



TAS / CAS

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

CAS 2024/A/10551 ESTAC v. Torino FC S.P.A. & FIFA

ARBITRAL AWARD

delivered by the

COURT OF ARBITRATION FOR SPORT

sitting in the following composition:

Sole Arbitrator: Mr Manfred Nan, Attorney-at-Law, Amsterdam, The Netherlands

in the arbitration between

Espérance Sportive Troyes Aube Champagne (ESTAC), Troyes, France

Represented by Ms Patricia Moyersoen and Mr Nicolas Bône, Attorneys-at-Law, Moyersoen Avocats, Paris, France

Appellant

and

Torino Football Club S.P.A., Torino, Italy

Represented by Mr Paolo Lombardi and Mr Luca Pastore, Attorneys-at-Law, Lombardi Associates Limited, Edinburgh, United Kingdom

First Respondent

and

Fédération Internationale de Football Association (FIFA), Zurich, Switzerland

Represented by Mr Miguel Liétard Fernández-Palacios, Director of Litigation, Ms Cristina Pérez González, Senior Legal Counsel, and Mr Roberto Nájera Reyes, Senior Legal Counsel, FIFA Litigation Department, Miami, Florida, United States of America

Second Respondent

* * * * *

I. PARTIES

1. Espérance Sportive Troyes Aube Champagne (the “Appellant” or “ESTAC”) is a professional football club composed of i) the Association Esperance Sportive Troyes Aube Champagne; and ii) the SASP Esperance Sportive Troyes Aube Champagne, with its registered office in Troyes, France. ESTAC is registered with the French Football Federation (*Fédération Française de Football* – the “FFF”), which in turn is affiliated to the *Fédération Internationale de Football Association*.
2. Torino Football Club S.P.A. (the “First Respondent” or “Torino”) is a professional football club with its registered office in Torino, Italy. Torino is registered with the Italian Football Federation (the *Federazione Italiana Giuoco Calcio* – the “FIGC”), which in turn is affiliated to the *Fédération Internationale de Football Association*.
3. The *Fédération Internationale de Football Association* (the “Second Respondent” or “FIFA”) is an association incorporated under Swiss law with its registered office in Zurich, Switzerland. FIFA is the governing body of international football. It exercises regulatory, supervisory and disciplinary functions over continental confederations, national associations, clubs, officials and players worldwide.
4. Torino and FIFA are hereinafter jointly referred to as the “Respondents”, and together with ESTAC as the “Parties”.

II. INTRODUCTION

5. These proceedings revolve around ESTAC’s claim for training compensation following Torino’s registration of Mr Ali Bina Dembele, born on 5 January 2004, with French nationality (the “Player”).
6. Following this registration, the FIFA General Secretariat (the “FIFA GS”) notified a decision on 17 April 2024 (the “Appealed Decision”), considering that “[n]o club is entitled to training compensation”.
7. In the present appeal arbitration proceedings before the Court of Arbitration for Sport (“CAS”), ESTAC is challenging the Appealed Decision, requesting the annulment of the Appealed Decision and the issuance of a new decision ordering Torino to pay training compensation to ESTAC in the amount of at least EUR 239,534.25, plus interest. Torino and FIFA request for a confirmation of the Appealed Decision.

III. FACTUAL BACKGROUND

8. Below is a summary of the main relevant facts, as established based on the Parties’ written and oral submissions and the evidence examined in the course of the proceedings. This background information is given for the sole purpose of providing a synopsis of the matter in dispute. Additional facts may be set out, where relevant, in connection with the legal discussion.

A. Background Facts

9. Between 6 July 2018 and 31 July 2020, the Player was registered with ESTAC as an amateur.
10. On 1 August 2020, the Player signed his first employment contract as a professional football player with ESTAC and he remained registered with ESTAC until 1 July 2022. The financial terms of this first employment contract are unknown.
11. On 25 April 2022, ESTAC offered the Player a trainee contract (*contrat de joueur stagiaire*) for two football seasons with the following monthly remuneration:
 - 2022-2023 season: EUR 1,061 in *Ligue 1* / EUR 778 in *Ligue 2*;
 - 2023-2024 season: EUR 1,202 in *Ligue 1* / EUR 1,061 in *Ligue 2*.
12. The Player never replied to ESTAC with respect to the offer of 25 April 2022.
13. On 11 July 2022, Torino offered the Player the following employment conditions for his registration with Torino:

“Season 2022/2023:

- Scholarship EUR 800,00 [...] for 10 (ten) months
- Food and accommodation at International Training Centre of the ILO in Torino (our Club House);
- Private Italian lessons;
- Tutoring H24 for 7/7 days;
- Private Insurance;
- FIGC Insurance;
- 2 flights go and back

In case of the Professional contract from July 2023, the following conditions:

Season 2023/2024:

- EUR 20,000,00 [...] net.

Season 2024/2025:

- EUR 25,000,00 [...] net.

Season 2025/2026:

- EUR 30,000,00 [...] net.

Bonus:

- Every matches in Serie A in which the player plays at least 30 minutes with [Torino] first team EUR 3,000,00 [...]. The bonus once reached will cumulate on the season after”.

14. On 28 July 2022, the Player was registered as an amateur with Torino by the FIGC. According to Torino, no employment contract was concluded with the Player, but that the Player only signed the FIGC registration form titled “*VARIAZIONE DI TESSERAMENTO PER CALCIATORI GIOVANI DI SERIE*” (the “Registration Form”).
15. On 24 August 2022, the Player announced the following on Instagram: “*Very happy to sign my first professional contract with [Torino]*”. Various other social media publications reported that the Player signed a professional employment contract with Torino.
16. On the same date, ESTAC contacted Torino for the first time, requesting the payment of training compensation for the Player. This request was declined by Torino, principally holding that the Player was registered with Torino as an amateur, that no employment contract had been concluded and that therefore no training compensation was due. Following this exchange of correspondence, various further correspondence was exchanged between ESTAC and Torino.
17. On 4 October 2022, in a published interview between journalist Christophe Mallet and the Player, the Player is quoted as follows: “*The initial project of the Torino with me is the professional team. I signed a four-year contract. But, for now, I play with the Primavera, it’s a championship of young pro clubs, you will play everywhere in Italy. It’s a stepping stone*”.
18. On 3 January 2023, the Player was inserted in the LEGA policy, a mandatory insurance for players to participate in the Serie A.
19. Between 4 and 21 January 2023, the Player was called up by Torino for three Serie A matches and one match in the Italian Cup, but he did not make any appearance in these matches.
20. On 17 July 2023, the Player signed a professional employment contract with Torino for a period of four football seasons, valid until 30 June 2027.
21. On 18 July 2023, the Player was registered as a professional football player with Torino by the FIGC.

B. Proceedings before the FIFA General Secretariat

22. On 17 April 2024, and based on the Electronic Players’ Passport (the “EPP”) review process in the FIFA Transfer Matching System (“FIFA TMS”), in which, *inter alia*, the Parties were involved, the FIFA General Secretariat notified the final EPP (the “Appealed Decision”), with the following operative part:

“Conclusion

11. *In consideration of the above and in accordance with the [FIFA Clearing House Regulations – the “FCHR”] and annexes 4 and 5 to the [FIFA Regulations on the Status and Transfer of Players – the “FIFA RSTP”], the FIFA general secretariat has determined the entitlement of clubs to training rewards for the above as follows.*

12. *No club is entitled to training compensation.*
13. *All of the above determinations and decisions are reflected in the EPP in question and/or will be considered in the generation of any Allocation Statement from this EPP for the calculation and distribution of training rewards in accordance with article 13 of the FCHR”.*
23. The grounds of the Appealed Decision, *inter alia*, provide as follows:

“Determination of the FIFA general secretariat on EPP 32695 (cf. article 10 FCHR)

7. *The FIFA general secretariat hereby determines the registration history of the player from the start of the calendar year of the player’s 12th birthday until the aforementioned training rewards trigger. This registration history is considered true and accurate for the period in question, in accordance with the information provided by the member associations that participated in the generation and review of the EPP, in accordance with article 10 of the FCHR. The registration history as determined by the FIFA general secretariat is as follows:*

<i>Club and member association</i>	<i>Start of registration</i>	<i>End of registration</i>	<i>Status</i>	<i>Nature of registration</i>
<i>TORINO F.C. S.P.A. FIGC, Italy FIFA ID: 1092XJJ Status: Affiliated Training category: 1</i>	<i>18/07/2023</i>	<i>Currently registered</i>	<i>Professional</i>	<i>Permanent</i>
<i>TORINO F.C. S.P.A. FIGC, Italy FIFA ID: 1092XJJ Status: Affiliated Training category: 1</i>	<i>17/07/2023</i>	<i>17/07/2023</i>	<i>Amateur</i>	<i>Permanent</i>
<i>TORINO F.C. S.P.A. FIGC, Italy FIFA ID: 1092XJJ Status: Affiliated Training category 1</i>	<i>28/07/2022</i>	<i>30/06/2023</i>	<i>Amateur</i>	<i>Permanent</i>
<i>ES TROYES AC FFF, France FIFA ID: 143F72E Status: Affiliated Training category: 1</i>	<i>01/08/2020</i>	<i>01/07/2022</i>	<i>Professional</i>	<i>Permanent</i>
<i>ES TROYES AC FFF, France</i>	<i>06/07/2018</i>	<i>31/07/2020</i>	<i>Amateur</i>	<i>Permanent</i>

<i>FIFA ID: 143F72E</i> <i>Status: Affiliated</i> <i>Training category: 1</i>				
F.C. BOURGET <i>FFF, France</i> <i>FIFA ID: 143F8UF</i> <i>Status: Affiliated</i> <i>Training category: 4</i>	<i>01/01/2016</i>	<i>30/06/2018</i>	<i>Amateur</i>	<i>Permanent</i>

Considerations for entitlement to training rewards (cf. article 10 FCHR)

8. *For the purpose of distribution of training rewards, the FIFA general secretariat makes the following determinations in consideration of the documents and information provided by the parties within the EPP review process.*
9. ***Registration with [ESTAC] between 1 August 2020 and 1 July 2022, 6 July 2018 and 31 July 2020:***
 - 9.1. *The player reacquired professional status in the sense of art. 3 par. 2 RSTP with [Torino] after having originally terminated his professional activity with [ESTAC] on 1 July 2022.*
 - 9.2. *In this scenario, only the club(s) with which the player was registered as an amateur directly prior to their 're-registration' as a professional is (are) entitled to training compensation. Any previous club of the player would not be entitled to training compensation.*
 - 9.3. *[ESTAC] is therefore not entitled to training compensation for the registration of the player at the club during the aforementioned period(s).*

[...]"

IV. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT

24. On 6 May 2024, ESTAC filed a Statement of Appeal with CAS, challenging the Appealed Decision, in accordance with Articles R47 and R48 of the 2023 edition of the Code of Sports-related Arbitration (the "CAS Code"). In this submission, ESTAC requested to establish French as the language of the proceedings and that the case be submitted to a sole arbitrator. Furthermore, it requested Torino to produce certain documents.
25. On 14 May 2024, FIFA informed the CAS Court Office that it did not agree to establish French as the language of the proceedings, submitting that the present procedure was to be conducted in English. Furthermore, FIFA agreed with the appointment of a sole arbitrator on the condition that the sole arbitrator would be selected from the football list.

26. On 14 and 15 May 2024, Torino informed the CAS Court Office that the current proceedings should be conducted in English and that it did not object to the appointment of a sole arbitrator.
27. On 17 May 2024, ESTAC informed the CAS Court Office that it consented to establishing English as the language of the proceedings, which was subsequently confirmed by the CAS Court Office.
28. On 6 June 2024, ESTAC filed its Appeal Brief in accordance with Article R51 CAS Code. In its Appeal Brief, ESTAC filed the following evidentiary requests: i) the document production requests as detailed in its Statement of Appeal were reiterated; ii) the Panel was requested to call the Player as a witness; and iii) ESTAC requested permission for a second round of written submissions to be filed.
29. On 5 and 8 July 2024 respectively, FIFA and Torino filed their Answers in accordance with Article R55 CAS Code.
30. On 15 July 2024, upon being invited to express its preference in this respect, ESTAC informed the CAS Court Office of its preference to hold a case management conference and an in-person hearing. Furthermore, ESTAC requested the Panel i) to summon the Player (who is under the control of Torino) as a witness; and ii) to order Torino to produce the following documents and the opportunity to supplement its Appeal Brief upon receipt thereof:

“All agreements concluded or documents exchanged by and between [Torino] and the Player in direct or indirect relation to the latter from January 1, 2022 and until August 31, 2023;

All exchanges (such as emails, WhatsApp’s, messages) occurring directly or indirectly between [Torino] and the Player, and/or his representatives and/his family and/or agents, from January 1, 2022 and until August 31, 2023;

All the documents / agreements / contractual commitments concluded between the Player and [Torino] from January 1, 2022 and until August 31, 2023;

Indication of the payments made to the Player, and/or his representatives and/his family and/or agents directly or indirectly by [Torino] since January 1, 2022 and until August 31, 2023;

All the salary slips of the Player with [Torino] since his registration with [Torino]”.

31. On 16 July 2024, Torino and FIFA indicated that the dispute could be resolved based on the Parties’ written submissions without a hearing.
32. On 17 July 2024, the CAS Court Office invited the Respondents to comment on ESTAC’s evidentiary requests.

33. On 18 July 2024, the CAS Court Office informed the Parties that, pursuant to Article R54 CAS Code, and on behalf of the President of the CAS Appeals Arbitration Division, the arbitral tribunal appointed to hear the appeal was constituted as follows:

Sole Arbitrator: Mr Manfred Nan, Attorney-at-Law in Amsterdam, The Netherlands

34. On 19 July 2024, FIFA informed the CAS Court Office that, as ESTAC's evidentiary requests pertained only to the status of the Player with Torino, FIFA would refrain from commenting thereon and left it to Torino to comment, as the party directly affected by the relevant requests.
35. On 24 July 2024, Torino requested the Sole Arbitrator to reject ESTAC's evidentiary requests.
36. On 29 July 2024, on behalf of the Sole Arbitrator, the CAS Court Office informed the Parties as follows:

“The Sole Arbitrator took note of [Torino's] submission that no agreements, documents or contracts are concluded with the Player, except for the Registration Form. However, for the sake of good order, [Torino] is ordered to produce any such documents to the extent they exist. If the Sole Arbitrator ultimately finds that [Torino] failed to produce any existing documents, the Sole Arbitrator may draw adverse inferences therefrom.

[Torino] is ordered to produce correspondence with the Player and/or his agent(s) in the period 1 April 2022 – 1 August 2022 and evidence of payments, including salary slip(s), to the Player from July 2022 up until 31 August 2023.

[Torino] is invited to provide English translations of the not translated part of the Italian documents in exhibit III.

[ESTAC] is invited to provide an English translation of the French Statement of Appeal”.

37. On 7 August 2024, ESTAC provided the CAS Court office with a free translation into English of the Statement of Appeal.
38. On 13 August 2024, Torino provided the CAS Court Office with multiple documents, explaining that the Registration Form is indeed the only existing document relating to the Player's registration with Torino.
39. On 19 August 2024, the CAS Court Office informed the Parties that the Sole Arbitrator considered that the Parties had complied with the instructions as set out in the CAS Court Office letter dated 29 July 2024, inviting ESTAC to comment on the documents produced by Torino.
40. On 4 September 2024, ESTAC filed its comments.
41. On 30 September 2024, further to an invitation to do so by the CAS Court Office, Torino filed its observations to ESTAC's comments, also providing two new documents.

42. On 3 October 2024, on behalf of the Sole Arbitrator, the CAS Court Office informed the Parties as follows:

“The Sole Arbitrator took note of the Parties’ correspondence, in particular [ESTAC’s] letter dated 4 September 2024, and [Torino’s] letter dated 30 September 2024.

Having considered these submissions, the Sole Arbitrator is not convinced by [Torino’s] argument regarding the correspondence of Mr. Michele di Bari that it ‘cannot provide such information in order to comply with both the CFR, GDPR and Italy’s own Decree pertaining to data protection and privacy regulations’.

The Sole Arbitrator repeats the position communicated to the Parties by the CAS Court Office on 29 July 2024 that ‘if the Sole Arbitrator ultimately finds that [Torino] failed to produce any existing documents, the Sole Arbitrator may draw adverse inferences therefrom’. This is without prejudice to any position the Sole Arbitrator may eventually take with respect to Mr. di Bari’s correspondence.

Should [Torino] wish to produce any correspondence of Mr. di Bari, it is invited to do so [...]”.

43. On 7 October 2024, Torino informed the CAS Court Office that an authorisation from Mr Di Bari *“to access his email account and any correspondence relevant to the matter at the crux of these proceedings [...] would meet the requirements of the applicable law”*, requesting an extension of the time limit granted *“in order to allow the carrying out of the authorisation process and, possible, the perusing of any relevant email exchange”*, which extension was granted.
44. On 17 October 2024, Torino confirmed the CAS Court Office that *“it has been granted such authorisation”*, enclosing a written and duly signed authorisation of Mr Di Bari.
45. On 25 October 2024, Torino filed its comments including ten enclosures, requesting the Sole Arbitrator to not disclose the enclosures to ESTAC and FIFA *“due to the confidential nature of certain emails e.g. Torino’s monetary responsibilities”* and *“to ensure that the GDPR and the Italian Legislative Decree 101/2018 are complied with”*.
46. On 28 October 2025, the CAS Court Office invited ESTAC and FIFA to comment on Torino’s request.
47. On the same day, FIFA informed the CAS Court Office that, as the issue exclusively concerned the clubs, it did not have any comments.
48. On 30 October 2024, ESTAC informed the CAS Court Office that *“access to all the documents is indispensable, especially considering the financial aspects”* and therefore it *“must be given the opportunity to comment on such evidence to ensure the impartiality and fairness of the procedure”*.
49. On 1 November 2024, on behalf of the Sole Arbitrator, the CAS Court Office informed the Parties as follows:

“The Sole Arbitrator took note of the Parties’ correspondence regarding [Torino’s] request to not disclose the enclosures with its letter dated 25 October 2024 to [ESTAC] and [FIFA] ‘due to the confidential nature of certain emails e.g. Torino’s monetary responsibilities’ and ‘to ensure that the GDPR and the Italian Legislative Decree 101/2018 are complied with’.

Having considered these submissions, the Sole Arbitrator notes that [Torino] in its letter dated 7 October 2024 confirmed that Mr Di Bari’s written authorisation ‘would meet the requirements of the applicable law to access his email account and any correspondence relevant to the matter at the crux of these proceedings’. Further, by letter dated 17 October 2024, [Torino] filed Mr Di Bari’s duly signed written authorisation in which Mr Di Bari, inter alia, authorises [Torino] ‘to use, and therefore to produce copies of, any e-mail messages selected by you in the consultation referred to in the preceding sentence, in the context of the arbitration proceedings pending between Torino Football Club S.p.A. and the French club ESTAC concerning the FIFA decision relating to the training compensation for the [Player], without any limitation whatsoever’.

Furthermore, the Sole Arbitrator deems it important for [ESTAC] and [FIFA] to be granted an opportunity to comment on the e-mails provided to respect due process and the right to be heard of [ESTAC] and [FIFA].

Finally, [Torino’s] general reliance on the GDPR and the Italian Legislative Decree 101/2018 remained insufficient substantiated.

Based on the above, the Sole Arbitrator finds that [ESTAC] and [FIFA] are to be provided with the pertinent enclosures.

Regarding the alleged confidential nature of certain emails, including [Torino’s] monetary responsibilities, the Sole Arbitrator refers to Article R59(7) of the Code, which provides that (i) in any event, all elements of the case record shall remain confidential and that (ii) the award, a summary and/or a press release setting forth the results of the proceedings shall be made public by CAS, unless both parties agree that they should remain confidential. On this basis, once an award is issued, [Torino] may file a substantiated request for certain parts of the award or the entire award to remain confidential.”

[ESTAC] and [FIFA] may file their comments with respect to the content of the enclosures to [Torino’s] letter dated 25 October 2024 [...].”

50. On 6 November 2024, FIFA informed the CAS Court Office that it had no comments regarding the content of the enclosures to Torino’s letter of 25 October 2024 as these enclosures were provided solely to clarify the issue of the Player’s status with Torino, which FIFA considered to be an issue exclusively concerning the clubs.
51. On 8 November 2024, ESTAC filed its comments regarding the content of the enclosures to Torino’s letter of 25 October 2024 and requested the production of several documents and translations.

52. On 11 November 2024, the CAS Court Office invited Torino to comment or to produce the documents and translations sought by ESTAC on a voluntary basis.
53. On 18 November 2024, Torino filed its comments, producing the requested translations and new documents, some of them “*for the eyes of the Sole Arbitrator alone*”.
54. On 21 November 2024, on behalf of the Sole Arbitrator, the CAS Court Office informed the Parties that ESTAC’s document production and translation requests can be considered satisfied, inviting ESTAC and FIFA to comment on Torino’s request not to share some exhibits. Furthermore, the Parties were informed that the Sole Arbitrator had decided not to permit a second round of submissions, that he did not consider it necessary to hold a case management conference but that he, considering the Parties’ positions, had decided to hold a hearing.
55. On 22 November 2024, FIFA informed the CAS Court Office that it did not intend to attend the hearing, unless required by the Sole Arbitrator, and that it did not have any specific comments on the non-disclosure of some of Torino’s exhibits.
56. On 27 November 2024, Torino informed the CAS Court Office of its preference to hold a hearing by videoconference and arguing that FIFA’s presence at the hearing was required.
57. On 2 December 2024, ESTAC informed the CAS Court Office of its preference for the hearing to be held by videoconference.
58. On 3 December 2024, the CAS Court Office informed the Parties as follows:

“The Sole Arbitrator has considered the parties comments regarding the hearing.

[FIFA] is advised that, according to the CAS Code, it is a decision by each Party whether or not to attend a hearing. In accordance with Article R57 (4) of the Code, if ‘any of the parties, or any of its witnesses, having been duly summoned, fails to appear, the Panel may nevertheless proceed with the hearing and render an award.’ The Sole Arbitrator does not see any reason in the present matter to deviate from the rules of the Code and, therefore, it is up to [FIFA], as for any of the other Parties, to decide whether or not they wish to participate or not, acknowledging that the Sole Arbitrator will be entitled to proceed with the hearing and deliver its Award.

Be as it may, the Sole Arbitrator notes [Torino’s] comments on this issue, in particular regarding the application of Article 3(2) FIFA RSTP ‘and the qualification of what the FIFA Commentary outlines as ‘shortly afterwards’’. The Sole Arbitrator finds that this is an issue for FIFA to consider” (emphasis omitted).

59. On 4 December 2024, FIFA informed the CAS Court Office that it would not attend the hearing, addressing the issues raised by Torino in its letter dated 27 November 2024.
60. On 5 December 2024, on behalf of the Sole Arbitrator, the CAS Court Office invited the Parties and their witnesses to appear at the hearing by videoconference on 23 January

2024. Furthermore, the CAS Court Office invited the Parties to sign and return the Order of Procedure enclosed to such letter.

61. On the same date, FIFA returned a duly signed copy of the Order of Procedure, confirming its non-attendance at the hearing, and informing the CAS Court Office that FIFA's right to be heard has been respected up to such date.
62. On 12 December 2024, ESTAC and Torino returned duly signed copies of the Order of Procedure.
63. On 20 January 2025, and on behalf of the Sole Arbitrator, the CAS Court Office ordered Torino to make the Player available at the hearing.
64. On 23 January 2025, a hearing was held by videoconference. At the outset of the hearing, the Parties confirmed that they had no objection to the constitution and composition of the arbitral tribunal.
65. In addition to the Sole Arbitrator, and Mr Fabien Cagneux, CAS Managing Counsel, the following persons attended the hearing:
 - a) For ESTAC:
 - 1) Mr Mehdi Khellaf, Legal Manager of ESTAC;
 - 2) Ms Patricia Moyersoen, Counsel;
 - 3) Mr Nicolas Bône, Counsel;
 - 4) Mr Shiv Ghangiany, Interpreter.
 - b) For Torino:
 - 1) Mr Andrea Bernardelli, General Secretary of Torino;
 - 2) Mr Paolo Lombardi, Counsel;
 - 3) Mr Luca Pastore, Counsel;
 - 4) Ms Emily Anne Williams, Counsel;
 - 5) Ms Samantha Cipollina, Interpreter.
 - c) FIFA did not attend the hearing.
66. The following witnesses were heard, in order of appearance:
 - 1) Mr Ali Bina Dembele, the Player, witness requested by ESTAC, ordered by the Sole Arbitrator and made available by Torino;
 - 2) Mr Michele di Bari, Torino's former Academy Sporting Secretary, witness called by Torino.
67. Both witnesses were invited by the Sole Arbitrator to tell the truth subject to the sanctions of perjury under Swiss law. The Parties and the Sole Arbitrator had full opportunity to examine and cross-examine the witnesses.
68. The Parties were given full opportunity to present their cases, submit their arguments and answer the questions posed by the Sole Arbitrator.

69. Before the hearing was concluded, the Parties expressly stated that they had no objection to the procedure adopted by the Sole Arbitrator and that their right to be heard had been respected.
70. On 24 January 2025, on behalf of the Sole Arbitrator, the CAS Court Office granted the Parties a deadline until 7 February 2025 to liaise and submit a settlement agreement.
71. On 12 February 2025, in the absence of any information provided by the Parties by 7 February 2025, on behalf of the Sole Arbitrator, the CAS Court Office informed the Parties that it was understood that they had apparently not succeeded in reaching a settlement, closing the evidentiary phase of the proceedings.

V. SUBMISSIONS OF THE PARTIES AND REQUESTS FOR RELIEF

72. The Sole Arbitrator confirms that he carefully heard and took into consideration in his decision all the submissions, evidence, and arguments presented by the Parties, even if they have not been specifically summarised or referred to in the present arbitral award.

A. The Appellant

73. ESTAC's submissions, in essence, may be summarised as follows:

The Player has been a professional with Torino since July 2022

- Notwithstanding the registration as an amateur with the FIGC, the Player must be considered a professional in accordance with Articles 2 and 20 FIFA RSTP, as ESTAC has serious and consistent evidence that the contract concluded between the Player and Torino in July 2022 was a professional one.
- All publicly available information, including announcements of the Player himself and two agencies, press articles, post messages with pictures, indicates that the Player and Torino signed a professional contract for the duration of four years. Pictures posted on social media also demonstrate that the Player signed a written contract with Torino.
- This is confirmed by the documents provided by Torino, which show that the Player accepted Torino's offer dated 11 July 2022 by signing the registration form on 15 July 2022. Therefore, it can be concluded that there is a written contract between Torino and the Player with the terms set out in the signed letter. This written contract meets the requirements of Article 2(2) FIFA RSTP.
- Considering the existence of the written contract and that the Player – similar to the remuneration and benefits offered by ESTAC – clearly was paid more for his football activity than the expenses he effectively incurs, as is confirmed by Torino's offer dated 11 July 2022 and the WhatsApp conversation between Mr Cherif and Mr Ludergrani, the prerequisites regarding the professional status set out in Article 2(2) FIFA RSTP are met. In this regard, it is not relevant to the assessment of his professional status that the Player was registered as a 'giovanni di serie'. The name and type of registration are

completely irrelevant to the status of the Player in light of Article 2(2) FIFA RSTP.

- Furthermore, it is incomprehensible how a player who has been offered a professional contract by his training club would accept to sign an amateur contract with a club from a different country. The fact that both ESTAC and Torino made the Player offers that exceed the minimum monetary threshold of Article 2(2) FIFA RSTP, confirms his ability to play football at a professional level in the summer of 2022.
- The amount of salary the Player receives is by far the most among the players receiving a scholarship at Torino, exceeding the second highest amount by 60%. This is a clear indication that Torino valued the services of the Player a lot higher than the ones of the other players that were paid with a scholarship. Furthermore, it appears that the Player was also entitled to receive an amount of EUR 15,000, which amount is not correlated to the scholarship in the amount of EUR 8,000. It increases the total amount of money attributed to the Player and must thus be considered in the assessment of his status in the 2022/23 season.
- Also, the level at which the Player has been playing with Torino strongly suggests that he has been a professional player ever since the beginning of his first contract with Torino, *inter alia*, being called up for three *Serie A* matches in the 2022/23 season and for one match in the Italian Cup.
- The fact that the Player was inserted in the LEGA policy one day before he was part of the first team squad on 4 January 2023 cannot have any indicative effect on Torino's intention. More important is that the Player was already included in the first team's training since at least 4 October 2022.
- Torino had the clear intention to avoid paying training compensation by circumventing the applicable regulations, artificially splitting up a contract of a total duration of 4 years in two parts (1+3), as can be seen in the WhatsApp communication between Mr Mohamed Cherif and Mr Luder gnani, in which Mr Luder gnani says "*If I'd do more, we're at risk because otherwise this would be like a contract*".
- The mere existence of new negotiations does not prove that an agreement was not already in place in the summer of 2022. On the contrary, there was already an agreement in place for 2023-2026.

In the alternative, Torino should still pay the training compensation for the re-registration of the Player as a professional

- In the alternative, and with reference to FIFA's Commentary on the Regulations on the Status and Transfer of Players (the "FIFA Commentary") and CAS case law, Torino should still pay training compensation for the re-registration of the Player as a professional in accordance with the exception laid down in Article 3(2) FIFA RSTP, as the Player regained professional status less than 30 months after he had lost it.

- Any interpretation to the contrary leads to the creation of a loophole in the FIFA training compensation system, because it would allow clubs to i) transfer a player and register him as an amateur; ii) use the player in professional football matches; iii) re-register the player as a professional shortly afterwards; and iv) circumvent the FIFA training compensation system by not paying any kind of compensation.
- The Player never lost his ability to play at a professional level. Torino's way of acting constitutes a *venire contra factum proprium* and therefore violates the principle of *bona fides*. The contradictory behaviour of Torino is not consistent with the *ratio legis* of Article 3(2) of the FIFA RSTP. There is no need to pay training compensation only if a player loses his ability to play football, which, as has been clearly demonstrated, is not the case here. Awarding training compensation to ESTAC is therefore not only in line with the *ratio legis* of Article 3(2) FIFA RSTP, but also essential for the integrity of the training compensation system.

74. On this basis, ESTAC submits the following prayers for relief in its Appeal Brief:

“1. On these grounds, the Appellant requires the CAS to:

- Under Article 44.3 of CAS Code, order Torino FC to produce all agreements concluded and all documents exchanged by and between the Respondent and the Player in direct or indirect relation to the latter (within ten days of CAS decision on it);
- Under Article 44.1 of the CAS Code, the Appellant requires for a second round of written submission to be take place;
- Under Article 57 of CAS Code, the Appellant considers that a hearing is necessary for the appropriate resolution of the present proceedings
- Under Article 51 of CAS Code, the Appellant requests the CAS to call the Player, Mr Ali Bina DEMBELE, as a witness.

2. Even if the procedural requests are not admitted, to:

- Rule that the Player has been a professional with Torino FC since his first registration on 28 July 2022;
- Annul the determination made by the FIFA General Secretariat on 17 April 2024 concerning Mr DEMBELE's EPP;
- Reform said determination and acknowledge the ESTAC's right to training compensation;
- Order Torino FC to pay the ESTAC a training compensation amounting to at least € 239.534,25 plus interest at a rate of 5% per annum from 28 August 2022 until the date of actual payment.

3. *In the alternative, the CAS is asked to rule that:*

- *The First Defendant has tried to circumvent the FIFA compensation system;*
- *Even if it did not have the intention to evade the FIFA compensation system, the First Defendant still has to pay the ESTAC a training compensation pursuant to Article 3 paragraph 2 RSTP;*
- *The determination made by the FIFA General Secretariat on 17 April 2024 concerning Mr DEMBELE's EPP shall be annulled;*
- *Order Torino FC to pay the ESTAC a training compensation amounting to at least € 239.534,25 plus interest at a rate of 5% per annum from 18 August 2023 until the date of actual payment.*

4. *In any case:*

- *To 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 (seventy thousand Swiss francs).*
- *To order the Respondents to bear any and all CAS administration costs and arbitrator's fee".*

B. The First Respondent

75. Torino's submissions, in essence, may be summarised as follows:

The Player was registered with Torino as an amateur from 28 July 2022 until 17 July 2023

- The Player was registered with Torino as an amateur ("*giovane di serie*"), a specific type of registration which applies to players between the ages of 14 and 19 pursuant to the FIGC's internal regulations, from 28 July 2022 until 17 July 2023, which is confirmed by all official documents, including the Player's player passport issued by the FIGC. There is no pre-agreed contract for the 2023-2026 football seasons, which is also proven by the negotiations that took place in June 2023.
- The only document signed by the Player and Torino was the FIGC registration form titled "*VARIAZIONE DI TESSERAMENTO PER CALCIATORI GIOVANI DI SERIE*" (the "Registration Form"), which does not constitute a written contract and therefore does not satisfy the conditions held within Article 2(2) FIFA RSTP pertaining to the criteria for a player to be considered professional.
- The qualification as "*giovane di serie*" originates from the signing of the Registration Form, required for a player to be fielded and play for a club competing in one of the Italian professional leagues. The Registration Form

cannot be considered as an employment contract within the FIFA regulatory framework, not only because its scope and nature are completely different from that of an employment contract, but also because it lacks the essential elements required for an employment contract to be valid.

- There is no written employment contract. The Player did not sign the offer sent to the Player's agent on 11 July 2022, but only the Registration Form. ESTAC's idea that the *essentialia negotii* required for an employment contract to exist can be found in different documents and combined together, has no legal ground and cannot be accepted. Even if the parties verbally agreed on specific terms and conditions, in the absence of a contract providing all *essentialia negotii* in writing, no professional employment contract can be considered concluded for the purposes of Article 2(2) FIFA RSTP.
- The Player did not receive more for his footballing activity than the expenses he effectively incurs, as the Player was only offered a scholarship in order to comply with the requirements provided by the FIGC.
- The differentiation between the amounts paid to players in scholarship is strictly applied to each player's level of education and their educational needs. As to the EUR 15,000 evidenced under the table header "*Primavera purchases and procurement*" this is associated with the Player, but the money itself was not received by the Player; the amount refers to the commissions paid to intermediaries and scouts who were involved in the process that led to the registration of the Player with Torino as a professional.
- As confirmed by the FIGC, the registration as "*giovane di serie*" is a status included in the amateur category pursuant to the FIFA regulations. Torino just provided the Player with the benefits indicated by the FIGC for all players aged 14 to 16 registered in Italy as "*giovane di serie*". These conditions within the scholarship are more than reasonable for a young amateur player and do not entail the Player having acquired professional status.
- ESTAC's assumption that the Player never lost his ability to play football at a professional level is incorrect. Despite the Player having the potential to become a professional player, such skills and capabilities required to be a professional were not already at the Player's disposal at the time the Player was registered as an amateur with Torino. The Player, at the time 18 years old, was to play and train with the U19 squad competing in the *Campionato Primavera 1*, which is not a professional football league, but rather a youth development competition for the U19 teams of Italian Serie A and B clubs.
- The Player never made any official appearances within the matches of the first team as referred to by ESTAC but was merely provided an opportunity to be part of the first team and being introduced in the professional atmosphere of the Serie A competition. According to the FIGC rules, a young player does not require professional status in order to be named on the bench for, or in fact even play in, an official match for a Serie A club's first team. As in the case for the Player, young players may retain amateur status until the end of the season of their 19th birthday.

- The trainee contract with gross amounts offered by ESTAC to the Player cannot be considered a professional contract within the FIFA regulatory framework as it was not enough to cover his living costs in Troyes.
- In light of the above, there can be no doubt that when the Player joined Torino on 28 July 2022, both clubs considered that he did not have the “*ability required to play football at professional level*” – otherwise Torino or ESTAC would have offered him a professional contract.

Subsidiarily, no training compensation shall be paid by Torino to ESTAC for the re-registration of the Player as a professional player

- After the re-acquisition of amateur status, Torino is the only club who invested in the development of the Player. ESTAC should therefore not be entitled to receive any training compensation, even more considering that following his registration with ESTAC, the Player lost the ability required to play football at professional level.
- Torino trained and educated the Player for one whole year before offering him a professional contract after he eventually reached the level required to re-acquire professional status. Such a period certainly cannot be considered as a “short period” of time as referred to in Article 3(2) FIFA RSTP.
- ESTAC has significantly fallen short of meeting the burden of proof in relation to the fact that Torino acted in an abusive manner.

Alternatively, ESTAC failed to prove its entitlement to training compensation pursuant to Article 6(3) of Annexe 4 FIFA RSTP

- Even if the Sole Arbitrator decided that ESTAC is entitled to receive training compensation from Torino pursuant to Article 3(2) FIFA RSTP, *quod non*, ESTAC’s right to receive training compensation is contested, unless ESTAC succeeds in proving that the requirements provided under Article 6(3) of Annexe 4 FIFA RSTP were met.
- Indeed, ESTAC must prove that it offered the Player a contract that complies with the requirements established under Article 6(3) of Annexe 4 FIFA RSTP.
- The mere offer of a “*contrat stagiaire*” to the Player after four years of training with ESTAC, two of which as a professional player, indicates that ESTAC did not have a genuine interest in the Player, nor did they hold the Player to be at a professional level when the Player left ESTAC to register with Torino.

The bad faith of ESTAC

- ESTAC clearly acts in bad faith, which attitude must be taken into account regarding the allocation of costs. Regardless of the extensive and reiterated explanations provided by Torino to ESTAC, the latter decided to file the present appeal anyway.

- “a) **REJECTING** the Appellant’s requests in their entirety;
- b) **CONFIRMING** the Determination;
- c) **ORDERING** the Appellant to cover all procedural costs related to these proceedings;
- d) **ORDERING** the Appellant to cover the First Respondent’s legal costs related to these proceedings, in the highest amount that is deemed appropriate” (emphasis in original).

C. The Second Respondent

77. FIFA’s submissions, in essence, may be summarised as follows:

- When the Player was registered as a professional with Torino, it was not the first time the Player was registered as a professional. Thus, Article 20(1) FIFA RSTP was not applicable. Furthermore, it was not a subsequent transfer of a professional player. Thus, Article 20(2) FIFA RSTP was not applicable either.
- The Player joined Torino as an amateur player, and one year later, signed as professional with the latter. This information was expressly confirmed by the FIGC. Given that the Player only regained his professional status one year after being registered as an amateur, it cannot be considered that he was re-registered as a professional “*shortly afterwards*” as clarified in the FIFA Commentary on Article 3(2) FIFA RSTP.
- Consequently, the Appealed Decision is a sound and well-grounded decision, and therefore no training compensation is due as Article 20(2) RSTP does not apply.
- In any event, bearing in mind that ESTAC has provided evidence suggesting that the Player could have signed as a professional with Torino already in July 2022, Torino will be in a better position to comment on this specific issue and provide the necessary evidence to the Sole Arbitrator.
- Differently put, considering that this argument (the argument that the Player was registered as a professional as of the beginning of his employment relationship with Torino in July 2022) was not put forth during the EPP review process, FIFA refrains from addressing it in its Answer, and leaves it to the Sole Arbitrator to consider the positions of ESTAC and Torino on the issue.
- If the Sole Arbitrator were to find that the Player signed as a professional as of the beginning of his employment relationship with Torino, i.e., as of July 2022 (although according to the Player’s passport and as confirmed by the FIGC, Torino had registered him as an amateur on July 2022), then the Sole Arbitrator would be in a position to exercise his/her *de novo* power of review and issue a new decision on the matter, in light of Article R57 CAS Code.

78. On this basis, FIFA submits the following prayers for relief in its Answer:

- “(a) Rejecting the requests for relief sought by the Appellant;*
- (b) Confirming the Appealed Decision;*
- (c) Ordering the Appellant to bear the full costs of these arbitration proceedings”.*

VI. JURISDICTION

79. The jurisdiction of CAS, which is not disputed, derives from Article 57(1) FIFA Statutes (May 2022 edition), 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”, and Article R47 CAS Code. The jurisdiction of CAS is not contested and is further confirmed by the Order of Procedure duly signed by the Parties.

80. Moreover, Article 10.5(b) FCHR provides as follows:

“The FIFA general secretariat will notify the final EPP and the Allocation Statement to all parties in the EPP review process.

[...]

- 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)”.*

81. It follows that CAS has jurisdiction to adjudicate and decide on the present dispute.

VII. ADMISSIBILITY

82. The appeal was filed within the deadline of 21 days set by Article 57(1) FIFA Statutes. The appeal complied with all other requirements of Article R48 CAS Code, including the payment of the CAS Court Office fee.

83. It follows that the appeal is admissible.

VIII. APPLICABLE LAW

84. Article R58 CAS Code provides as follows:

“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”.

85. Article 56(2) FIFA Statutes provides the following:

“The provisions of the CAS Code of Sports-related Arbitration shall apply to the proceedings. CAS shall primarily apply the various regulations of FIFA and, additionally, Swiss law”.

86. ESTAC submits that, in accordance with Article R58 CAS Code and Article 57(2) FIFA Statutes, *“the hierarchy of the rules taken into consideration by the CAS is as follows: a) The applicable regulation (i.e. the FIFA Statutes, FIFA Regulations as Clearing House Regulations or [the FIFA RSTP]). b) The Swiss law. c) The rules of law that the Panel deems appropriate”.*

87. Torino contends that, in accordance with Article R58 CAS Code and Article 57(2) FIFA Statutes *“the dispute shall be primarily resolved in accordance with the regulations of FIFA. Subsidiarily Swiss law shall apply”.*

88. FIFA argues that, in accordance with Article R58 CAS Code and Article 56(2) FIFA Statutes, *“the FIFA Statutes and regulations – namely the FCHR and the [FIFA RSTP] (ed. May 2023), constitute the applicable law to the matter at hand, and Swiss law shall be applied subsidiarily should the need arise to fill a possible gap in the FIFA regulations”.*

89. The Sole Arbitrator finds that, as undisputed between the Parties, the present proceedings are primarily governed by the various regulations of FIFA, more specifically the FIFA RSTP (edition May 2023) and, additionally, Swiss law.

IX. MERITS

90. The present dispute concerns, in essence, whether ESTAC is entitled to receive training compensation from Torino, following the Player’s registration with the latter.

91. The Sole Arbitrator notes that the Parties dedicated most of their submissions and pleadings to the questions i) whether the Player was a professional football player immediately upon joining Torino in July 2022; and ii) if this was not the case, whether Torino should still pay training compensation to ESTAC on the basis of Article 3(2) FIFA RSTP for the re-registration of the Player as a professional within one year of joining Torino.

92. However, the Sole Arbitrator notes that Torino also invoked an alternative argument that, if upheld, would thwart ESTAC’s entitlement to receive training compensation from Torino. More specifically, Torino argued that ESTAC did not satisfy the requirements set forth in Article 6(3) of Annexe 4 FIFA RSTP, as a consequence of which it is not entitled to training compensation.

93. Article 6(3) of Annexe 4 FIFA RSTP provides as follows:

“3. If the former club does not offer the player a contract, no training compensation is payable unless the former club can justify that it is entitled to such compensation. The former club must offer the player a contract in writing via registered post at least 60 days before the expiry of his current contract, subject to the temporary exception below. Such an offer shall furthermore be at least of an equivalent value to the current contract. This provision is without prejudice to the right to training compensation of the player’s previous club(s).”

94. The Sole Arbitrator observes that this line of reasoning relied upon by Torino was clearly set forth in Torino’s Answer and that the issue was reiterated and discussed at the hearing.
95. The Sole Arbitrator addresses this issue first, because he is of the view that ESTAC indeed did not establish that it satisfied the requirements of Article 6(3) of Annexe 4 FIFA RSTP, as a consequence of which ESTAC’s claim for training compensation is to be dismissed on this basis, and as a result of which the other contentious issues between the Parties are no longer determinative for the outcome of the present appeal arbitration procedure.
96. Turning to the reasoning for such conclusion, the Sole Arbitrator notes that it is not disputed between the Parties, and ESTAC provided evidence of the fact that, on 25 April 2022, it offered the Player a trainee contract (*contrat de joueur stagiaire*) for two football seasons.
97. ESTAC argued, and Torino did not dispute, that the Player’s first employment contract with ESTAC was concluded on 1 August 2020 and expired on 1 July 2022. On this basis, the Sole Arbitrator is satisfied that ESTAC offered the Player a new employment contract “*at least 60 days before the expiry of his current contract*”.
98. However, the Sole Arbitrator finds that ESTAC failed to prove that the offer of 25 April 2022 was “*at least of an equivalent value to the current contract*”, i.e. to the first employment contract concluded on 1 August 2020. Indeed, there is no evidence on file establishing what the Player’s salary under the first employment contract with ESTAC was. This first employment contract was not submitted into evidence by ESTAC.
99. Even upon receipt of Torino’s Answer where it was specifically argued that “[Torino] *firmly contests ESTAC’s right to receive training compensation unless the latter succeeds in proving that the requirements provided under Article 6 par. 3 of Annexe 4 of the RSTP were met*”, ESTAC did not seek leave from the Sole Arbitrator to submit the first employment contract that had apparently been concluded with the Player on 1 August 2020 into evidence in accordance with Article R56 CAS Code. It was only at the very end of the hearing, i.e. after ESTAC’s rebuttal, that ESTAC, answering a question posed by the Sole Arbitrator, for the first time indicated it was prepared to provide a copy of the first employment contract if this was deemed necessary by the Sole Arbitrator. It was not a request in accordance with the requirements of Article R56 CAS Code. Furthermore, ESTAC also did not invoke any extraordinary circumstances that would justify the late production of such evidence.

100. In the absence of this first employment contract, the Sole Arbitrator is not enabled to assess whether ESTAC's offer to the Player of 25 April 2022 was "*at least of an equivalent value*" to the first employment contract.

101. Article R44.3 CAS Code (which provision is also applicable to appeals arbitration proceedings on the basis of Article R57 (third paragraph) CAS Code) provides as follows:

"If it deems it appropriate to supplement the presentations of the parties, the Panel may at any time order the production of additional documents or the examination of witnesses, appoint and hear experts, and proceed with any other procedural step. The Panel may order the parties to contribute to any additional costs related to the hearing of witnesses and experts".

102. The Sole Arbitrator notes that this provision provides him with the discretion of ordering the Parties to produce additional documents and the Sole Arbitrator has indeed considered utilising such discretion, as he indicated to the Parties during the hearing. The Sole Arbitrator was reluctant to do so, because ESTAC had had ample opportunity to provide this document at an earlier stage, but he nonetheless stated at the end of the hearing that "*if there is a reason for me to ask for another production of a document we discussed today I will do that, but, yeah well, I will go over everything and I will render an award, as they say, in due course*".

103. Eventually, the Sole Arbitrator decided against the possibility of ordering ESTAC to produce the Player's first employment contract with ESTAC. The Sole Arbitrator did not take this decision lightly, as he was well-aware of the consequences thereof. However, overall, the Sole Arbitrator considered that ordering ESTAC, *ex officio*, to produce an essential piece of evidence for its appeal to potentially be upheld that was not submitted into evidence by ESTAC at such a late stage, would encroach too much on the prevailing view in legal doctrine suggesting that restraint is to be applied by arbitral tribunals:

"CAS panels recognize the principle 'ei incumbit probatio qui dicit, non qui negat', that is, each party has the burden of proving the facts necessary to establish its claim or defense, not the facts which it denies. This is a general principle of law, accepted in international arbitration as well as in national legal systems (e.g. in Switzerland, it is provided by Art. 8 of the Swiss Civil Code). In practice, it means that each party must submit all the written and oral evidence useful to persuade the arbitrators of the truth of its allegations and to refute the opposite party's contentions.

[...]

It is true that a CAS panel has, under Art. R44.3 of the CAS Code, the power to ask for evidence ex officio [...]. However, a party should not rely on the panel's exercise of such ex officio power to look for evidence. In this regard, the CAS made it clear that the exercise of such power is discretionary and not compulsory.

In a dispute between two football clubs, one of the clubs invoked Art. R44.3 of the CAS Code and argued that ‘the Panel has an obligation to instruct the case ex officio and cannot simply take its decision on the basis of the evidence submitted by the parties, if it deems it insufficient’; it added that it was ready to present evidence ‘should the Arbitral Tribunal ask for more information or documents’. However, the CAS panel did not accept such argument and stated that, although Art. R44.3 empowers the arbitral panel to supplement the presentations of the parties, ‘in the Panel’s opinion, this is clearly a discretionary power which a CAS panel may exert with an ample margin of appreciation – ‘if it deems it appropriate’ – and which cannot be characterized as an obligation. In particular, the CAS Code does not grant such discretionary power to panels in order to substitute for the parties’ burden of introducing evidence sufficient to avoid an adverse ruling; this is clearly confirmed by the circumstance that, in CAS practice, panels resort very rarely to such power. Indeed, it is the Panel’s opinion that the CAS Code sets forth an adversarial system of arbitral justice, rather than an inquisitorial one. In other terms, in CAS proceedings a party cannot simply declare to be ready to present evidence [...]; if a party wishes to establish some facts and persuade the arbitrators, it must actively substantiate its allegations with convincing evidence’.

The above approach by CAS arbitrators is consistent with the prevailing view in the international arbitration community that there is ‘much in general to recommend arbitrator passivity as regards the obtaining of factual and legal evidence’ and that it ‘will only be in limited special circumstances where arbitrators will take initiatives in evidence with a view to favouring a more correct award, independently of the parties’ submissions’” (COCCIA, The ‘Supreme Court’ of International Sports Law: The Court of Arbitration for Sport, in: International Sports Justice, 2024, pp. 126-127, with reference to: CAS 2003/O/506, para. 54; LANDOLT, Arbitrators’ Initiatives to Obtain Factual and Legal Evidence, in: Arbitration International, 2012, vol. 28, no. 2, 222-223).

104. It has also long been held in 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).
105. ESTAC may not have submitted the first employment contract into evidence because it knew that it would then turn out that its offer was not “*at least of an equivalent value*” to the first employment contract and therefore intentionally did not produce it, or it may simply have overlooked the importance of Torino’s argument and inadvertently omitted to submit it into evidence. Whatever the reason is, the fact remains that ESTAC did not submit the first employment contract of 1 August 2020 into evidence, barring the Sole Arbitrator from assessing whether ESTAC’s offer to the Player of 25 April 2022 was of “*at least an equivalent value*” than the Player’s

first employment contract. The Sole Arbitrator considered that ordering ESTAC to produce the first employment contract at such a late stage in the proceedings would be tantamount to “helping” ESTAC to cure an omission for which it had only itself to blame, thereby unjustifiably disadvantaging Torino.

106. During the hearing, ESTAC referred to a domestic regulatory regime of the FFF, from which it would allegedly follow that its offer to the Player of 25 April 2022 was necessarily of a higher value than the Player’s first employment contract with ESTAC. However, this contention remained unsupported by any evidence. Also no questions were asked to the Player in this respect during his testimony.
107. Consequently, the Sole Arbitrator finds that ESTAC failed to prove that the criteria set forth in Article 6(3) of Annexe 4 FIFA RSTP were satisfied, as a consequence of which, as set forth in such provision, “*no training compensation is payable*”.
108. As a corollary, ESTAC’s appeal is dismissed, and the Appealed Decision is confirmed.
109. All other and further motions or prayers for relief are dismissed.

X. COSTS

110. 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”.

111. Article R64.5 CAS Code provides 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”.

112. Having taken into account the outcome of the arbitration, in particular that ESTAC’s appeal is dismissed, the Sole Arbitrator 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 in full by ESTAC.
113. 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, in particular that no in-person hearing was held, that FIFA did not attend the hearing and also was not represented by external counsel, the Sole Arbitrator rules that ESTAC and FIFA shall bear their own costs and that ESTAC shall pay Torino an amount of CHF 4,000 as a contribution towards its legal fees and other expenses incurred in connection with these arbitration proceedings.

* * * * *

ON THESE GROUNDS

The Court of Arbitration for Sport rules that:

1. The appeal filed on 6 May 2024 by Espérance Sportive Troyes Aube Champagne against the decision issued on 17 April 2024 by the General Secretariat of the *Fédération Internationale de Football Association* is dismissed.
2. The decision issued on 17 April 2024 by the General Secretariat of the *Fédération Internationale de Football Association* is confirmed.
3. The costs of the arbitration, to be determined and served on the Parties by the CAS Court Office, shall be borne in full by Espérance Sportive Troyes Aube Champagne.
4. Espérance Sportive Troyes Aube Champagne and the *Fédération Internationale de Football Association* shall bear their own costs and Espérance Sportive Troyes Aube Champagne is ordered to pay to Torino Football Club S.P.A. the total amount of CHF 4,000 (four thousand Swiss Francs) as a contribution towards its legal fees and other expenses incurred in connection with these arbitration proceedings.
5. All other and further motions or prayers for relief are dismissed.

Seat of arbitration: Lausanne, Switzerland

Date: 17 April 2025

THE COURT OF ARBITRATION FOR SPORT

Manfred Nan
Sole Arbitrator