Arbitration CAS 2020/A/7342 Club X. v. C. & Fédération Internationale de Football Association (FIFA), award of 31 May 2021

Panel: Mr Alain Zahlan de Cayetti (France), Sole Arbitrator

Football
Termination of the employment contract of a coach with just cause
Scope of application of the RSTP
Just cause of termination
Definition of mid-season
Duty to give a warning

1. **Although the provisions on contractual stability in the FIFA Regulations on the Status and Transfer of Players (RSTP) contain general legal principles related to the employment disputes, the FIFA RSTP do not apply directly to coaches, their scope being limited to the status of players, their eligibility to participate in organised football, and their transfer between clubs belonging to different associations (Article 1.1 of the FIFA RSTP).**

2. **Only a material breach of a contract can be considered as just cause for termination without consequences of any kind. Such material breach occurs, in particular, when the main terms and conditions, under which it was entered into are no longer implemented. The circumstances must be such that, according to the rule of good faith, the party terminating the employment relationship cannot be required to continue it.**

3. **Pursuant to the provisions of Article 6.2 of the FIFA RSTP, the term "mid-season" refers to a period of time corresponding to the second registration period, i.e., *"The second registration period shall normally occur in the middle of the season and may not exceed four weeks"*. In line with the provisions of Article 6.2. of the FIFA RSTP, a second registration period having occurred from 17 December 2019 to 13 January 2020 is thus considered to have taken place in mid-season. By reference to the principle of *pacta sunt servanda*, the terms *"in mid-season (December 2019)"* setting the relevant time for a payment therefore clearly refer to the parties' intent to trigger such payment in December 2019, with a deadline on 31 December 2019.**

4. **For a party to be allowed to validly terminate an employment contract, it must have warned the other party, in order for the latter to have had the chance, if it deemed the complaint to be legitimate, to comply with its obligations.**

I. PARTIES

1. Club X. (the "Appellant" or the "Club") is a professional football club based in Country Y. The Club currently competes in the A. League (formerly known as the AA. League) and is affiliated to the Football Federation of Country Y., which in turn is affiliated to the Fédération Internationale de Football Association ("FIFA").

2. C. (the "Coach" or the "First Respondent") is a Spanish football coach.

3. FIFA (the "Second Respondent") is the international governing body of football. FIFA has its headquarters in Zurich, Switzerland.

4. The Club, the Coach and FIFA are individually referred to as, the 'Party' and collectively as, the "Parties". The First Respondent and the Second Respondent are collectively referred to as, the "Respondents".

5. Simultaneously with the filing of its appeal in these proceedings, the Appellant filed two other appeals against the other members of the same coaching team. The Appellant also named FIFA as a Respondent in all three cases.

6. The three cases were assigned the following reference numbers:

   - *CAS 2020/A/7341 Club X. v. Z. & Fédération Internationale de Football Association (FIFA);*
   - *CAS 2020/A/7342 Club X. v. C. & Fédération Internationale de Football Association (FIFA);*
   - *CAS 2020/A/7343 Club X. v. D. & Fédération Internationale de Football Association (FIFA).*

7. The Appellant paid the total amount of the advance of costs for the procedures CAS 2020/A/7341 and CAS 2020/A/7342. However, the Appellant has not paid – or provided evidence as to the payment of – the advance on costs in the procedure CAS 2020/A/7343 within the CAS deadline mentioned in its letter dated 30 September 2020, and which has therefore been deemed to have been withdrawn.

8. As will be addressed in Section IV below, such appeals in cases CAS 2020/A/7341 and CAS 2020/A/7342 were filed against two separate decisions and as such could not be consolidated, and a separate Award will be rendered in every case. However, where appropriate or where reference to common facts is necessary for comprehension, the Sole Arbitrator has done so.

II. BACKGROUND FACTS

9. The following is a summary of the relevant facts and allegations based on the Parties' written and oral submissions, pleadings and evidence adduced. Additional facts and allegations found in the Parties' submissions, pleadings and evidence may be set out, where relevant, in connection with the legal discussion which follows. While the Sole Arbitrator has considered all the facts, allegations, legal arguments and evidence submitted by the Parties in the present

proceedings, he refers in this Award only to the submissions and evidence he considers necessary to explain his reasoning.

10. The Coach and the Club entered into a "Coach Employment Contract" (the "Employment Contract"), *"effective from 1 July 2019 and […] valid 1 July 2020 (End of season 2020- all competition and group stage of ACL* [ACF Champions League]*)"* (Article 1 – *"TERMS AND DURATION OF CONTRACT"* – of the Employment Contract).

11. Pursuant to the provisions of Article 4 (*"VALUE OF THE CONTRACT- SALARY REMUNERATION AND BONUSES"*) of the Employment Contract, the salary of the Coach was fixed as follows:

"The total value of this contract for Season 2019-2020 is amount of net USD 140,000 (one hundred forty thousand dollars).

first season starts on 1 July 2019 and ends on 1 July 2020.

Payments:

USD 50,000 (fifty thousand dollars) of the contract salary will be paid to the Coach by the club not later than 2 weeks after the signature of the contract.

USD 50,000 (fifty thousand dollars) of the contract salary will be paid to the Coach in mid-season (December 2019).

USD 40,000 (forty thousand dollars) of the contract salary will be paid to the Coach the end of the season 2019-2020 (May 2020)".

12. In addition, the Coach was entitled to the following bonuses in accordance with Article 4-1 (*"Bonuses"*) of the Employment Contract:

"In recognition of exemplary performance and the additional work that is required for CLUB's success and as an incentive for COACH to achieve the goals described below, the CLUB agrees to pay to the coach, within 30 days after the game or the achieved result as following:

A: In case of the club championship in the AA.-League 2019-2020, the Coach is entitled to receive USD 14,000 (fourteen thousand dollar).

B: In case of the club championship in the Country Y. Cup ([…] Cup) 2019-2020, the Head coach is entitled to receive USD 10,000 (ten thousand dollar).

C) For each win in Derby Matches (Match against […] FC), the amount of USD 5,000 (five Thousand Dollars) will be paid to the Head coach as his bonus.

Note: bonus for every win in every official match such as league, Country Y. cup or ACL will be allocated to the head coach, according to the decision of Club X. Board and in respect of the Bonus Regulation of the club

Note: all bonuses will be paid by Club X. to the coach 30 days after the last official match".

13. The Employment Contract further provided that the Club shall provide the Coach with *"[t]hree air tickets […]- Madrid-[…] during the contract (one year)".*

14. Article 8 (*"TERMINATION"*) of the Employment Contract provided, in particular, for the following termination conditions:

"[…]

Note 1: in case during the first mid-season by the request of the club the contract is terminated, the coach is entitled to receive the amount of USD 50,000 (one hundred fifty thousand dollars (sic!)) as the mid-season remuneration and in addition coach can keep the signing fee of USD 50,000 which has been given to him the beginning of the season.

Note 2: in case during the first mid-season, coach requests for the contract termination, he has to pay back to the club, 50% of all the amounts he has received from the club.

Note 3: the coach does not have any termination rights before the first 10 AA.-League Matches.

Note 4: in case during the second mid-season by the request of the club the contract is terminated, the coach is entitled to receive the 50 % of the contract values and he can keep all the received amount which he has received till the termination date, i.e. he can keep the signing fee of USD 50,000 and the mid-season payment of USD 50,000 and receives in addition a compensation of USD 20,000.

Note 5: in case during the second mid-season, coach requests for the contract termination, he has to pay back to the club, 30% of all the amounts he has received from the club till the date of the termination and the last installment of the contractual value and remuneration will not be paid to the head coach.

Note 6: if a party announces the request of the contract termination, 20 days should be given to the other party and then the termination will be enforceable".

15. On 21 October 2019, the Coach sent to the Club a first default notice in which he indicated that only EUR 10,000 and EUR 15,000 out of the first salary instalment were paid to him and gave to the Club a 20-day period to pay the outstanding amount of the first contractual installment, in addition to the bonus in the amount of USD 5,000 *"for the last Derby won against […] FC".*

16. In his Answer to the Appeal, the Coach admitted that *"as a consequence* [following the default notice of 21 October 2019]*, the club paid the outstanding amount of his first salary payment"* (para. 23 of the Answer to the Appeal Brief).

17. On 21 December 2019, the Coach sent to the Club a second default notice requesting the Club *"to settle all outstanding dues […] (outstanding salaries, air ticket costs and bonuses) by 27 December 2019"*, failing which the Coach would consider terminating the Employment Contract. Furthermore, the Coach indicated that the *"deadline of 20 days stipulated in clause 8 of the employment*

contract shall be considered as met due to repeated failure of Club X. to comply with the presently agreed contractual terms".

18. On 25 December 2019, the Club replied by a letter of the same date, indicating, in particular, that (i) *"all contractual remunerations, salaries, bonuses and other payment such as air ticket costs have been paid to the coach"*, and (ii) taking into account that *"the beginning of the second half season of 2019 – 20 will be on 1st Feb 2020"*, the Coach's second part of the salary will be paid to him in due time.

19. On 28 December 2019, in a letter sent to the Club on the same date, the Coach contested the Club's allegations, in particular, those concerning the starting date of the mid-season and insisted that *"the total outstanding remuneration (salary and bonuses)"* be paid to him by 31 December 2019, failing which he will consider terminating the Employment Contract *"without further notice and with immediate effect"*.

20. On 30 December 2019, by a letter of the same date sent to the Club, the Coach indicated that the outstanding remuneration mentioned in his letter of 28 December 2019 consisted of *"the 2nd salary payment of USD 50,000 and the bonuses for the following matches won: 7x AA.-League, 1x Country Y. Cup and 1x derby"*. In addition, the Coach requested that the said outstanding amount be transferred by the deadline fixed in his letter of 28 December 2019, to the bank account of the Head Coach, Z., held in a Qatari bank.

21. On 1 January 2020, in the absence of the payment of the outstanding remuneration from the Club to the Coach, the latter sent another notice to the Club, providing it with additional *"48 hours"* to proceed with the payment of such outstanding amounts to the bank account of the Head Coach.

22. On 5 January 2020, the Coach sent a letter to the Club, by which the Coach terminated the Employment Contract *"with immediate effect"* indicating that he could not *"reasonably be expected to continue the employment relationship under these circumstances"* and mentioning his total outstanding remuneration to be in the amount of *"more than USD 50,000"*.

III. PROCEEDINGS BEFORE FIFA PLAYERS' STATUS COMMITTEE

23. On 4 February 2020, the Coach lodged a claim with FIFA against the Club, arguing that he had terminated the Employment Contract with just cause with effect on 5 January 2020, based on the breach by the Club of its contractual obligations. The Coach requested for the following relief:

> *"1. Club X. shall be obliged to pay to C. the amount of USD 50,000, as outstanding salary, plus interest of 5% per year, as of 16 December 2019 until the date of effective payment.*
>
> *2. Club X. shall be obliged to pay to C. the amount of USD 5,000, as bonus for the derby won on 22 September 2019 against […] FC, plus interest of 5% per year, as of 6 January 2020 until the date of effective payment.*

3. *Club X. shall be obliged to pay to C. the amount of USD 3,600, as bonus for 7 A. League matches won and for 1 Country Y. Cup match won, plus interest of 5% per year, as of 6 January 2020 until the date of effective payment.*

4. *Club X. shall be obliged to reimburse C. the costs for the flight ticket of EUR 380.70, in accordance with clause 6.1 of the employment contract.*

5. *Club X. shall be obliged to pay to C. the amount of USD 40,000 (alternatively the amount of USD 20,000) as compensation for the breach of the employment contract, plus interest of 5% per year, as of the date of the present submission until the date of the effective payment".*

24. On 23 March 2020, FIFA has informed the Coach that the Club had filed its counterclaim against the Coach's claim on 7 March 2020. In its submission the Club requested for the following relief:

"a) Club X. shall not be obliged to pay the coach the amount of USD 35,000, as outstanding salary, plus interest of 5% per year, as of December 16, 2019. Instead, because the head coach did not observe its basic obligations under the contract and gravely violates its contractual duties.

b) Club X. shall not be obliged to pay the coach the amount of USD 5,000, as bonus for Derby won, plus interest of 5% per year because mostly it was paid.

c) Club X. shall not be obliged to pay to the coach the amount of USD 3,600, as bonus for 8 matches won, plus interest of 5% per year. Instead, the club's Board of Directors decided about future matches won which can be applied only for second mid-season when the coach avoided his contractual obligations in front of the club.

d) Club X. shall not be obliged to pay to the coach the amount of USD 30,000 (alternatively the amount of USD 15,000) as compensation for the breach of the employment contract, plus interest of 5% per year. Instead, under second Note of Article 8 of the contract, the head coach has to pay back the club, 50% of all he has received based on the employment relationship. Alternatively, according to fifth Note to Article 8 of the contract, the head coach will not be entitled to receive the last instalment and has to pay back the club, 30% of all he has received based on the contract.

e) due to grave violations of public policy, break of governing law of Football Federation of Country Y., and breach of numerous Articles of the contract, the coach shall be considered deprived from the rest of the contract value and has not any ground to claim the amounts".

25. On 30 June 2020, following the written submissions filed by the Coach and the Club, the Single Judge of the FIFA Players' Status Committee (the "FIFA PSC") rendered the following decision:

"1. The claim of the Claimant / Counter-Respondent, C., is partially accepted.

2. The counterclaim of the Respondent / Counter-Claimant, Club X., is rejected.

3. The Respondent / Counter-Claimant has to pay to the Claimant / Counter-Respondent, the following amounts:

- *Outstanding remuneration in the amount of USD 55,380.70, plus interest until the date of effective payment as follows:*

  • *5% p.a. on the amount of USD 50,000 as from 1 January 2020;*

  • *5% p.a. on the amount of USD 5,000 as from 6 January 2020.*

- *Compensation for breach of contract in the amount of USD 40,000, plus 5% interest p.a. as from 4 February 2020 until the date of effective payment.*

4. Any further claim lodged by the Claimant / Counter-Respondent is rejected.

5. The Claimant / Counter-Respondent is directed to immediately and directly inform the Respondent / Counter-Claimant of the relevant bank account to which the Respondent / Counter-Claimant must pay the due amount.

6. The Respondent / Counter-Claimant shall provide evidence of payment of the due amount in accordance with this decision to psdfifa@fifa.org, duly translated, if applicable, into one of the official FIFA languages (English, French, German, Spanish).

7. In the event that the amount due, plus interest as established above is not paid by the Respondent / Counter-Claimant ***within 30 days****, as from the notification by the Claimant / Counter-Respondent of the relevant bank details to the Respondent / Counter-Claimant, the following consequences shall arise:*

In the event that the payable amount as per in this decision is not paid within the granted deadline , the present matter shall be submitted, upon request, to the FIFA Disciplinary Committee.

8. The final costs of the proceedings in the amount of CHF 2,000 are to be paid by the Respondent / Counter-Claimant to FIFA (cf. note relating to the payment of the procedural costs below)".

26. On 23 July 2020, the grounds of the Appealed Decision were communicated to the parties.

IV. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT

27. On 12 August 2020, pursuant to the provisions of Articles R47 of the Code of Sports-related Arbitration (the "CAS Code"), the Appellant filed a Statement of Appeal with the Court of Arbitration for Sport (the "CAS") with respect to the decision rendered by the Single Judge of the FIFA PSC on 30 June 2020 (the "Appealed Decision").

28. On 14 August 2020, the CAS Court Office requested the Appellant to supplement the Statement of Appeal, in accordance with Article R48 of the CAS Code, with *"the Appellant's specific request for relief"*, *"the nomination of the arbitrator chosen by the Appellant from the CAS list, unless*

the Appellant requests the appointment of a sole arbitrator" and *"a copy of the provisions of the statutes or regulations or the specific agreement providing for appeal to CAS"*.

29. On 15 August 2020, the Appellant provided the CAS Court Office with the requested information and, in particular, expressed its request for the nomination of a sole arbitrator in present proceedings.

30. On 19 August 2020, by its letter of the same date, the Appellant informed the CAS Court Office that its Statement of Appeal was to be considered as its Appeal Brief.

31. On 20 August 2020, the CAS Court Office provided the Respondents with a copy of the Statement of Appeal served as the Appeal Brief, together with its enclosures, set the deadline for the submission of their Answers and informed them that the language of the proceedings chosen by the Appellant shall be English, unless they objected within the set deadline. In addition, the CAS Court Office reminded the Parties of the possibility to submit their dispute to the CAS mediation and invited the Respondents to inform it whether they agree that the present matter be decided by a sole arbitrator. Furthermore, the Respondents were invited to inform the CAS Court Office whether they agreed that the present proceeding and the procedures set out below be referred to the same Panel according to Article 50 of the CAS Code:

"- CAS 2020/A/7341 Club X. v. Z. & Fédération Internationale de Football Association (FIFA);

- CAS 2020/A/7343 Club X. v. D. & Fédération Internationale de Football Association (FIFA)".

32. On 25 August 2020, the CAS Court Office informed the Parties of the Appellant's and the First Respondent's agreement to submit the cases mentioned above to the same Panel/Sole Arbitrator and of the Appellant's interest in mediation.

33. On 26 August 2020, the Second Respondent requested to be excluded as a party from these proceedings, following which the CAS Court Office, by a letter of the same date, invited the Appellant to express its position with regards to the Second Respondent's request.

34. On 31 August 2020, the First Respondent informed the CAS Court Office that he had no interest to submit the matter at hand to mediation and confirmed its preference that it be decided by a sole arbitrator.

35. On 1 September 2020, by a letter of the same date, the Appellant objected to the exclusion of the Second Respondent as a party to the present proceedings.

36. On 4 September 2020, the Second Respondent reiterated its request to be excluded as a party from these proceedings.

37. On 7 September 2020, the Second Respondent informed the CAS Court Office that in the event that it remained a party in these proceedings, it agreed that the language of the arbitration be English and that the matters CAS 2020/A/7341, CAS 2020/A/7342 and CAS 2020/A/7343 be submitted to the same Sole Arbitrator. In addition, the Second Respondent

requested that the time limit for it to file its Answer be set aside and fixed upon Appellant's payment of its share of the advance of costs in accordance with Article 64.2 of the CAS Code, which was confirmed by the CAS Court Office in its letter of the same date.

38. On 8 September 2020, the First Respondent requested that the time limit for it to file his Answer be set aside and fixed upon Appellant's payment of its share of the advance of costs in accordance with Article 64.2 of the CAS Code.

39. On 9 September 2020, the Appellant reiterated its objection to exclude the Second Respondent as a party to these proceedings.

40. On the same date, the CAS Court Office confirmed that the time limit for the First Respondent to file his Answer would be set after the payment by the Appellant of its share of the advance of costs.

41. On 30 September 2020, the CAS Court Office acknowledged receipt of the Appellant's payment of its share of the advance of costs for the present proceedings and for the proceedings in the case CAS 2020/A/7341 and set a time limit for the Respondents to submit their Answers in the said cases.

42. On 7 October 2020, the CAS Court Office informed the Parties that, in accordance with Article R54 of the CAS Code and on behalf of the President of the CAS Appeals Arbitration Division, Mr. Alain Zahlan de Cayetti was appointed as Sole Arbitrator in these proceedings.

43. On 12 October 2020, the case CAS 2020/A/7343 was terminated.

44. On 13 October 2020, in accordance with Article R55 of the CAS Code, the First Respondent filed its Answer to the Appeal Brief.

45. On 20 October 2020, in accordance with Article R55 of the CAS Code, the Second Respondent filed its Answer to the Appeal Brief.

46. On 26 October 2020, the CAS Court Office acting on behalf of the Sole Arbitrator, requested FIFA to produce a copy of the complete case file related to these appeal proceedings.

47. On 6 November 2020, FIFA produced a copy of complete case file.

48. On 11 November 2020, after consultation with the Parties, the CAS Court Office informed them that, pursuant to Articles R57 of the CAS Code, the Sole Arbitrator had decided to hold a hearing in these proceedings.

49. On 30 November 2020, the CAS Court Office issued the Order of Procedure in these proceedings, which was duly signed by the Respondents and by the Appellant respectively on 2 and 3 December 2020.

50. On 8 December 2020, a hearing was held by videoconference via Cisco Webex in accordance with Article 44.2 of the CAS Code. The following persons attended the hearing:

- For the Appellant:

  Mr […], Legal Counsel

  Mr […], Assistant to Legal Counsel

  Ms […], International Affairs Manager

- For the First Respondent:

  Ms Melanie Schärer, Attorney-at-law of MS International Law, Switzerland

  Mr Gaudenz Koprio, Attorney-at-law of MS International Law

- For the Second Respondent:

  Ms Marta Ruiz-Ayucar, Senior Legal Counsel

  Mr Roberto Nájera Reyes, Senior Legal Counsel

In addition, Ms Delphine Deschenaux-Rochat, Counsel to the CAS, assisted the Sole Arbitrator at the hearing.

51. At the outset of the hearing, the Parties confirmed that they had no objections with regard to the constitution and composition of the Arbitral Tribunal. During the hearing, the Parties had the opportunity to present their cases, submit their arguments and answer all the questions posed by the Sole Arbitrator. At the end of the hearing, the Parties and their counsels expressly declared that they did not have any objections with respect to the procedure adopted by the Sole Arbitrator and that their right to be heard had been fully respected.

V. SUBMISSIONS OF THE PARTIES

52. The following summary of the Parties' positions is illustrative only and does not necessarily comprise each contention put forward by them. However, in considering and deciding the Parties' positions, the Sole Arbitrator has carefully considered all the submissions made and evidence adduced by the Parties, even if there is no specific reference to those submissions in this section of the award or in the legal analysis that follows.

A. Submission of the Appellant

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

54. The Appellant sustains that the Coach has terminated the Employment Contract without just cause.

55. Firstly, the Appellant claims that the Coach has failed to submit a due termination notice. The Club refers to Article 8 of the Employment Contract which provides for the obligation of a Party willing to terminate the contract, to give a 20-day termination notice to the other Party. The Club sustains that *"contrary to the contents of the letters dated October 21, and December 21, 2019 the deadlines of 20 days will be calculated only when it is adjoined to the actual contract termination. This the statements reflected in the mentioned letters cannot be legally considered founded and reliable"*.

56. Secondly, the Club insists that the second salary instalment was not outstanding on the date of the termination of the Employment Contract by the Coach. The Club confirms that the contract provides for the payment of the second instalment in mid-season. However, the Club argues that based on the Committee of Competitions' instructions, the first half of the season has been extended *"until the end of 17th match"* (i.e. *"mid-season occurred from December 27, 2019 until January 31, 2020"*). The Club, therefore, alleges that the *"period of payment for the second instalment had not expired"* on the date of the termination of the Employment Contract by the Coach.

57. Thirdly, the Appellant argues that *"Delay of payment attributed to the club does not provide the right to termination for the coach due to several just excuses on behalf of the club"* (Statement of Appeal par. 14) and refers to the strict financial sanctions which were imposed on Country Y. in May 2018 and made it complicated for the Club to proceed with bank transfers. The Club insists that the first instalment of the Coach's salary has been paid by the Club progressively (in several consecutive transfers) and that the Coach was aware of and accepted, such conditions.

58. Fourthly, the Club refers to certain alleged violations of the Employment Contract's provisions by the Coach. In particular, the Club argues that the Coach failed to develop the grassroots program, *"gave up the Club in the critical time in the mid-season"*, did not supervise over the Club's youth team and made several denigrating comments in media with regards to the Club, all of which is considered by the Club to be a breach of the Coach's contractual obligations.

59. The Club considers that the Coach has terminated the Employment Contract without just cause and taking into account his alleged violations of his contractual obligations, the Club asserts that it should be compensated by the Coach for breach of the contract. Accordingly, the Club considers that the Coach's right for compensation for the termination of Employment Contract with just cause should be declined.

60. Based on its above-mentioned allegations, the Appellant requests the CAS for the following relief:

"1. The Claimant Club X. shall not be obliged to pay to the Respondent, the following amounts:

Outstanding remuneration in the amount of USD 55,380.70, plus interest until the date of effective payment as follows:

5% p.a. on the amount of USD 50,000 as from 1 January 2020;

5% p.a. on the amount of USD 5,000 as from 6 January 2020.

2: - The Claimant, Club X. shall not be obliged to pay, Compensation for breach of contract in the amount of USD 40,000, plus 5% interest p.a. as from 4 February 2020 until the date of effective payment.

3: due to grave violations of public policy, break of governing law of the Football Federation of Country Y. and breach of numerous articles of the contract, the coach shall be considered deprived from the rest of the contract value and has not any ground to the claim the amount".

B. Submission of the First Respondent

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

62. In his Answer to the Appeal Brief, the First Respondent replies to the Club's affirmations and sustains that he has terminated the Employment Contract with just cause based on the breach by the Club of its payment obligations.

63. In particular, the Coach highlights that the Club has not contested the fact that on the date of the termination of the Employment Contract, the bonuses due by it to the Coach, as well as the reimbursement of his flight ticket, were outstanding.

64. Furthermore, the Coach points out that the Club's admission that the first salary was paid by it to the Coach *"in several partial payments"* (and not in one instalment as per the Employment Contract) and that such *"partial payments were made late"*.

65. In addition, the Coach denies the Club's allegations with regards to the definition of the terms of "mid-season". The Coach insists that mid-season has occurred after the fifteenth match (i.e. *"the last match of the first half of the 2019/2020 season"*) played by the Club on 14 December 2019 and before the sixteenth match played by it on 17 December 2019. The Coach further argues that such determination of a "mid-season" is in line with FIFA's regulations with regards to the second registration period which commences at the beginning of the second half of the season, fixed by FIFA in respect of the season in question for 17 December 2019. Furthermore, the Coach contests the Club's allegations concerning the postponement of the mid-season until the end of January 2020, given that (i) such postponement does not change the fact that half of the matches for 2019/2020 season were played in December 2019, (ii) the Club has not provided any evidence in that regards at the time, and (iii) the Coach has never been notified of such postponement. Finally, the Coach refers to the wording of the relevant contractual clause which specifies that the second salary instalment is to be paid to the Coach *"in mid-season (December 2019)"*. In view of the above, the Coach sustains that on the date of the termination of the Employment Contract, the bonuses and full second salary instalment (representing in total more than 3 months' salaries) were due and outstanding.

66. Furthermore, the Coach contests the Club's allegations concerning his failure to provide the Club with a due termination notice (i.e. sufficient deadline for remedy). In that respect, the Coach refers to the default notices which were sent to the Club in October and in December 2019, first of which provide for 20-day deadlines. The Coach insists that in his final notice he has requested for immediate (i.e. *"within 48 hours"*) payment of all his outstanding salary and bonuses, as he has *"sent more than enough warnings"* to the Club. Furthermore, the Coach asserts

that the contractual clause providing for a 20-day termination notice concerns the *"ordinary termination"* of the contract *"without just cause"* and does not apply to the present case where, based on the breach by the Club of its payment obligations, the Coach had just cause to terminate the Employment Contract.

67. In respect of the Club's reference to the financial sanctions which were imposed on Country Y. and, therefore, prevented the Club from processing bank transfers, the Coach highlights that on many occasions he provided the Club with the details of the bank account in Qatar held by the Head Coach, Z., to which the Club transferred the Head Coach's salary, and requested it to proceed with the transfer of his salary to the same bank account. Therefore, the Coach considers that the Club's relating allegations are irrelevant and should be disregarded.

68. The Coach further insists that he never agreed on nor approved any progressive payment plan and that his numerous reminders and default notices may not be considered as accepting such alleged progressive payment plan.

69. Finally, the Coach denies any allegations with regards to the violation of his contractual obligations based on (i) the absence of any evidence in that regards, (ii) the fact that the Club never notified him of such violations, (iii) the success of the Club at the end of the first half of the season which allegedly confirms the Coach's dedication to his work and fulfilment of his obligations. Concerning the interviews in media allegedly given by the Coach and their conflicting comments with regards to the Club, the Coach argues that he has never participated in such interviews.

70. In view of the above, the First Respondent requests the CAS for the following relief:

"1. To reject the Appellant's appeal and to confirm the decision passed by Single Judge of the Players' Status Committee (Single Judge PSC) on 30 June 2020.

2. To order the Appellant to bear all costs incurred through the present procedure, as well as legal costs incurred by the Respondent".

C. Submission of the Second Respondent

71. The submissions of the Second Respondent, in essence, may be summarized as follows:

72. In its Answer to the Appeal Brief, the Second Respondent denies its standing to be sued in the present cases. FIFA insists that (i) the dispute at hand is of a purely *"horizontal"* nature and FIFA does not have any stake in it, (ii) none of the Parties' requests for relief concern FIFA as a party, and (iii) the issues considered in these appeal proceedings are not of disciplinary nature.

73. In view of the above, the Second Respondent requests the CAS for the following relief:

"(a) rejecting the reliefs sought by the Appellant;

(b) confirming the Appealed Decision;

(c) ordering the Appellant to bear the full costs of these arbitration proceedings; and

(d) ordering the Appellant to make a contribution to FIFA's legal costs".

VI. JURISDICTION

74. Article R47 of the CAS Code provides as follows:

"An appeal against the decision of a federation, association or sports-related body may be filed with CAS if the statutes or regulations of the said body so provide or if the Parties have concluded a specific arbitration agreement and if the Appellant has exhausted the legal remedies available to it prior to the appeal, in accordance with the statutes or regulations of that body".

75. Article 58 (1) of the FIFA Statutes states:

"Appeals 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".

76. In consideration of the provisions mentioned above and of the fact that (a) the jurisdiction of the CAS is not contested by the Parties, and (b) the Parties have expressly recognized the jurisdiction of the CAS by signing the Order of Procedure, the Sole Arbitrator is satisfied that the CAS has jurisdiction to decide the present matter.

VII. ADMISSIBILITY

77. Article R49 of the CAS Code provides *inter alia* as follows:

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

78. Article 58 (1) of the FIFA Statutes establishes:

"Appeals 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".

79. The grounds of the Appealed Decision were notified to the Parties on 23 July 2020. The Club filed its Statement of Appeal served as Appeal Brief with the CAS on 12 August 2020, hence within the 21-day term established by the applicable regulations. The Statement of Appeal serving as Appeal Brief further complied with the other requirements of Article R48 of the CAS Code. It follows that the appeal is admissible.

VIII. APPLICABLE LAW

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

"The Panel shall decide the dispute according to the applicable regulations and, subsidiarily, to the rules of law chosen by the Parties or, in the absence of such a choice, according to the law of the country in which the federation, association or sports-related body which has issued the challenged decision is domiciled or according to the rules of law that the Panel deems appropriate. In the latter case, the Panel shall give reasons for its decision".

81. Furthermore, Article 57 (2) of the FIFA Statutes provides:

"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".

82. Article 16 (*"LAW"*) of the Employment Contract reads as follows:

"This contract has been made according to the rules and regulations of FIFA and Football Federation of Country Y. and shall be governed by the laws of FIFA, and Therefore the coach is in breach of this contract will be treated according to the regulations".

83. The Sole Arbitrator finds that the various regulations of FIFA are to be applied primarily and, subsidiarily, Swiss law should the need arise to fill a possible gap in the various regulations of FIFA. However, based on CAS recent jurisprudence referred to below, FIFA RSTP solely govern the employment relationships between clubs and players and not between clubs and coaches and, therefore, are not directly applicable to the matter at hand.

IX. MERITS OF THE DISPUTE

84. In consideration of the facts in dispute and taking into account the content of the Appealed Decision, the main issues to be resolved by the Sole Arbitrator are as follows:

1) Does FIFA have standing to be sued?

2) Did the Coach terminate the Employment Contract with just cause?

In the affirmative:

3) What are the consequences deriving from the termination of the Employment Contract with just cause?

A. Does FIFA have standing to be sued?

85. Pursuant to the long-established CAS jurisprudence, deriving from the relevant provisions of Swiss Law, *"the defending party has standing to be sued (legitimation passive) if it is personally obliged by the "disputed right" at stake (see CAS 2006/A/1206). In other words, a party has standing to be sued and*

may thus be summoned before the CAS only if it has some stake in the dispute because something is sought against it (cf. CAS 2006/A/1189; CAS 2006/A/1192)" (CAS 2007/A/1329 & 1330).

86. The Sole Arbitrator observes that, although the Club brought FIFA in these proceedings, its request for relief contained in the Statement of Appeal served as Appeal Brief, concerns exclusively the financial aspects of the Appealed Decision. The Club has not sought any relief against FIFA and has admitted, during the hearing, that FIFA's involvement in these proceedings should not have been requested.

87. Consequently, the Sole Arbitrator finds that FIFA has no standing to be sued in these appeal proceedings and that the appeal, insofar as it is directed against FIFA, shall be dismissed.

B. Did the Coach terminate the Employment Contract with just cause?

a. Legal grounds

88. Although *"the provisions on contractual stability in the RSTP contain general legal principles"* (CAS 2007/A/1322) related to the employment disputes, the FIFA RSTP do not apply directly to coaches, their scope being limited to *"the status of players, their eligibility to participate in organised football, and their transfer between clubs belonging to different associations"* (Article 1.1 of the FIFA RSTP).

89. The CAS jurisprudence provides that, in the absence of definition of just cause in the FIFA regulations, reference should be made to Swiss law (ex. CAS 2006/A/1062; CAS 2008/A/1447; CAS 2013/A/3091, 3092 & 3093; CAS 2012/A/2698).

90. Accordingly, the Sole Arbitrator refers to the relevant provisions of Swiss law and, in particular, to those of Article 337(2) of the Swiss Code of Obligations ("SCO"), which provide: that *"good cause is any circumstance which renders the continuation of the employment relationship in good faith unconscionable for the party giving notice"*.

91. Based on CAS long-established jurisprudence, only a *"material breach"* of a contract can be considered as *"just cause"* for termination without consequences of any kind (CAS 2006/A/1062; CAS 2006/A/1180; CAS 2007/A/1210; CAS 2006/A/1100; CAS 2013/A/3091, 3092 & 3093). Such material breach occurs, in particular: *"When the main terms and conditions, under which it was entered into are no longer implemented. The circumstances must be such that, according to the rule of good faith, the party terminating the employment relationship cannot be required to continue it"* (CAS 2013/A/3091, 3092 & 3093; CAS 2012/A/2698).

b. Application in the case at hand

92. The Sole Arbitrator observes that on 21 October 2019, by notice of the same date, the Coach put the Club in default for the payment of his first salary installment (outstanding *"since mid-July 2019"*) and of the bonus in the amount of USD 5,000 *"for the last Derby won"*. In particular, the Coach mentioned in his notice that only part of the first salary installment had been paid

to him by the Club in September 2019 (i.e. two months after it was due) and gave the Club 20 days to remedy the payment of the outstanding amount.

93. Following such Coach's notice of 21 October 2019, the Club paid to the Coach the outstanding amount of the first salary but failed to pay the bonus requested by the Coach.

94. On 21, 28 and 30 December 2019, the Coach sent other default notices to the Club, requesting it to proceed with the payment of *"outstanding dues … (outstanding salaries, air ticket costs and bonuses)"* and indicating that the second salary installment (payable in *"mid-season (December 2019)"*) had become due and was to be paid by the Club. In the said notices, the Coach provided the Club with the deadline of 31 December 2019 to remedy. The final payment default notice sent by the First Respondent to the Club was dated 1 January 2020 and provided for 48 hours for the Club to proceed with the payment of the outstanding amounts mentioned above.

95. On 5 January 2020 which is the effective date of the Employment Contract's termination, the amount of the bonuses, the price of the flight ticket and the second payment of his salary *"which corresponded to more than (4) four months of salary"* were still outstanding and due to the Coach.

96. The Appellant has not disputed the facts above. However, it has raised several arguments in support of his behavior. The Sole Arbitrator shall address them successively.

97. Firstly, the Club argues that the Coach has breached his obligations under the Employment Contract, without providing any evidence of such breach or of any notice sent to the Coach which would support it. On the contrary, the documentation provided in these proceedings illustrate the Club's sound performance and victories achieved during the first half of season. The Club's argument herein shall be dismissed.

98. Secondly, Article 4 of the Employment Contract provides for the payment of the amount of USD 50,000 – *"in mid-season (December 2019)"*. The Club contests that amount to be due to the Coach arguing that the mid-season was extended until the end of January 2020.

99. In order to support its allegations, the Club refers to the evidence produced during the proceedings before the Single Judge of the FIFA PSC, in particular, to the letter sent to it by the Secretary of League Organization indicating that *"(d)ue to the postponement of the seventeenth week and intensive league conditions during the second half of the season, the start of the leagues for Club X. teams is around 5 or 6 February"*.

100. However, pursuant to the provisions of Article 6.2 of the FIFA RSTP, the term "mid-season" refers to a period of time corresponding to the second registration period, i.e., *"The second registration period shall normally occur in the middle of the season and may not exceed four weeks"*.

101. Based on the evidence produced by the Coach during these proceedings, the second registration period for male teams in Country Y. fixed by FIFA for the season 2019-2020,

having occurred from 17 December 2019 to 13 January 2020 in line with the provisions of Article 6.2. of the FIFA RSTP, is considered to have taken place in mid-season.

102. Furthermore, by reference to the principle of *pacta sunt servanda*, the terms *"in mid-season (December 2019)"* clearly refer to the Parties' intent to trigger the payment of the relevant instalment in December 2019, the deadline of which was, therefore, fixed on 31 December 2019.

103. Consequently, the failure of the Club to proceed with such payment by 31 December 2019, makes the second payment of the Coach's salary outstanding on the date of the termination of the Employment Contract (i.e. 5 January 2020).

104. Thirdly, the Club affirms that the Coach could not have validly terminated the Employment Contract with a 48-hour default notice sent on 1 January 2020.

105. In the case at hand, the Sole Arbitrator observes that:

(i) the Coach's first installment in the amount of USD 50,000 which was due *"not later than 2 weeks after the signature of the contract",* was settled in several partial payments, the last of which having occurred after the date on which the club received the Coach's notice dated 21 October 2019.

(ii) the outstanding air ticket costs and bonuses mentioned have never been paid to the Coach;

(iii) the outstanding amount corresponding to the second installment was not paid to the Coach following the Coaches' notice sent on 1 January 2020.

106. Article 102 of the SCO provides:

"1. Where an obligation is due, the obligor is in default as soon as he receives a formal reminder from the obligee.

2. Where a deadline for performance of the obligation has been set by agreement or as a result of a duly exercised right of termination re- served by one party, the obligor is automatically in default on expiry of the deadline".

107. Based on the above provisions in particular, the Club has clearly failed to meet its payment obligations on the date on which they were due. The issue is now to determine whether or not they constitute just cause for termination of the Employment Contract by the Coach.

108. The Sole Arbitrator refers to the CAS jurisprudence where the panel concluded that only the degree of seriousness of a breach determines whether or not a contract can be terminated for just cause. The CAS panel has previously decided what follows:

"Additionally, before analysing whether the Player had just cause to terminate the Contract, the Panel notes that not every breach of a contractual obligation by a party justifies the early termination of a contract. Rather, the breach of contract must have a certain degree of seriousness to constitute "just cause". This is in line with

jurisprudence of the Swiss Federal Tribunal (ATF 104 II 28, JT 1978 I 514) which provides: "Les faits doivent être si graves qu'ils ont pour effet de rompre irrémédiablement le rapport de confiance nécessaire". This can be informally translated into English as follows: "the facts must be so severe as to cause the irremediable loss of confidence necessary between the parties" (CAS 2016/A/4403, para 99);

And that:

"The non-payment or late payment of remuneration by an employer does in principle – and particularly if repeated as in the present case – constitute "just cause" for termination of the contract (ATF 2 February 2001, 4C.240/2000 no. 3 b aa; CAS 2003/O/540 & 541, non-public award of 6 August 2004); for the employer's payment obligation is his main obligation towards the employee. If, therefore, he fails to meet this obligation, the employee can, as a rule, no longer be expected to continue to be bound by the contract in the future. Whether the employee falls into financial difficulty by reason of the late or non-payment, is irrelevant. ***The only relevant criteria is whether the breach of obligation is such that it causes the confidence, which the one party has in future performance in accordance with the contract, to be lost. This is the case when there is a substantial breach of a main obligation such as the employer's obligation to pay the employee. However, the latter applies only subject to two conditions. Firstly, the amount paid late by the employer may not be "insubstantial" or completely secondary. Secondly, a prerequisite for terminating the contract because of late payment is that the employee must have given a warning.*** *In other words, the employee must have drawn the employer's attention to the fact that his conduct is not in accordance with the contract (see also CAS 2005/A/893; CAS 2006/A/1100, marg. no. 8.2.5 et seq.)"* (CAS 2006/A/1180 para. 26 and CAS 2016/A/4403, para 100) (emphasis added).

109. With regards to the specific case of a party's obligation to give another party a reasonable notice (warning) to remedy, the CAS consistent jurisprudence provides that:

"[…] for a party to be allowed to validly terminate an employment contract, it must have warned the other party, in order for the latter to have had the chance, if it deemed that the complaint to be legitimate, to comply with its obligations" (CAS 2013/A/3091, 3092 & 3093*).*

"[a]lthough the need to send notices is not mandatory in all cases and is established on a case by case basis, CAS Sole Arbitrators have regarded notices as a vital step which could possibly have played a role in bringing an end to an unexplained breach or series of breaches, particularly where the breach or breaches in question has not yet reached a fundamentally unacceptable level and/or unduly prejudiced the non-breaching party to the extent that the latter cannot be reasonably expected to continue the contract" (CAS 2014/A/3460, para. 63).

110. In the case at hand, as further detailed above, (i) the Club was late in paying to the Coach the initial amount of USD 50,000 within 2 weeks following the signature, (ii) on 21 October 2019, the Club was late in paying the Coach the outstanding balance of such initial amount representing 40% thereof (iii) the Club has never paid the second installment in the amount of USD 50,000 which was due in December 2019 and the bonuses and the cost of the air ticket. Consequently, the Sole Arbitrator finds that:

(i) the Club's repeated late significant payments or absence thereof justifies the loss of confidence by the Coach in the Club and in its proper performance of the Employment Agreement in the future and justifies the termination by the Coach of the Employment for just cause; and

(ii) the Club's argument that it should have been given it a longer notice to proceed with the payment due in mid-season, is quite unreasonable. On the contrary, given these specific circumstances, the default notice sent by the Coach to the Club on 1 January 2020 gives a reasonable "warning" before termination of the Employment Contract, in the sense of the aforementioned jurisprudence. Therefore, without the need to further expand on the Club's requirement to refer to the 20-day termination notice mentioned in Article 8 of the Employment Contract, which, in any case, cannot be considered as intended by the Parties to apply in the case of termination for just cause, the Club's argument with regards to the Coach's failure to provide it with a due default notice, cannot be seriously considered and shall be equally dismissed.

111. Fourthly**,** the Club argues that the financial sanctions imposed on Country Y. has prevented it from processing bank transfers to the Coach, hence the delays in payments. However, such financial sanctions on Country Y. existed on the date on which the Employment Agreement was concluded and the Parties thus could not ignore them. Furthermore, the Club has not provided any evidence showing that such financial sanctions would have prevented or affected the payment made to the Coach, in accordance with his request, by way of bank transfers to the bank account of the Head Coach, Z., opened in a bank located in Qatar. In these conditions, the Club's argument herein must be dismissed.

112. Fifthly**,** the Club sustains that the Coach had accepted that the payment of his remuneration be made progressively. However, the Club has not provided any evidence supporting the fact that the Coach had accepted such progressive payments or their modalities. The Club's argument herein must here as well, be dismissed.

113. In these conditions, the Sole Arbitrator finds the Club liable for breach of its obligations to pay the Coach's *"substantial"* part of remuneration in due time, as per the provisions of the Employment Agreement. Accordingly, by reference to the legal provisions and to the CAS constant jurisprudence mentioned above, the Employment Contract was terminated by the Coach with just cause.

C. What are the consequences deriving from the termination of the Employment Contract with just cause?

114. The Sole Arbitrator shall proceed with the determination of the consequences arising out of the Coaches' termination of the Employment Agreement with just cause.

a. Remuneration and other benefits due to the Coach under the Employment Contract

115. Firstly, and as established above, the Sole Arbitrator considers that the outstanding amount of the First Respondent's salaries due to the Coach at the time of the termination of the Employment Contract, is USD 50,000 and shall be paid by the Club to the Coach, in line with the Appealed Decision.

116. Secondly, considering the Coach's request, the Sole Arbitrator finds that the Coach is entitled to claim for the application of an interest at the rate of 5% p.a. on the total outstanding amount of USD 50,000 as ordered in the Appealed Decision, that is from 1 January 2020 until the date of effective payment. It is noted that, in that respect, none of the Parties has challenged the application of the interest rate or the starting date thereof, and that, therefore, the Appealed Decision shall be confirmed in that regards.

117. Thirdly, with regards to the bonuses due to the Coach, the Employment Agreement provides such bonuses *"for each win in Derby Matches […] USD 5,000"* and a *"bonus for every win in every official match such as league, Country Y. cup or ACL […] according to the decision of Club X. Board and in respect of the Bonus Regulation of the club"*.

118. In the Appealed Decision, the Single Judge of the FIFA PSC ordered the Club to pay to the Coach the outstanding bonus claimed by the latter in the total amount of USD 5,000 *"for the derby win"*, along with an interest at the rate of 5% p.a. from 6 January 2020 until the date of effective payment.

119. In that respect, the Sole Arbitrator observes that none of the Parties contested (i) that the said bonus was due at the date of the termination of the Employment Contract by the Coach, (ii) the mode of its calculation or (iii) the application thereon of a late payment interest.

120. Finally, the Sole Arbitrator takes note of the Coach's claim filed before the FIFA PSC for the reimbursement to him by the Club of the purchased flight ticket's price in the amount of EUR 380.70 along with the evidence produced by the Coach in that respect.

121. Given that the fact or the calculation of such outstanding expense have not been disputed by either of the Parties, the Sole Arbitrator decides that the Club shall compensate the said amount to the Coach, in line with the Appealed Decision.

122. In view of the above, the Sole Arbitrator finds that the Club is liable to pay to the Coach the outstanding remuneration in the amount of USD 50,000 plus interest at the rate of 5% p.a. from 1 January 2020 until the date of the full payment, the outstanding bonus in the amount of USD 5,000 plus interest at the rate of 5% p.a. from 6 January 2020 until the date of the full payment, and the price of the flight ticket purchased by the Coach in the amount of USD 380.70. Accordingly, the Appealed Decision on this point is confirmed.

b. Compensation for breach of contract due to the Coach by the Club

123. The Sole Arbitrator observes that the contracting Parties have included provisions and compensation rules in the Employment Contract in case of unilateral termination thereof (i.e. Article 8 of the Employment Contract).

124. However, the provisions of Article 8 of the Employment Contract and, in particular, the compensation rules adopted by the Parties, do not apply to the termination of the contract with just cause. Consequently, the Sole Arbitrator considers that the criteria deriving from the relevant provisions of the SCO and, in particular, the principle of positive interest based on the long-established CAS jurisprudence, shall apply to the calculation of the compensation for breach in the case at hand.

125. Article 337b para.1 of the SCO provides as follows:

"Where the good cause for terminating the employment relationship with immediate effect consists in breach of contract by one party, he is fully liable in damages with due regard to all claims arising under the employment relationship".

126. Articles 337c paras1 and 2 of the SCO supplement the provisions mentioned above as follows:

"1. Where the employer dismisses the employee with immediate effect without good cause, the employee is entitled to damages in the amount he would have earned had the employment relationship ended after the required notice period or on expiry of its agreed duration.

2. Such damages are reduced by any amounts that the employee saved as a result of the termination of the employment relationship or that he earned by performing other work or would have earned had he not intentionally foregone such work".

127. In line with the relevant provisions of the SCO mentioned above, in the case CAS 2015/A/3904, the Sole Arbitrator has concluded that *"(i)n the absence of any contractual provision determining the financial consequences of a unilateral breach of contract, the consequences are set out in article 17(1) RSTP. The principle of "positive interest" shall be applied in this respect. In this regard, the player's objective damages should be assessed before applying the panel's discretion in adjusting this total amount of objective damages. Therefore, the salaries that would normally have been paid to the player should the employment contract have been duly complied with may be taken into account in awarding compensation to the player. Since the player did not receive these amounts due to the club's breach of its contractual obligations, these amounts can therefore be considered as damages. These amounts should not be reduced if the damages have not been mitigated".*

128. Similarly, in the matter CAS 2014/A/3584, the Panel has made the following conclusion deriving from the provisions of Articles 337c.1 and 337c.2 of the SCO: *"[…] if the employee terminates the contract with just cause because the employer breaches the contract, the employee has a claim to compensation for the amount which he would have earned had the employment been terminated in compliance with the notice period or by expiry of the fixed term. According to this principle, it is fully justified to award the player the wages to be paid until the end of the employment contract, with deduction of which he has saved*

or earned elsewhere because of the (early) termination of the employment contract or could have earned elsewhere had he made reasonable efforts".

129. The Sole Arbitrator observes that, if the Employment Contract had not been terminated by the Coach with just cause on 5 January 2020, the Coach would have received the amount of USD 40,000 (i.e. third salary instalment) for the period from the effective termination date until the date of the expiry of the Employment Contract on 1 July 2020.

130. Consequently, the Sole Arbitrator considers that the Coach is entitled to a compensation for breach of contract in the amount of USD 40,000, in line with the Appealed Decision.

131. The Sole Arbitrator shall now proceed with the establishment of any circumstances and amounts which would reduce or mitigate the amount of compensation.

132. It is observed that, based on the Coach's statement, the Coach has not found a new employment following the termination of the Employment Contract and, therefore, has not earned any amount which could mitigate the amount of compensation. This fact is not contested by any of the Parties and is confirmed in the Appealed Decision.

133. Furthermore, the Sole Arbitrator notes the Club's counterclaim based on the allegations that the Coach has failed to develop the grassroots program, terminated the Employment Agreement at a critical moment, failed to supervise over the Club's youth team, made several denigrating comments in media with regards to the Club or violated the principle of good faith by deciding to terminate the Employment Contract.

134. Pursuant to the provisions of Article 8 of the Swiss Civil Code and in line with well-established CAS jurisprudence, a party claiming a right shall carry the burden of proof.

135. Accordingly, the Sole Arbitrator finds the Club to have failed to produce any proof of such violations or their notification to the Coach during his employment and finds that the Club's counterclaim and allegations in that regards must be dismissed.

136. The Sole Arbitrator observes that the said allegations are made by the Club in support of its claim for compensation for breach of the Employment Contract by the Coach, and not as grounds for the reduction of the Coach's compensation.

137. Consequently, the Sole Arbitrator concludes that no reduction shall be made to the compensation mentioned above.

138. In addition, the Sole Arbitrator observes that an interest at the rate of 5% p.a. has been applied in the Appealed Decision to the total amount of compensation, from 4 February 2020 until the date of effective payment, which has not been contested by either of the Parties and decides to confirm this point of the Appealed Decision.

139. In consideration of the developments mentioned above, the Sole Arbitrator finds that the Club is liable to pay to the Coach a compensation for breach of contract in the amount of

USD 40,000, plus an interest at the rate of 5% p.a. from 4 February 2020 until the date of effective payment and is in line on this point with the Appealed Decision.

X. CONCLUSION

140. In conclusion, on the basis of the rules applicable to the merits and for all the reasons set out above, the Sole Arbitrator holds that the Appeal lodged by the Club shall be rejected and the Appealed Decision shall be upheld in its entirety.

ON THESE GROUNDS

The Court of Arbitration for Sport rules that:

1. The appeal filed by Club X. on 12 August 2020 against the decision rendered by the Single Judge of the FIFA Players' Status Committee on 30 June 2020 is dismissed.

2. The decision rendered by the Single Judge of the FIFA Players' Status Committee on 30 June 2020 is confirmed.

3. (…).

4. (…).

5. (…).

6. All other motions or prayers for relief are dismissed.