FIFA Council has taken a decision to qualify the earthquake of 6 February 2023 as a case of force majeure.



74. The legal concept of force majeure is widely and internationally accepted and, in particular, is valid and applicable under Swiss law, which is relevant to the present dispute. Under Swiss law, there is no statutory definition of force majeure. However, and according to the Swiss Tribunal federal (“SFT”), there is force majeure in the presence of an unforeseeable and extraordinary event that occurs with irresistible force (CAS 2021/A/7673 & CAS 2021/A/7699 para. 85 *et seq.* and references). CAS recent jurisprudence describes a force majeure event as “*an objective impediment beyond the control of the obliged party that is unforeseeable, that cannot be resisted and that renders the performance of the obligation impossible*” (CAS 2022/A/8708 para. 120 and references).
75. It appears from the above considerations that Tuzlaspor has the burden of proof that a) it was objectively impossible for it to perform its obligations under the FCHR in a timely manner, b) because of the earthquake of 6 February 2023, c) there is a causal link between the earthquake and its failure to answer timely to the “*Request for submission of documentation in the EPP*” sent by FIFA via TMS on 28 February 2023 and d) it is not at fault.
76. With respect to the burden of proof, Article 8 of the Swiss Civil Code (“CC”) states that “*Unless the law provides otherwise, the burden of proving the existence of an alleged fact shall rest on the person who derives rights from that fact*”. As a result, the Sole Arbitrator reaffirms the principle established by CAS jurisprudence that “*in CAS arbitration, any party wishing to prevail on a disputed issue must discharge its burden of proof, i.e. it must meet the onus to substantiate its allegations and to affirmatively prove the facts on which it relies with respect to that issue. In other words, the party which asserts facts to support its rights has the burden of establishing them. The Code sets forth an adversarial system of arbitral justice, rather than an inquisitorial one. Hence, if a party wishes to establish some facts and persuade the deciding body, it must actively substantiate its allegations with convincing evidence*” (CAS 2014/A/3546, para. 7.3 and references). In general, the burden of proof is satisfied whenever the judge is convinced of the truthfulness of a factual allegation based on objective grounds. Absolute certainty is not required. It is sufficient if the judge has no serious doubt about the existence of the alleged facts or if any remaining doubt appears to be tenuous (ATF 130 III 321, consid. 3.3).
77. On file, there is not any documented information related to a) the measures taken by the Turkish government following the earthquake in question, b) how these measures directly and concretely affected Tuzlaspor, c) whether Tuzlaspor suffered the consequences of the earthquake, for how long and to what extent. Tuzlaspor did not offer any evidence that it was objectively impossible for it to perform its obligations under the FCHR because of the earthquake or any explanation as to why it was unable to contact the FCH before 6 May 2023, when it answered for the first time to the “*Request for submission of documentation in the EPP*” sent by FIFA via TMS on 28 February 2023. In particular, it did not meet its burden of proof that it was not at fault in failing to comply with that request.
78. It follows from the above that Tuzlaspor relied exclusively on unsubstantiated general statements according to which “[due] to the force majeure situation, the information

*mail sent about the EPP process on 28 February 2023 could not be examined by [Tuzlaspor] due to the situation the club and the country were involved in” or “[Tuzlaspor] was dealing with a difficult situation when FIFA started the EPP review process on 28 February 2023”.* These statements are all the less convincing as, according to the evidence on the record, Tuzlaspor logged into TMS almost daily between 14 February and 6 May 2023 and uploaded various documents, including waivers, in TMS on many occasions. Tuzlaspor also accessed the Player’s EPP on 17 February 2023, 22 February 2023, 10 March 2023 and on various times in May 2023 and has resumed playing matches as from 4 March 2023.

79. Tuzlaspor failed in its duty to objectively demonstrate the existence of what it alleges. It is not sufficient for it to simply assert a state of fact for the Sole Arbitrator to accept it as true. This is especially true since *“The conditions for the occurrence of force majeure are to be narrowly interpreted, since force majeure introduces an exception to the binding force of an obligation”* (CAS 2021/A/7673 & CAS 2021/A/7699 para. 86 and references).
80. In conclusion, the Sole Arbitrator finds that Tuzlaspor has not provided any convincing reasons as to why it did not respond in a timely manner to the *“Request for submission of documentation in the EPP”* sent by FIFA via TMS on 28 February 2023. Tuzlaspor was properly notified of the aforementioned request and, whether by deliberate action or through negligence, failed to properly upload in TMS the waivers signed by Respondents 2, 3 and 4.

**B.- With its appeal before the CAS, can Tuzlaspor compel the FIFA general secretariat to consider the waivers signed by Respondents 2, 3 and 4 and, thereby, remedy its omission of not uploading them in TMS within the established timeframes?**

81. Articles 17 FCHR *et seq.* set up a whole disciplinary system for MAs and clubs, which fail to comply with the obligations arising from these regulations. However, the FCHR do not expressly state what can be challenged by way of the appeal mechanism provided for under Article 10.5 lit. b) FCHR. In particular, the FCHR do not appear to prohibit a club or a MA which has failed to act, whether culpably or not, during the EPP Review Process, from remedying its failure during its appeal, for example by relying on a valid waiver, which it did not upload in TMS in a timely manner.
82. Pursuant to Article 5 FCHR, the first registration of the Player as a professional constituted a Training Rewards Trigger and, on 30 January 2023, a provisional EPP was generated in accordance with Article 8.1 FCHR. The 10-day Inspection Period started (Article 8.2 FCHR), at the end of which the EPP Review Process was initiated with the participation of Tuzlaspor, Respondents 2, 3, 4, the TTF and the FFF.
83. The relevant provisions governing the EPP Review Process read as follows:
- 9.2 *The EPP review process shall last ten (10) days. The FIFA general secretariat may, at its discretion, exceptionally extend its duration.*

- 9.7 *Where a training club has waived its right to receive training rewards, proof of a valid waiver shall be uploaded in TMS by the new club.*
- 9.8 *A training club that believes that a waiver submitted by the new club in relation to the registration of the player at the training club is not valid may challenge the validity of the waiver by submitting a written notice in TMS.*
- 9.9 *The FIFA general secretariat may request any party involved in an EPP review process to provide further information at any time.*
- 10.1 *After completion of the EPP review process, the FIFA general secretariat will evaluate any request to amend registration information.*
- a) *Where a request is unclear or incomplete, the FIFA general secretariat may request the relevant party to provide further information within five (5) days.*
- b) *Failure to comply with FIFA's request within the time limit shall result in the request being disregarded.*
- 10.2 *The FIFA general secretariat may request any party involved in an EPP review process, whether during or after the EPP review process, to provide its position as to the entitlement of a club to receive training rewards (e.g. with respect to the alleged registration of a player, the validity of a waiver or a contract offer).*
- 10.3 *Following the completion of its evaluation, the FIFA general secretariat will decide on the registration information to be incorporated and amended in the final EPP. In situations of legal or factual complexity, the following shall apply:*
- a) *The FIFA general secretariat shall refer the matter to the Dispute Resolution Chamber in accordance with the Procedural Rules. [...]*
- 10.4 *An Allocation Statement will be automatically calculated by TMS based on the final EPP, including the amount(s) to be distributed to training clubs.*
- 10.5 *The FIFA general secretariat will notify the final EPP and the Allocation Statement to all parties in the EPP review process.*
- a) *This notification will include the decision of the Dispute Resolution Chamber [...].*
- b) *This notification shall be considered a final decision by the FIFA general secretariat for the purposes of article 57 paragraph 1 of the FIFA Statutes and may be appealed to the Court of Arbitration for Sport (CAS).*

84. A literal interpretation of the above provisions leaves many questions unanswered. For instance, the FCHR do not state:
- whether the time limit set out in Article 9.2 FCHR is indicative or mandatory. In the FCHR, there is no express indication of the repercussions for failing to meet the deadline (is the FIFA general secretariat really going to refuse to take into account a waiver uploaded in TMS on the day following the completion of the EPP Review Process?);
  - what the MA or the new club can do if, for practical reasons, they cannot meet the deadline set by Article 9.2 FCHR (for instance, the negotiations between the new club and the training clubs regarding the terms of the waivers last longer than expected and exceed the deadline set by the FCHR).
  - what are the exceptional circumstances under which the FIFA general secretariat may extend the duration of the EPP Review Process and how will the principles of fairness, impartiality, equal treatment and uniformity be respected;
  - on the basis of what criteria the FIFA general secretariat will decide to refer the case to the FIFA the Dispute Resolution Chamber (the “DRC”) and whether a club or a MA may request that the case be referred to the DRC or object to it;
  - whether, during the proceedings before the DRC, a club may rely on the waivers it failed or could not upload in TMS during the deadline prescribed by Article 9.2 FCHR;
  - whether the decisions/measures taken by the FIFA general secretariat during the EPP Review Process can be challenged and if yes, how;
  - what is the scope of the appeal filed against the notification of the final EPP and the Allocation Statement in accordance with Article 10.5 b) FCHR. In other words, what can actually be challenged with this appeal? In particular, there is no indication that a club is prohibited from raising new arguments and submitting new evidence (such as the waivers that it failed or could not upload during the EPP Review Process) in its appeal and, thereby, from contesting the validity of the final EPP and the Allocation Statement. There is also no suggestion that the CAS should in any way limit its full power of review as granted by Article R57 (1) of the Code or exclude evidence presented by the parties if it was available to them or could reasonably have been discovered by them before the challenged decision was rendered as provided under Article R57 (3) of the Code.
85. There are also some inconsistencies in the above-mentioned provisions, which for instance state that “*after completion of the EPP review process*”, the FIFA general secretariat is required to carry out a number of tasks, including the possible referral of the matter to the DRC, in which case the EPP Review Process is paused pending a decision. How can the EPP Review Process be suspended when the case can be referred to the DRC only upon its completion? In other words, is it unreasonable to claim that, as

long as the EPP Review Process is not completed, a club may upload waivers in TMS, bearing in mind that Article 9.7 FCHR does not expressly set any time limit?

86. Rules such as the FCHR are subject to the methods of interpretation applicable to statutory provisions rather than contracts (Decision of the SFT 4A\_600/2016 of 29 June 2017 consid. 3.3.4; CAS 2020/A/7356, para. 75 and references). According to the SFT, the starting point for interpreting is indeed its wording (literal interpretation). There is no reason to depart from the plain text, unless there are objective reasons to think that it does not correspond in all respects to the true meaning of the provision under review (SFT 4A\_600/2016, 28 June 2017, consid. 3.3.4.2). This may result from the drafting history of the provision, from its purpose, or from the systematic interpretation of the law. Where the text is not entirely clear and there are several possible interpretations, the true scope of the provision will need to be narrowed by taking into account all the pertinent factors, such as its relationship with other legal provisions and its context (systematic interpretation), the goal pursued, especially the protected interest (teleological interpretation), as well as the intent of the legislator as it is reflected, among others, from the drafting history of the piece of legislation in question (historical interpretation) (ATF 132 III 226 consid. 3.3.5 and references ATF 131 II 361 consid. 4.2; CAS 2018/A/5747; CAS 2018/A/5748 & CAS 2018/A/5749 para. 42).
87. In the present case, one of the objectives of the FCH is to centralise, process and automate the payment of Training Rewards between clubs. Given the substantial number of transactions involved, the considerable sums at stake, and the large number of parameters and information supplied by both MAs and clubs, it is imperative that the system in place maintains a rigorous approach to ensure its effectiveness and provide a degree of predictability and legal certainty.
88. The successful implementation of this system relies on the effective cooperation of MAs and clubs, in order to determine the final version of the EPP and to calculate accurately the Training Rewards in an accurate and foreseeable manner. The collaboration of the MAs and the Clubs is essential in drawing up the final EPP and the Allocation Statement. The Sole Arbitrator understands that the various deadlines set by the FCHR are there to structure the intervention of each of the parties concerned, thus enabling them to exercise their rights in a coordinated and transparent manner.
89. The first stage of the process is that of generating the provisional EPP, followed by a 10-day Inspection Period. During that period, MAs and clubs have the rights detailed under Articles 8.2 and 8.3 FCHR. After this timeframe elapses, and unless the FIFA General Secretariat at its discretion, reopens a provisional EPP (Article 8.4 FCHR), MAs and clubs will no longer have the opportunity to exercise their rights as stipulated in Articles 8.2 and 8.3 FCHR. This will trigger the initiation of the EPP Review Process, which, too, will last for a period of ten days (Article 9.2 FCHR). Only the FIFA general secretariat can extend this deadline under exceptional circumstances and at its discretion (Article 9.2 FCHR) or by referring the case to the DRC (Article 10.3), pausing thereby the EPP Review Process. The Sole Arbitrator infers from these provisions that the time limit set forth in Article 9.2 FCHR is mandatory at the very least, for those MAs and clubs which, as in the present case, have been negligent and, in

a faulty manner, have allowed the specified time limits to expire, before exercising their rights and/or obligations.

90. In these circumstances and once the 10-day time limit has passed, there is no possibility for such negligent MAs or clubs to exercise the rights conferred upon them by Article 9.3 FCHR *et seq*, including the ability to upload a valid waiver in TMS pursuant to Article 9.7 FCHR. If this reasoning were not to be followed, it would mean that a club could upload in TMS documents at any time, preventing the EPP Review Process from being completed, and rendering Article 9.2 FCHR meaningless. This would create a great deal of uncertainty regarding the reliability of the information contained in TMS, as it could be amended until the notification of the final EPP and the Allocation Statement. It would also give negligent clubs the power to cause harm and take dilatory action to the detriment of training clubs, which comply with the FCHR.
91. For the same reasons, the Sole Arbitrator is of the opinion that, if a negligent club, through its own fault, fails to comply with the time limits set forth in Article 9.2 FCHR, it should not be permitted to remedy its culpable inaction by filing an appeal accompanied by the missing waivers. This would constitute a case of abuse of right and compromise the efficiency and reliability of the entire process and potentially place the training clubs in a situation where they would be involved in costly and unpredictable arbitration proceedings that could result in delays in the payment of their compensation, which is certainly contrary to one of the primary purposes of the creation of the FCH. It could also expose training clubs to abusive litigations, forcing them to weigh the merits of continuing the proceedings or entering into negotiations, potentially reducing some or all of their Training Rewards.
92. In the present case, it has been established that Tuzlaspor had no valid excuses for not uploading the waivers signed by Respondents 2, 3 and 4 in TMS within the prescribed deadlines set by Article 9.2 FCHR. The litigious waivers were in Tuzlaspor's hands as from 20 January 2023 and this club had several opportunities to upload these documents in TMS in a timely manner. As a matter of fact, at each stage of the procedure carried out under the FCHR, Tuzlaspor was informed of its rights and duties. Moreover, several days after the provisional EPP was "*moved into validation*", Tuzlaspor was expressly requested (via a message entitled: "IMPORTANT") to submit any waiver it might have within an additional week. Bearing in mind that Tuzlaspor logged into TMS almost daily between 14 February and 6 May 2023 and uploaded various documents, including waivers, in TMS on many occasions, Tuzlaspor was perfectly familiar with the FCHR. In these circumstances, and for the reasons mentioned above, the appeal filed by Tuzlaspor before the CAS cannot result in reopening the EPP Review Process. At most, this appeal can only challenge the calculation of the training compensation, which was first brought to the attention of Tuzlaspor following the notification of the Appealed Decision. However, in its Appeal Brief, the amount in question and its calculation are not contested. As a consequence, there is no reason to revisit these criteria.

**C.- Conclusion**

93. In view of the objectives of the FCHR, its interpretation cannot reasonably lead to the establishment of an appeal mechanism which would allow a negligent club to rectify its

failure to comply with the regulatory obligations and cooperation which form the basis of the EPP review process. Hence, the Sole Arbitrator holds that the Appealed Decision must be confirmed in its entirety, without any modification.

94. The Sole Arbitrator wishes to clarify that, on the basis of the wording of the FCHR, he cannot confirm that he would reach to the same conclusion if the new club had not been negligent, had requested an extension of the regulatory deadline for reasonable reasons, had been unable to obtain in a timely manner the waivers for reasons beyond its control, expressly objected to measures taken by the FIFA secretariat general during the EPP Review Process and/or had done its utmost to meet the imposed deadlines but had been unsuccessful.
95. The above conclusion, finally, makes it unnecessary for the Sole Arbitrator to consider the other requests submitted by the Parties. Accordingly, all other prayers for relief are rejected.

#### IX. COSTS

96. Article R64.4 of the Code, which is applicable to this proceeding, provides:

*“At the end of the proceedings, the CAS Court Office shall determine the final amount of the cost of the 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.”*

97. Article R64.5 of the Code reads as follows:

*“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.”*

98. In the present case, the appeal must be dismissed. Therefore, Tuzlaspor should bear the entirety of the costs of the present arbitration, which will be determined and served to the Parties by the CAS Court Office in a separate letter.
99. Furthermore, as a general rule the award grants the prevailing party a contribution toward its legal fees and other expenses incurred in connection with the proceedings. In consideration of all circumstances and in particular, the behaviour of the Parties, the relatively succinct submissions filed by Tuzlaspor and FIFA, the absence of submissions filed by Respondent 2, 3 and 4, taking into account the fact that no hearing took place before the CAS, the Sole Arbitrator finds equitable that each party shall bear its own legal and other costs incurred in connection with this arbitration.

\* \* \* \* \*



**ON THESE GROUNDS**

**The Court of Arbitration for Sport rules that:**

1. The appeal filed by Tuzlaspor A.S. against the Determination of the FIFA General Secretariat on Allocation Statement TC-357 corresponding to EPP 17023 is dismissed.
2. The Determination of the FIFA General Secretariat on Allocation Statement TC-357 corresponding to EPP 17023 is confirmed.
3. The costs of the arbitration, to be determined and served to the Parties by the CAS Court Office in a separate letter, shall be borne by Tuzlaspor A.S. in their entirety.
4. Each party shall bear its own legal and other costs incurred in connection with this arbitration.
5. All other motions or prayers for relief are dismissed.

Lausanne, 25 January 2024

**THE COURT OF ARBITRATION FOR SPORT**

Patrick Grandjean  
Sole Arbitrator

