CAS 2023/A/9578 NK Olimpija Ljubljana v. Jaka Čuber Potočnik and 1. FC Köln
CAS 2023/A/9579 1. FC Köln GmbH & Co. KGaA & 1. Fußball-Club Köln 01/07 e.V. v. NK Olimpija Ljubljana & FIFA
CAS 2023/A/9580 Jaka Čuber Potočnik v. NK Olimpija Ljubljana & FIFA

ARBITRAL AWARD

delivered by the

COURT OF ARBITRATION FOR SPORT

sitting in the following composition:

President: Prof. Luigi Fumagalli, Attorney-at-Law, Milan, Italy

Arbitrators: Mr Jordi López Batet, Attorney-at-Law, Barcelona, Spain
Mr Rui Botica Santos, Attorney-at-Law, Lisbon, Portugal

Clerk: Ms Alexandra Veuthey, Attorney-at-Law, Lausanne, Switzerland

in the arbitration between

NK Olimpija Ljubljana, Ljubljana, Slovenia

Represented by Mr Basil Kupferschmied, Mr Jonáš Gürtler and Mr Emanuel Cortada, Attorneys-at-Law in Zurich, Switzerland

Appellant in CAS 9578 / Respondent in CAS 9579 and 9580

1. FC Köln GmbH & Co. KgaA, Köln, Germany

Appellant in CAS 9579 / Respondent in CAS 9578

1. Fußball-Club Köln 01/07 e.V., Köln, Germany

Both represented by Mr Gianpaolo Monteneri and Ms Anna Smirnova, Attorneys-at-Law in Zurich, Switzerland

Appellant in CAS 9579

Jaka Čuber Potočnik, Köln, Germany / Brežice, Slovenia

Represented by Mr Kai Ludwig, Attorney-at-Law in Zurich, Switzerland, and by Mr Blaž T. Bolcar, Attorney-at-Law in Solka, Slovenia

Appellant in CAS 9580 / Respondent in CAS 9578

Fédération Internationale de Football Association, Zurich, Switzerland

Represented by Mr Miguel Liétard Fernández-Palacios, Mr Alexander Jacobs and Mr Roberto Nájera Reyes, FIFA Litigation Department, Zurich, Switzerland

Respondent in CAS 9579 & 9580

I. PARTIES

1. NK Olimpija Ljubljana ("Olimpija") is a Slovenian professional football club affiliated to the Football Association of Slovenia ("SAF"), which is a member of the Fédération Internationale de Football Association.

2. 1. FC Köln GmbH & Co. KGaA ("First Köln") is a German professional football club affiliated to the German Football Association ("DFB"), which is a member of the Fédération Internationale de Football Association. First Köln controls the activities of the women's first team, of the men's first team, and of the men's U21, U19 and U17 teams.

3. 1. Fußball-Club Köln 01/07 e.V. ("Second Köln") is a registered non-profit association under German law, is the parent club of First Köln and is also affiliated to the DFB. It controls the activities of the youth men's teams up to and including U16 and of the women's youth teams.

4. Jaka Čuber Potočnik (the "Player") is a Slovenian minor professional football player born on 17 June 2005, currently playing for First Köln.

5. The Fédération Internationale de Football Association ("FIFA") is the international governing body of football. It is an association under Articles 60 et seq. of the Swiss Civil Code ("SCC") with its headquarters in Zürich, Switzerland.

6. First Köln and Second Köln are jointly referred to as "Köln". Olimpija, Köln, the Player and FIFA are jointly referred to as the "Parties".

II. FACTUAL BACKGROUND

7. Below is a summary of the main relevant facts, as established on the basis of the written submissions of the Parties, the hearing 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

8. On 1 June 2021, the Player and Olimpija concluded an employment agreement (the "Olimpija Contract") valid from said date until 30 June 2024.

9. Since the Player was born on 17 June 2005 and therefore was underaged when he signed the Olimpija Contract, he was assisted and represented by his mother, Ms Tina Čuber (the "Mother"), who co-signed the document.

10. In accordance with the Olimpija Contract, Olimpija undertook to pay to the Player the following amounts:

"(1)

- Period from 01.06.2021 until 30.06.2022

a monthly gross amount of EUR 1.200,00 + VAT, by the 20 day of the month for the previous month, with statutory default interest charged from the day of arrears until the day of payment in the event of arrears,

- Period from 01.07.2022 until 30.06.2023

a monthly gross amount of EUR 1.400,00 + VAT, by the 20 day of the month for the previous month, with statutory default interest charged from the day of arrears until the day of payment in the event of arrears,

- Period from 01.07.2023 until 30.06.2024

a monthly gross amount of EUR 1.600,00 + VAT, by the 20 day of the month for the previous month, with statutory default interest charged from the day of arrears until the day of payment in the event of arrears,

(4) The club will provide other benefits to the player for the duration of the contract:

- 250 EUR gross for apartment rental costs, or provide him a free suitable stay, with which the player must agree;

- adequate nutrition, which must include at least two hot meals a day, for the time when the player is not provided with food while attending school, in case the club cannot provide adequate nutrition, the club will pay him a meal allowance of EUR 100 per month.;"

11. Furthermore, under Article 8 of the Olimpija Contract, Olimpija undertook the following obligations:

i. to ensure conditions for training and playing matches in a manner that will offer the player the optimal conditions for playing matches and training with the club's first team under the professional guidance of the trainers of the club's first team. Other discriminatory treatment of the player is not allowed. In exceptional cases, special treatment of the player is allowed in cases where the player is recovering after illness or injury or, when a disciplinary measure has been imposed on the player;

ii. to provide the requisite equipment for training and competing, regularly and in a timely manner;

iii. to allow the player to participate in international matches, the preparations for such matches and other duties related to selection for international appearances, in the manner and for the duration set out by the rules of FIFA, UEFA and the NZS;

iv. to perform all its financial and other obligations under this contract by the contractually stipulated deadlines;

v. to support the player's decision to undertake further education or vocational training for his post-football career at his own expense, and to enable him to be trained through other SPINS project programmes or any other educational institution;

vi. to organise the player's obligations under this contract in such a way that within a period of seven (7) days the player is normally provided with a rest for a continuous

period of at least twenty-four (24) hours. If due to exceptional circumstances (e.g. matches, preparations) the rest referred to in the previous sentence cannot be guaranteed within seven (7) consecutive days, the player has the right to rest at the first opportunity, and within the next 10 days at the latest;

vii. to provide the player with medical care in the form of regular medical treatment;

viii. to cover all the costs of the player's medical treatment and rehabilitation not covered by compulsory health insurance. These are costs arising from referral by the club doctor and resulting from illness or injury for the duration of this contract and for at least three months after the expiry of the contract if the illness or injury occurred during the term of the contract, unless the player and the club agree otherwise;

ix. not to hinder the player from participating in the meetings of the SPINS Board of Directors or SPINS general meetings and at SPINS XI events (safeguarding the right to trade association and engagement);

x. to regularly pay the SPINS membership fee at the request of the player".

12. On 23 January 2022, the Mother sent an email to Olimpija, complaining about the fact that the latter was not respecting the terms of their written and verbal agreements, as well as the promises made by Olimpija's director during the previous year. She underlined that the Player was not given the opportunity to train with the first team and in a professional way, and raised concerns as to his career development, as follows:

"I am again addressing you as the mother of your player Jaka Čuber Potočnik and also on his behalf.

As it was presented to you, it was agreed with the club at the time of signing of the contract that Jaka will have individual training with a fitness coach at least twice a week and individual training with a coach who takes care of developing playing football techniques once a week. We also agreed that the club will allow the player to move abroad if the player and his parents so wish and if the compensation for the transfer exceeds € 100,000. Maybe it is our fault that we did not write this in the contract, but I believe that Olimpija is such a club that respects the given commitments.

We have talked several times in recent months about the status of my son and the realization of the agreement between my son and the club, but to this day things have not changed. We first met Mr. Rudonja and Mr. Skender on 5 December 2021, when we were assured that Jaka would be provided with everything agreed upon (something that had not been respected until then). Then you and Mr. Rudonja had a meeting with the representative of Jaka and our family, Mr. Šukalo, whom you clearly told that transferring to a new club was out of the question and that you would respect everything agreed (except that you would not put it on paper in the form of an annex). Finally, on 18 January 2022, me and my husband (Jaka's father) met with you.

You have assured to me, my husband and to our representative Mr. Sukalo that Jaka is a project of the club and that you will take care of its development as promised. However, to the present date there has been no change. Jaka signed a contract under which he shall be training and playing with the first team. Jaka does not train with the

first team (he is not involved in any activities of the first team at all; he was not invited to the training camp of the first team), he does not have individual trainings, nothing has changed. You also didn't even want to hear about a transfer to another club, even though the compensation was supposed to be well over the agreed amount. As a mother and legal representative of my son I do not know what is going on and why things agreed in writing and orally are not being respected. Let alone I cannot understand what you mean by saying that it is you who will decide to whom my son will be "sold". This should always be the decision of all parties involved, taking into account all agreements.

We are very disappointed after our last meeting, both with regard to your manners and regarding the failure to honor what has been agreed. Therefore, we demand that all the above promises made by the club at the time of concluding the contract be formalized in the form of an annex and that all (oral) agreements and the contract be immediately fulfilled in full. We expect fulfillment of all agreements by this Friday".

13. On 24 January 2022, Olimpija's director replied to the Mother reassuring her that the Player was still at the centre of the club's football project as they were aware of the Player's talent and potential.

14. On 30 January 2022, the Mother notified the unilateral termination of the Olimpija Contract to Olimpija, accusing the latter of breaching its contractual obligations and the promises made at the beginning of the employment relationship.

15. On 31 January 2022, First Köln uploaded an instruction for the transfer of the Player from Olimpija in the FIFA Transfer Matching System ("FIFA TMS"), i.e., instruction type "engage out of contract against payment". In said transfer instruction, a copy of the professional contract executed between the Player and First Köln, dated 31 January 2022, was uploaded (the "Köln Contract"). The Köln Contract was equally signed by the Mother and stipulated a duration from 31 January 2022 until 30 June 2024.

16. Pursuant to the Köln Contract, the Player was entitled to the following payments:

"i. EUR 1,000 payable from 31 Jan 22 to 30 June 22;
ii. EUR 1,500 payable from 1 July 22 to 30 June 23;
iii. EUR 2,000 payable from 1 July 23 to 30 June 24;
iv. Monthly guaranteed amount of EUR 250 gross".

17. On 6 February 2022, Olimpija objected to the issuance of the International Transfer Certificate (the "ITC") requested by First Köln, alleging the existence of the binding Olimpija Contract with the Player.

18. On 24 March 2022, the FIFA Players' Status Chamber of the Football Tribunal rendered a decision, allowing the provisional registration of the Player with First Köln.

19. On 20 April 2022, First Köln sent an email to Olimpija requesting it to issue an invoice for the training compensation originating from the relevant transfer of the Player.

20. On 21 April 2022, Olimpija replied to Köln, arguing that no invoice would be issued at the time as it wanted to refrain from any steps that could in any way indicate the legitimacy of the Player's transfer.

B. Proceedings before the FIFA Dispute Resolution Chamber

21. On 25 July 2022, Olimpija lodged a claim against the Player and First Köln before the FIFA Dispute Resolution Chamber (the "FIFA DRC"). It argued that the Player had breached the Olimpija Contract without just cause and requested, *inter alia*, that he be ordered to pay EUR 2,507,200 as compensation. It alleged that First Köln was jointly liable for the payment of such amount.

22. On 14 September 2022, the Player and First Köln submitted their respective positions.

23. On 1 February 2023, the FIFA DRC rendered its decision (the "Appealed Decision"), partly granting Olimpija's claim, with the following operative part:

"1. The claim of the Claimant, ŠD NK Olimpija Ljubljana, is partially accepted insofar as it admissible.

2. The Respondent 1, Jaka Čuber Potočnik, has to pay to the Claimant EUR 51,750 as compensation for breach of contract without just cause plus 5% interest p.a. as from 30 January 2022 until the date of effective payment.

3. The Respondent 2, 1. FC Köln, is jointly and severally liable for the payment of the aforementioned compensation.

4. Any further claims of the Claimant are rejected.

5. Full payment (including all applicable interest) shall be made to the bank account indicated in the enclosed Bank Account Registration Form.

6. If the aforementioned sum plus interest is not paid within 30 days of notification of this decision, the present matter shall be submitted, upon request, to the FIFA Disciplinary Committee for its consideration and formal decision.

7. A restriction of four months on his eligibility to play in official matches is imposed on the Respondent 1. This sanction applies with immediate effect as of the date of notification of the present decision. The sporting sanctions shall remain suspended in the period between the last official match of the season and the first official match of the next season, in both cases including national cups and international championships for clubs.

8. The Respondent 2 shall be banned from registering any new players, either nationally or internationally, for the two next entire and consecutive registration periods following the notification of the present decision.

9. This decision is rendered without costs".

24. On 29 March 2023, the grounds of the Appealed Decision were communicated to the Parties, determining, *inter alia*, the following:

- The FIFA DRC has jurisdiction over the dispute, which must be analysed on the basis of the Regulations on the Status and Transfer of Players ("FIFA RSTP"), July 2022 edition, as to the substance, and the usual rules on the burden of proof. Any training compensation, if any, should be claimed through other channels.
- The main contention is whether the Player had just cause to terminate the Olimpija Contract on 30 January 2022, and the consequences thereof.
- Based on the documentation on file, Olimpija did not appear to expressly deny the existence of binding verbal agreements, in particular with respect to the promise to integrate the Player into its first team. Olimpija also offered the Player a professional contract, which tends to corroborate his expectations regarding his future career at the club. That said, the *ultima ratio* principle requires that termination of a contract should always be a last resort. Equally, just cause only exists when the breach is considered sufficiently serious, namely when there are objective circumstances that would render it unreasonable to expect the employment relationship between the parties to continue, such as a serious breach of trust.
- In this respect, the Player did not sufficiently establish such breach of trust, nor any substantial violation of the employment agreement by Olimpija. To the contrary, the exchange of correspondence between the Parties and the respect by Olimpija of its (formal) contractual obligations until the date of termination would suggest the club's good faith and positive attitude towards the Player. The temporary decision not to transfer the Player to the first team is not in itself sufficient to establish ongoing negligence on the part of the club with respect to any oral or written agreements regarding the Player's future prospects.
- Conversely, the timeline of the case denotes the Player's eagerness, via his legal representative, to terminate the Olimpija Contract in order to stipulate a new labour agreement with a club as prominent as Köln. On this basis, the Player did not have just cause for leaving. He committed *"a severe breach of contract"* and should bear the potential sporting and financial consequences of such breach.
- In accordance with Article 17(1) of the FIFA RSTP, the amount of compensation due to a club must be calculated, unless otherwise provided for in the contract at the origin of the dispute, with due consideration for the law of the country concerned, the specificity of sport and further objective criteria. This includes the remuneration and other benefits due to the player under the existing contract and/or the new contract, the time remaining on the existing contract up to a maximum of five years, as well as the fees and expenses paid or incurred by the former club. The date of termination of the contract should also be taken into account, if it falls within the protected period.
- In the absence of a liquidated damage clause, the residual value of the contract terminated early should thus serve as the starting point for the determination of the amount of compensation for breach of contract. The

standard practice is then to calculate the average between the player's remuneration with his former club and his remuneration with the new club, for the exact same period of time comprised between the early termination of the employment contract with the old club and the original expiry date of such contract. In case substantial evidence thereof is provided by the club, the damaged club can also be granted the non-amortised transfer fee paid for the player in breach and/or the actual costs incurred by the damaged club in order to replace the leaving player.

- In the present case, the residual value of the Olimpija Contract as from its unlawful termination on 30 January 2022 until its original term of 30 June 2024 amounts to EUR 49,250. The remuneration provided for in the Köln Contract for the same period is EUR 54,250. As a result, the average between the Player's remuneration with the former club and his current remuneration comes to EUR 51,750, that is (EUR 49,250 + 54,250) / 2.
- Consequently, the Player has to pay the amount of EUR 51,750 to Olimpija, plus interest at the rate of 5% p.a. as of 30 January 2022 until the date of effective payment.
- First Köln, as the Player's new club, is jointly and severally liable for the payment of this compensation, pursuant to Article 17(2) of the FIFA RSTP, without it being necessary to rule on its alleged inducement to the contractual breach.
- In line with Article 17(3) of the FIFA RSTP, sporting sanctions shall be imposed on any player found to be in breach of contract during the protected period. Item 7 of the "Definitions" section of said regulations establishes that the protected period shall last *"for three entire seasons or three years, whichever comes first, following the entry into force of a contract, where such contract is concluded prior to the 28th birthday of the professional, or two entire seasons or two years, whichever comes first, following the entry into force of a contract, where such contract is concluded after the 28th birthday of the professional"*.
- In this context, a suspension of four months on a player's eligibility to participate in official matches is the minimum sporting sanction that can be imposed for breach of contract during the protected period. This fixed minimum sanction can be extended in the presence of aggravating circumstances, but not reduced in the event of mitigating circumstances.
- In the case at stake, the Player was born on 17 June 2005. He concluded the Olimpija Contract on 1 June 2021, and terminated it without just cause on 30 January 2022, namely during the protected period. Consequently, he must be sanctioned with a restriction of four months on his eligibility to participate in official matches.
- In accordance with Article 17(4) of the FIFA RSTP, it shall be presumed, unless established to the contrary, that any club signing a professional player who has terminated his previous contract without just cause has induced that professional to commit a breach.

- In this instance, the Player's new club, First Köln, was not able to present sufficient evidence to rebut this presumption. Quite the opposite, based on the file, it appears to have clearly incited the Player to commit a breach of contract. Hence, it shall be banned from registering any new players, either nationally or internationally, for the two next entire and consecutive registration periods following the notification of the decision.

25. On 6 April 2023, Köln sent a letter to the DFB with regard to the Appealed Decision to seek clarification regarding the transfer ban thereby imposed. In that letter, Köln assumed that the transfer ban did not concern the Second Köln, as the disputed violation had been committed by First Köln. At the same time, Köln expressed doubts as to the actual scope of the ban imposed on First Köln, and specifically whether it concerned the players registered as amateur, and which of the First Köln's teams (men's and women professional, U21, U19 and U17 teams) were affected. As a result, Köln invited the DFB to request clarifications from FIFA.

26. On 12 April 2023, FIFA answered the request for clarification submitted by the DFB on 11 April 2023, indicating that the transfer ban and the Appealed Decision [underlining in the original]:

"aim at prohibiting any new registration of player(s), either nationally or internationally, for the club as addressee of the relevant decision. Accordingly, in the case at stake, such registration ban applies to all male teams of the Club at amateur and professional level in various competitions, regardless of the age category, and irrespective of the Club's corporate structure.

In this regard, the registration ban shall apply to association football, i.e., eleven-a-side type of football. However, for the sake of clarity, the ban does not apply to futsal, beach soccer, or to all female teams".

III. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT

27. On 18 April 2023, Olimpija filed a Statement of Appeal with the Court of Arbitration for Sport ("CAS") against 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, Olimpija named the Player and First Köln as respondents (see § 61) and nominated Mr Jordi López Batet, Attorney-at-Law in Barcelona, Spain, as arbitrator.

28. On 19 April 2023, Köln also filed a Statement of Appeal with CAS against the Appealed Decision, in accordance with Articles R47 and R48 of the CAS Code. In this submission, Köln named Olimpija and FIFA as respondents and nominated Mr Rui Botica Santos, Attorney-at-Law in Lisbon, Portugal, as arbitrator. It also applied for provisional measures pursuant to Article R37 of the CAS Code, and requested the stay of the decision.

29. On the same date, the Player also filed a Statement of Appeal with CAS against the Appealed Decision, in accordance with Articles R47 and R48 of the CAS Code. In

this submission, the Player named Olimpija and FIFA as respondents and nominated Mr Rui Botica Santos, Attorney-at-Law in Lisbon, Portugal, as arbitrator. It also applied for provisional measures pursuant to Article R37 of the CAS Code, and requested the stay of the decision.

30. On 21 April 2023, the CAS Court Office invited, *inter alia*, the Parties to indicate whether they agreed to the consolidation of the three proceedings and to state their views on the various submissions and requests filed.

31. On 23 April 2023, Olimpija confirmed that it agreed to the consolidation of all proceedings. Köln and the Player did likewise the following day.

32. On 25 April 2023, FIFA stated that it did not object to the consolidation and arbitrators proposed by the other Parties.

33. On 27 April 2023, Olimpija sent a letter stating that it renounced to submit any prayers for relief in this respect, but that any costs should be borne by the applicants.

34. On 4 May 2023, in accordance with Article R37 of the CAS Code, FIFA filed its Answer to Köln's and the Player's requests for provisional measures, concluding that they should be denied.

35. On 25 May 2023, in accordance with Article R54 CAS Code, and on behalf of the President of the CAS Appeals Arbitration Division, the CAS Court Office informed the Parties that the arbitral tribunal appointed to decide the present matter was constituted as follows:

President:	Prof. Luigi Fumagalli, Attorney-at-Law, Milan, Italy
Arbitrators:	Mr Jordi López Batet, Attorney-at-Law, Barcelona, Spain
	Mr Rui Botica Santos, Attorney-at-Law, Lisbon, Portugal

36. On 25 May 2023, Köln and the Player invited FIFA to reconsider its position to granting the stay of the execution of the Appealed Decision. FIFA accepted such request on the following day, stating that it no longer objected to the stay of the disciplinary sanctions imposed, while underlining that its position on the merits of the case remained unchanged.

37. On 26 May 2023, the Panel granted Köln and the Player's application for a stay.

38. On 15 June 2023, in accordance with Article R51 of the CAS Code, Olimpija, Köln and the Player filed their respective Appeal Briefs within the prescribed deadline. Köln's Appeal Brief contained an evidentiary request, asking the Panel to order FIFA to produce precise statistics on its decisions relating to any sporting sanctions imposed on players or clubs found guilty of breaching contracts without just cause or of inducing such breach.

39. On 21 July 2023, the CAS Court Office informed the Parties that the Panel had already reached the conclusion that the present matter warranted a hearing to be held, possibly over two days, and asked them to comment on proposed dates. It also

indicated that Ms Alexandra Veuthey, Attorney-at-Law in Lausanne, Switzerland, had been appointed as a Clerk to assist the Panel.

40. On 27 July 2023, the CAS Court Office apprised the Parties that, in view of their respective availabilities, an in-person hearing would take place at CAS headquarters on 19 and 20 September 2023.

41. On 30 July 2023, in accordance with Article R55 CAS Code, FIFA filed its Answer within the prescribed deadline. It objected to Köln's evidentiary request, which it described as *"unsubstantiated"*, *"farfetched"* and *"vague"*. It alleged that such request did not meet the requirements of Article R44.3 of the CAS Code and amounted to a *"fishing expedition"*, while noting that Köln remained free to extract statistics from published decisions.

42. On 7 August 2023, Olimpija, Köln and the Player filed their respective Answers, within the prescribed deadline, previously temporarily suspended and extended. In its Answer, Olimpija objected to Köln's evidentiary request, which it labelled as of *"little significance"* and contrary to CAS *de novo* power of review under Article R57 CAS Code. The Player asked Olimpija to provide the due diligence report prepared by Mr Blaž T. Bolcar before the club was acquired by new owners in 2021.

43. On 18 August 2023, the CAS Court Office informed the Parties that the Panel, considering the substantial number of witnesses the Parties intended to call for testimony (21 persons in total), deemed it of utmost importance to convene a Case Management Conference (CMC) to address the hearing's preparation.

44. On 23 August 2023, the President of the Panel, with the agreement of the other Members of the Panel, held an online CMC with the Parties' counsel in order to address the hearing's preparation. On this occasion, he invited them to:

- Submit a jointly agreed hearing schedule;
- Inform whether some witnesses and/or experts may be exempted from being heard by the Panel;
- Produce, to the extent possible, witness statements for all individuals who have not yet provided one.

He reserved the right of the Panel to modify the hearing schedule proposed by the Parties and decide to dispense some witnesses and or experts and took note that Olimpija agreed to waive one witness.

45. On 24 August 2023, the CAS Court Office sent a letter to the Parties to confirm such terms and proceed accordingly within the imposed deadline.

46. On 28 August 2023, the CAS Court Office informed the Parties that the Panel had duly considered the requests for production of documents submitted by Köln and the Player, and decided the following:

- To reject Köln's request, for the reason that would be provided in the Final Award;

- To invite Ljubljana to inform whether it accepted to voluntarily produce such document. In the affirmative, Ljubljana was invited to do so. In case of objection, Ljubljana was requested to provide the reasons for its refusal. In such case, the Panel would have issued a decision in this respect.

47. On 1 September 2023, Olimpija objected to the Player's request for the production of the due diligence report prepared by Mr Bolcar. It argued that the report had been prepared by the Player's counsel himself, contained confidential information and was irrelevant to the present matter, beyond the undisputed facts set out in the Parties' submissions.

48. On 4 September 2023, the CAS Court Office issued the Order of Procedure, which was duly signed by the Parties, without any reservation.

49. On 7 September 2023, the CAS Court Office informed the Parties that the Panel had decided to reject the Player's request for production of documents for the reasons that would be explained in the Final Award.

50. On 11 September 2023, Köln and the Player provided the CAS Court Office with the revised list of their hearing attendees, and informed the Panel that they had decided to refrain from calling to appear at the hearing three common witnesses.

51. On the same date, Olimpija provided the CAS Court Office with the missing witness statements. Köln and the Player did likewise on 18 September 2023.

52. On 14 September 2023, the CAS Court Office noted that the Parties had failed to submit a joint hearing schedule, as requested during the CMC, and stated that modified terms governing the hearing would be prepared shortly by the Panel. One day later, it circulated the Panel's schedule and related instructions.

53. On 19 and 20 September 2023, an in-person hearing was held at CAS headquarters, in Lausanne, Switzerland. At the outset of the hearing, all Parties confirmed that they had no objection as to the constitution and composition of the Panel.

54. The following persons attended the hearing in person or remotely, in addition to the Panel, Mr Giovanni Maria Fares, CAS Counsel, and Ms Alexandra Veuthey, CAS Clerk:

a) For Olimpija:
   1) Mr Basil Kupferschmied, Legal Counsel;
   2) Mr Jonáš Gürtler, Legal Counsel;
   3) Mr Christian Dollinger, Vice-President of Olimpija, witness;
   4) Mr Igor Barisic, Managing Director of Olimpija, witness;
   5) Mr Rok Baskera, Assistant Coach at the Football School of Olimpija and member of its administration, witness;
   6) Mr Harald Höfer, Representative of PUMA, witness.

b) For Köln:

1) Mr Gianpaolo Monteneri, Legal Counsel;
2) Ms Anna Smirnova, Legal Counsel.
3) Mr Christian Keller, Managing Director of 1. FC Köln GmbH & Co. KGaA.
4) Mr Carsten Wettich, Vice-President 1. Fußball-Club Köln 01/07 e.V.
5) Ms Tina Čuber, Mother of the Player, witness;
6) Mr Tadej Potočnik, Father of the Player, witness;
7) Mr Milan Mandarić, Former President of Olimpija, witness;
8) Mr Goran Šukalo, Representative of the Player, witness;
9) Mr Jörg Jakobs, former external consultant of 1. FC Köln GmbH & Co. KGaA and currently Advisor to the Presidium of 1. Fußball-Club Köln 01/07 e.V, witness.
10) Mr Philipp Türoff, Managing Director of 1. FC Köln GmbH & Co. KGaA, witness.
11) Mr Matthias Heidrich, Head of 1. FC Köln GmbH & Co. KGaA Youth Academy in January 2022, witness;
12) Ms Vlatka Peras, CEO of GNK Dinamo, witness;
13) Mr Mladen Rudonja, former Sporting Director of Olimpija, witness;
14) Mr Jaka Kajtazovic, former coach of U17 team of Olimpija, witness;
15) Prof. Damjan Možina, University of Ljubljana, expert witness;
16) Prof. Hans-Ueli Vogt, University of Zurich, expert witness.

c) For the Player:

1) Mr Kai Ludwig, Legal Counsel;
2) Mr Blaž T. Bolcar, Legal Counsel;
3) Ms Tina Čuber, Mother of the Player, witness;
4) Mr Tadej Potočnik, Father of the Player, witness;
5) Mr Milan Mandarić, Former President of Olimpija, witness;
6) Mr Goran Šukalo, Representative of the Player, witness;
7) Ms Vlatka Peras, CEO of GNK Dinamo, witness;
8) Mr Mladen Rudonja, former Sporting Director of Olimpija, witness;
9) Mr Jaka Kajtazovic, former coach of U17 team of Olimpija, witness;
10) Prof. Damjan Možina, University of Ljubljana, expert witness;
11) Prof. Hans-Ueli Vogt, University of Zurich, expert witness.

d) For FIFA:

1) Mr Miguel Liétard Fernández-Palacios, Director of Litigation<,
2) Mr Roberto Nájera Reyes, Senior Legal Counsel;
3) Mr Alexander Jacobs, Senior Legal Counsel.

55. All witnesses and experts were invited by the President of the Panel to tell the truth subject to the sanction of perjury under Swiss law. They were cross-examined and could provide explanations regarding relevant factual evidence, their own witness statements and/or expert reports. Their respective testimonies will be cited in the relevant merit sections.

56. Olimpija indicated that Mr Andy Bara, Director of the football agency Niagara Sport Global Management, would not be able to appear as a witness. It also decided to withdraw item 1.4 from its Appeal Brief's requests for relief, related to training compensation, acknowledging that it fell outside the scope of the current proceedings and overlapped with a separate claim lodged via the FIFA TMS.

57. The Parties were given full opportunity to present their cases, submit their arguments in opening and closing statements, and to answer the questions posed by the members of the Panel.

58. Before the hearing was concluded, the Parties expressly stated that they had no objection to the procedure adopted by the Panel and that their right to be heard had been respected.

IV. SUBMISSIONS OF THE PARTIES AND REQUESTS FOR RELIEF

59. Below is a summary of the facts and allegations raised by the Parties. While the Panel has considered all the facts, allegations, legal arguments and evidence submitted by the Parties in the present proceedings, it refers in this award only to the submissions and evidence it considers necessary to explain its reasoning.

60. As Olimpija, the Player and Köln all filed appeals against FIFA's decision, they were also offered the right to submit an Answer, as was FIFA, which expressed its willingness to participate in the CAS proceedings. In addition, the Player and Köln, represented by the same law firm, raised largely similar arguments. In order to avoid unnecessary repetition and facilitate understanding, the Parties' submissions are summarised below jointly rather than chronologically.

A. Olimpija

61. In its Appeal Brief, Olimpija requests the following relief:

"*1. To uphold the present Appeal and partially set aside the Decision issued by the FIFA DRC (case ref. FPSD-6826) on 29 March 2023 so that para. 1, 2, 3 and 4 of its operative part are modified as follows:*

1. The claim of [Olimpija] is accepted.

2. The [Player] has to pay to [Olimpija] the amount of EUR 2,507,200 plus interest of 5% p.a. as from 30 January 2022 until the date of effective payment, as compensation for breach of contract without just cause.

3. [First Köln] is jointly and severally liable for the payment of the aforementioned compensation and has to pay to [Olimpija] the amount of EUR 2,507,200 plus interest of 5% p.a. as from 30 January 2022 until the date of effective payment, as compensation for breach of contract without just cause.

4. [First Köln] has to pay to [Olimpija] the amount of EUR 69,972.60 plus

interest of 5% p.a. as from 24 April 2022 until the date of effective payment, as training compensation.

2. *To charge all costs of these proceedings to [the Player] and [First Köln], jointly and severally liable, and to grant a contribution to the legal fees of [Olimpija] of CHF 50,000.00".*

62. In its Answer to the Appeals filed by Köln and the Player, Olimpija requests the following relief:

"*1. The Appeals ... shall be rejected, insofar as they are admissible.*

2. *The decision dated 29 March 2023 of the FIFA DRC (decision n° FPSD-6826) shall be partially upheld, as per the ... prayers for relief submitted by [Olimpija] in the CAS 2023/A/9578 case.*

3. *All costs of these proceedings shall be charged to [Köln] and [the Player].*

4. *[Köln and the Player] shall compensate [Olimpija] for legal fees incurred at an amount of CHF 30,000".*

63. Olimpija's submissions, in essence, may be summarised as follows:

(i) Applicable law

- This dispute shall be decided first and foremost according to the FIFA Regulations, namely the FIFA RSTP, pursuant to Article R58 of the CAS Code.
- In line with the practice of FIFA and CAS, subsidiarily, principles of Swiss law shall apply.

(ii) Validity and qualification of the Olimpija Contract

- The Olimpija Contract is a valid employment contract. It complied with the relevant requirements under both FIFA and SAF regulations and was duly agreed upon and signed by both parties. In fact, the Player, who was 15 years old at that time, and his Mother, signed every single page of the contract. Under Slovenian employment law, just as, for example, under Swiss law, a minor can validly conclude legally binding contracts, which explains why both parties fulfilled their obligations until termination.
- The Olimpija Contract cannot be considered as a mandate. Under Slovenian law, there is a legal assumption for the existence of an employment contract as soon as the elements of an employment relationship are established. The substance of the contract is thus decisive, regardless of the terminology used. In the present case, the Player qualifies as an employee, since he offered his work as a professional football player to Olimpija, which in turn paid his remuneration and integrated him in its work organisation.

(iii) Player's breach of the Olimpija Contract and just cause

- The threshold to accept a "just cause" is extremely high, and a termination

of an employment contract for just cause under Article 14 of the FIFA RSTP can only be declared as an *ultima ratio* and in good faith. If the Player terminates a contract, he carries the burden to prove the existence of just cause.

- In line with the Appealed Decision, the Player breached the Olimpija Contract when he unilaterally and without just cause terminated it through the Mother's letter on 30 January 2022. Tellingly, he did so during the winter break, and only six days after formally communicating his first grievances to Olimpija, which shows that his main concern was to join First Köln, a more prominent club, as a free agent.
- The contractual obligations asserted by the Player (entitlement to play for the first team, individual training with the fitness coach and team's coach, exit clause allowing a transfer abroad if the amount of compensation exceeds EUR 100,000), for which he bears the burden of proof, do not exist and therefore, could not have been breached. In any event, it is generally accepted jurisprudence that a player cannot claim a place in the first team, especially when he is only 15 years old. The Olimpija coaching staff simply felt that the Player should start with the U-17 team, to give him time to gradually prepare for top-level competition over one or two seasons.
- The Olimpija Contract did not guarantee to the Player the right to play in the first team, as this is the universal prerogative of the coaching staff, even at professional level. The Olimpija Contract must be interpreted as to ensure "*optimal training conditions*", with a view to advancing the Player's career. These conditions were provided in the form of a UEFA-certified coach, artificial grass pitch, electronic data collection systems, video recording/analysis and regular access to the first team facilities. Interestingly, the Player left after only six months, including *"several weeks"* of partial rest due to a COVID-19 infection, and currently plays for Köln's U19 team.
- The Olimpija Contract did not guarantee to the Player the right to individual trainings, nor the possibility of leaving the club for an amount exceeding EUR 100,000. An exit clause with such a low amount would in any case not make sense, given the Player's abilities and career prospects.
- Moreover, there is no persuasive evidence of oral agreements imposing additional obligations on Olimpija. The only witnesses to this are no longer employed by Olimpija and are mostly involved in legal disputes against their former club. In any case, all amendments and supplements to the Olimpija Contract should have been made in writing, in accordance with its final provisions and FIFA regulations.
- The Player's counsel, Mr Blaz Bolcar, has little credibility in his allegations, since he himself carried out a due diligence report two years earlier on behalf of Olimpija, without raising any flags about the Olimpija Contract nor referring to the existence of oral agreements. Likewise, the CAS awards that he quotes to support just cause are irrelevant, since they concern well-established players who got demoted to a lower league.

- Even assuming that the obligations claimed by the Player had existed and been breached (*quod non*), this would never allow him to immediately terminate the Olimpija Contract for just cause, under FIFA and CAS jurisprudence. Accordingly, the Player's termination was a breach of the employment relationship and unjust under Article 17 of the FIFA RSTP.

(iv) Inducement of First Köln to the Player's breach of contract

- Article 17(4) of the FIFA RSTP establishes a legal presumption that any club signing a professional who has terminated his contract without just cause has induced that professional to commit a breach. As a result, Köln carried the burden to rebut this presumption, but failed to do so. To the contrary, the strong assumption against Köln is further supported by the timing and club's bad behaviour.
- Indeed, it took less than 24 hours after the Player's termination notice on 30 January 2022 (on a Sunday afternoon) for First Köln to enter its instructions for the transfer of the Player in the FIFA TMS. It is, therefore, impossible for Köln, as it alleges, not to have been aware of the Player's actions, to have conducted a *"comprehensive, diligent investigation"* and prepared all documentation within this short timeframe. This is also supported by the statements of the Player's agent and PUMA representative, who both confirmed the existence of prior negotiations, by the Mother's allegations during a meeting held on 18 January 2022 and by the legal terminology used in her subsequent email, as well as by the various contacts between the managers of both clubs.
- Since 30 January 2022, Köln had also been aware of the fact that Olimpija would take legal action against the Player, who had breached his contract, and any club, that would sign him on. In doing so, First Köln knowingly and willingly accepted to be sanctioned by FIFA for its behaviour. These facts are of paramount importance in assessing the opposing Parties' arguments.
- Consequently, First Köln was involved in the Player's termination of contract and, in fact, induced him to breach the Olimpija Contract in order to sign the Köln Contract. It must be held accountable for the Player's contractual breach.

(v) Financial consequences

- In view of the fact that the Player terminated the Olimpija Contract without just cause, Olimpija is entitled, as confirmed in the Appealed Decision, to receive a compensation for the damages suffered because of the unilateral breach of contract.
- As the Olimpija Contract does not provide for a liquidated damages clause, Article 17 RSTP must be applied to established the amount of compensation due by the Player. Against this background, relevant criteria include *"the remuneration and other benefits due to the player under the existing contract and/or new contract, the time remaining on the existing*

contract up to a maximum of five years, the fees and expenses paid or incurred by the former club [...] *and whether the contractual breach falls within the protected period"*. They must, however, be assessed on a case-by-case basis, with due consideration to the "positive interest" principle, which aims to put the injured party back in the position it would have been in, if the contractual violation had not occurred.

- In light of the CAS jurisprudence, the loss of a possible transfer fee or services of a player may also constitute a compensable damage position, if the claiming party can prove the logical nexus between the breach and the lost opportunity to realise the transfer profit, regardless of the player's consent. This is also consistent with the rules of equity under Swiss obligations law, but was completely omitted in the Appealed Decision.
- In the present case, Olimpija had received a binding offer from a Croatian club, GNK Dinamo Zagreb ("Dinamo"), shortly before the breach of contract. Such offer amounted to EUR 2,500,000 (EUR 1,500,000 as fixed transfer fee, EUR 500,000 for the Player's debut in the first team, and EUR 500,000 after 10 official matches in the first team), as evidenced by the letter dated 2 December 2021, sent by Mr Bara on behalf of Dinamo, and various witness statements.
- Conversely, the letter of Dinamo's Board President, Vlatka Peras, stating that her club was never interested in the services of the Player, is irrelevant. She was not involved in the negotiations, which were exclusively led by Mr Andy Bara, Director of Niagara Sports Global Management.
- Hence, the value of the services of the Player (and Olimpija's related loss) must be set at EUR 2,500,000. The Player's growing value on the international market is further corroborated by the involvement of a renowned sports agency in its negotiations with Dinamo, his subsequent transfer to Köln and sports performances, as well as Köln's website. It is also in line with the transfer sums of other young talented players from the top Slovenian league to German or Austrian Bundesliga in the past few years. Overall, transfer fee for junior players are on the rise, according to recent statistics released by a reliable institution (the CIES Football Observatory).
- In addition, according to CAS and FIFA jurisprudence, the specific nature of sport must also be considered when assessing the amount of financial compensation. In the matter at stake, the fact that the Player breached the Olimpija Contract only after half of a season with the club, with more than two complete seasons remaining and during the protected period, justifies an additional penalty payment of six-monthly salaries, namely EUR 7,200. This brings the total compensation due by the Player to Olimpija to EUR 2,507,200, plus interest p.a. as of 30 January 2022.
- Likewise, pursuant to Article 17(2) of the FIFA RSTP, whenever a professional player is ordered to pay compensation to a club for breach of contract, the player's new club is jointly and severally liable for that payment. In line of this principle, First Köln must be held jointly and

severally liable for the damages caused by the breach of contract.

- Finally, Olimpija's claim to training compensation, of EUR 69,972.60, which was duly acknowledged by First Köln in an email dated 20 April 2022, remains unaffected by this finding, as per FIFA RSTP Commentary.

(vi) Sporting consequences

- The sporting sanctions imposed on First Köln and the Player in the Appealed Decision, respectively a ban on registering new players for two consecutive registration periods and a restriction on playing competitive matches for four months, fall within the exclusive competence of FIFA. It is not for a club to request that another club or player be sanctioned, or to assess the proportionality of the sanctions inflicted. Any prayers for relief from a club based thereof would lack legal interest and standing.
- That said, the sanctions decided by the FIFA DRC are the only sanctions foreseen in Article 17(3)-(4) of the FIFA RSTP. They do not appear particularly inappropriate, in light of Köln's and the Player's bad faith and the importance of the principle of *pacta sunt servanda*.
- It is also untrue that First Köln made real efforts to reach an amicable solution with Olimpija after the Player unduly terminated the Olimpija Contract. Its alleged offer of EUR 100,000, if any, is insignificant when put in perspective with the transfer compensations usually paid between two European clubs, and only exceeds the amount awarded by the FIFA DRC by several thousand euros.

B. Köln

64. In its Appeal Brief, Köln requests the following relief:

"*1) To accept the present appeal against the Challenged Decision;*

2) To set aside the Challenged Decision;

3) To establish that the [Olimpija] Contract was never validly constituted;

4) In the event point 3 is not accepted, to establish that the Player had a just cause to terminate the [Olimpija] Contract;

5) To impose sporting sanctions in accordance with Art. 17 par. 4 RSTP on [Olimpija], and if this is not accepted, to send the case back to the FIFA DRC for the imposition of sporting sanctions on [Olimpija];

6) To establish that no compensation is due to [Olimpija];

7) To establish that [Köln] did not induce the Player to the contractual breach;

8) Under all circumstances, to rule that no sporting sanctions shall be imposed on [Köln];

9) Under all circumstances, to condemn [Olimpija and FIFA] to the payment in favour of [Köln] of the legal expenses incurred in an amount of at least CHF

25'000.00 in accordance with Art. R64.5 of the Code of Sports-Related Arbitration;

10) Under all circumstances, to establish that the costs of the present arbitral proceedings shall be borne by [Olimpija and FIFA]".

65. In its Answer to the Appeal filed by Olimpija, Köln requests the following relief:

"*1) To reject the Appeal of [Olimpija];*

2) To establish that the [Olimpija] Contract was never validly constituted;

3) In the event point 2 is not accepted, to establish that the Player had a just cause to terminate the [Olimpija] Contract;

4) To establish that no compensation and no training compensation is due to [Olimpija];

5) To establish that [Köln] did not induce the Player to the contractual breach;

6) Under all circumstances, to rule that no sporting sanctions shall be imposed on [Köln];

7) Under all circumstances, to condemn [Olimpija] to the payment in favour of [Köln] of the legal expenses incurred in an amount of at least CHF 25,000 in accordance with Art. R64.5 of the Code of Sports-Related Arbitration;

8) Under all circumstances, to establish that the costs of the present arbitral proceedings shall be borne by [Olimpija]".

66. Köln's submissions, in essence, may be summarised as follows:

(i) Applicable law

- The applicable regulations are the FIFA Statutes and regulations, and Swiss law shall apply on a subsidiary basis, pursuant to Article R58 of the CAS Code and Article 56 of the FIFA Statutes.
- The Olimpija Contract is concurrently subject to Slovenian law, at least in a subsidiary manner, since it refers to Slovenian law and involves two Slovenian parties. Thus, Slovenian law also applies to the facts of the case, especially when it comes to the question of the validity of additional oral agreements and to the assessment of the grounds for termination.

(ii) First Köln and Second Köln

- First Köln and Second Köln are two different legal entities: First Köln is a company, while Second Köln is an association, holding the controlling majority of the former in compliance with the provisions of the DFB. They also manage different football teams, with the association (Second Köln) in charge of the youth and amateur football (covering the male teams U8, U9, U10, U11, U12, U13, U14, U15, U16, as well as the youth female teams).
- Due to the fact that the Appealed Decision only referred to the "*Club*" or

"*1. FC Köln*", First Köln requested information from FIFA via the DFB as to which of its five teams (the first women's and men's teams and the men's U21, U19 and U17 teams) were subject to the transfer ban. FIFA, in its reply, stated that the "*registration ban is imposed on the German club, 1. FC Köln (the Club)*" and that it applied "*to all male teams of the Club at amateur and professional level in various competitions, regardless of the age category, and irrespective of the Club's corporate structure*". As a result, in the concrete case of Köln, only women's football is excluded from the ban. This would mean that, in addition to the five teams of First Köln, also all amateur teams of Second Köln would be directly affected by the ban and not allowed to register any new players during two registration periods.

- The sporting sanctions imposed by the Appealed Decision cannot be applied to Second Köln, since the assumed inducement to the breach of contract was allegedly committed by First Köln, which actually signed the Player and applied for his registration, without any involvement or knowledge whatsoever from Second Köln. In fact, the managing directors of First Köln and the other persons involved in the present case have no function at Second Köln and are not employed there.
- Additionally, Second Köln was never granted the right to be heard in the first instance procedure before FIFA, and therefore cannot be faced with the negative consequences without having had the possibility to defend itself.

(iii) Validity and qualification of the Olimpija Contract

- The Olimpija Contract must be construed as a mandate or service contract. It is based on a unified template contract available on the website of the SAF and the trade union of Slovenian players (NZS).
- The Olimpija Contract is not an employment contract, which is subject to a different template, as evidenced by the legal opinions of Prof. Možina. Moreover, it does not have the characteristics of an employment contract, as the player regularly issued invoices to Olimpija and was registered as a professional athlete (self-employed) during the period from 16 August 2021 to 31 January 2022. This may preclude the applicability of the FIFA RSTP.
- The Olimpija Contract was arguably never validly concluded under the Slovenian Family Code, which requires the consent of both parents when the situation of a minor is at stake.

(iv) Player's breach of the Olimpija Contract and just cause

- "Just cause" is an indeterminate legal term, whether under Article 14 of the FIFA RSTP or Swiss law. It is usually defined as any circumstances that make it unreasonable in good faith to continue the employment relationship, and allow the parties to terminate the contract at any time without notice.

- Contrary to the findings of the Appealed Decision, the Player had just cause to terminate the Olimpija Contract under Article 14 of the FIFA RSTP, because of the severe breach of contract committed by Olimpija. He made no attempt to find a pretext to be able to join Köln, but was forced to act quickly in view of the transfer window and the demands for speed inherent in termination with immediate effect.
- The Olimpija Contract aimed to extend the Player's career with the club, which he had joined in 2020 under a scholarship agreement. It expressly provided for the right of the Player to at least train with the first team of Olimpija in a specific provision (Article 8). It stated that the club undertook to offer "*optimal conditions for playing matches and training with the club's first team under the professional guidance of the trainers of the club's first team*". It was based on the Slovenian standard professional players' contract, which guarantees such conditions. It provided for very limited exceptions, such as severe illness or injury, which are not met here, since the Player was sidelined only for ten days due to a COVID-19 infection.
- Additional oral guarantees were given to the Player and his parents by former Olimpija President, Mr Milan Mandarić and former head of Youth Academy, Mr Goran Stanković. These guarantees reaffirmed the right to be part of the first team's activities, but also introduced individual training with a fitness coach at least twice a week, individual training with a coach for development of football technique once a week, and the right to leave Olimpija if the transfer compensation exceeded EUR 100,000. They are attested to by the testimonies of all the people involved in the negotiations/conclusion of the Olimpija Contract and, at least implicitly, by subsequent exchanges of letters involving their successors.
- According to Swiss and Slovenian law, as explained by Profs. Vogt and Možina, written contracts can be supplemented or modified without the observance of any form requirement, and therefore also by verbal agreements entered into at the time of their signature or subsequently. Resultantly, a clause contained in a contract, providing that the contract could be amended only in writing, can be modified orally, and even by implicit conduct, at any time. This is exactly what Olimpija and the Player did, by agreeing orally on various points during the negotiations and when the Olimpija Contract was signed.
- The Player's full integration into the first team and top-level training were a prerequisite for him to sign a contract with Olimpija or any comparable club in Slovenia or elsewhere. Unfortunately, these prerequisites fell into oblivion, leading the Player's parents and his agent, Mr Goran Šukalo to hold several meetings with the former and then new representatives of Olimpija from September 2021 to January 2022. The Mother then sent a formal notice to Olimpija, demanding that it complied with all its obligations, to no avail.
- As a matter of fact, the Player trained and played with Olimpija's U-17

team, which gathered four to five times per week, often with a reduced squad. He was not authorised to participate in one single first team training session during the eight months that he spent as a professional player at the club. He was not even allowed to attend the individual training sessions at the agreed frequency.

- In contrast, the players of the first team enjoyed state-of-the-art conditions (five to seven football trainings per week plus one game, coaching staff with UEFA pro-licence, physiotherapist, natural surface pitch, GPS systems, video recording/analysis, access to fitness centre, medical treatment room, etc). These are also the conditions to which he is now entitled as a member of Köln's U-19 team under a "youth development contract".
- This situation is all the more shocking given that professional football players have a "right to employment" (i.e., a right to play and train), regardless of the guarantees given by their club in this respect. Such right finds its basis in the Swiss jurisprudence and legal writing on the protection of personality, and was confirmed in CAS and FIFA DRC jurisprudence.
- In fact, regardless of the angle of analysis chosen (FIFA regulations, Swiss law, the Olimpija Contract itself and/or Slovenian law), the result is the same: Olimpija failed to meet its contractual obligations and early termination was the only way out.
- Consequently, the Player's termination was not a breach of the employment relationship nor unjust under Article 17 of the FIFA RSTP.

(v) Inducement of First Köln to the Player's breach of contract

- The question of inducement must be assessed on a case-by-case basis. According to CAS jurisprudence, it implies *"an influence that causes and encourages a conduct"*.
- The Player, together with his parents, decided independently and without any knowledge of, or interference by, Köln, to terminate the Olimpija Contract. The decision of the Player to terminate the Olimpija Contract was already made before he knew that he was signing the Köln Contract and it was exclusively based on the continuing contractual breaches of Olimpija. The offer of the decision-makers of First Köln to sign a contract was made only after the termination of the Olimpija Contract, and the few previous contacts were only of a general nature and made by an "external consultant". Köln therefore never induced the Player to contractual breach.
- Köln acted at all times in good faith in the present matter. It made an extensive legal analysis of the situation surrounding the termination of the Olimpija Contract and concluded that the Player had just cause for terminating the employment relationship. Only after the positive outcome of its assessment, First Köln offered an employment contract to the Player.
- Köln cannot be criticised for being able to analyse the situation within 24 hours. Its legal team included experienced practitioners and was assisted

by an external Slovenian sports lawyer. It was aware of the urgency and threw all its resources into the case, knowing that it was the last day of the transfer window.

- Köln is reduced to trying to guess what it is accused of, in the light of FIFA DRC superficial assessment in this respect, and cannot be required to prove negative facts. Its offer included a very modest salary, which can be described as similar or even lower than that of Olimpija, given the cost of living in Germany. Thus, the Player did not have any financial incentive that could have induced him to breach the Olimpija Contract.

(vi) Financial consequences

- In view of the fact that the Player did not breach the Olimpija Contract, and that Köln did not induce such breach (if any), no compensation whatsoever is due.
- Olimpija fabricated documents with a view to supporting its financial claims. Olimpija never suffered a loss of transfer fee, as Dinamo was never interested in the services of the Player, as demonstrated by the testimony of Dinamo's Board President and the absence of any discussions on this subject with Köln and the Player. Also, Olimpija's former Sporting Director stated in his deposition at the hearing that the new management team had asked him, in vain, to prepare a backdated offer of EUR 1,5 million on the Player. This behaviour constitutes a violation of the FIFA Disciplinary Code and a criminal offence.
- Olimpija also relies on an inadequate method of calculation, using as a basis the loss of transfer fee instead of the residual value of the contract. It failed to prove that FIFA DRC's calculation, based on long-standing practice, was incorrect or beyond its discretion.
- Köln is not liable of any training compensation in light of Article 2 lit. (a), Annex 4, of the FIFA RSTP, nor did it acknowledge such debt in the past, as per Olimpija's interpretation in first instance. Even admitting the contrary, training compensation must be claimed directly via FIFA TMS, which Olimpija has understood well, since a procedure to this effect is currently pending before the FIFA relevant bodies.

(vii) Sporting consequences

- The sporting sanctions imposed on Köln in the Appealed Decision are groundless.
- Even if an inducement is to be assumed, Köln was subjected to an unequal treatment by the FIFA DRC compared to the many other clubs against which it did not impose sporting sanctions even in the case of a severe breach of contract. This difference in treatment is all the more shocking given that Köln had no previous condemnation and acted in good faith, and that the FIFA RSTP Commentary expressly provides for some flexibility in such cases. The same reasoning applies to the Player's situation.

- Köln attempted to settle the matter by making an offer of EUR 100,000 to Olimpija after the Player unduly terminated the Olimpija Contract. According to CAS jurisprudence, this conciliation spirit must be considered in its favour.
- The imposition of sanctions on Köln is therefore not justified. Conversely, Olimpija should have been punished, because of its recurrent contractual violations during the protected period. Therefore, a ban on registering any new players at national and international level for the next two entire and consecutive registration periods pursuant to Article 17(4) of the FIFA RSTP should be applied to Olimpija.

C. The Player

67. In its Appeal Brief, the Player requests the following relief:

"1. The Decision FIFA DRC (REF FPSD-6826) dated 1 February 2023 shall be set aside.

2. To establish that the Contract between the [Player] and [Olimpija] was never validly constituted.

3. In the event the above is not accepted, to establish that the [Player] had just cause to terminate the [Olimpija] Contract.

4. To establish that no compensation is due to [Olimpija].

5. Under all circumstances, to rule that no sporting sanctions shall be imposed on the [Player].

6. In the event that the above is not accepted, the sporting sanctions imposed on the [Player] shall be lifted and the compensation shall not be superior the one awarded in the Appealed Decision.

7. [Olimpija and FIFA] shall bear all costs of the present arbitration proceedings and contribute an amount of at least CHF 25'000.00 to the legal costs of the [Player] in accordance with article R64.5 of the Code of Sports-Related Arbitration".

68. In its Answer to the Appeal filed by Olimpija, the Player requests the following relief:

"1) To reject the Appeal of [Olimpija];

2) To establish that the [Olimpija] Contract was never validly constituted;

3) In the event point 2 is not accepted, to establish that the Player had a just cause to terminate the [Olimpija] Contract;

4) To establish that no compensation and no training compensation is due to [Olimpija];

5) Under all circumstances, to rule that no sporting sanctions shall be imposed on the Player;

6) Under all circumstances, to condemn [Olimpija] to the payment in favour of the Player of the legal expenses incurred in an amount of at least CHF 25,000 in accordance with Art. R64.5 of the Code of Sports related Arbitration;

7) Under all circumstances, to establish that the costs of the present arbitral proceedings shall be borne by [Olimpija]".

69. The Player's submissions are nearly identical to those of Köln.

70. They do not include, however, any detailed developments on Köln's alleged inducement to the contractual breach and training compensation.

D. FIFA

71. In its Answer, FIFA submits the following prayers for relief:

"a) reject the requests for relief sought by [Olimpija, the Player and Köln];

b) confirm the Appealed Decision in its entirety;

c) order [Olimpija, the Player and Köln] to bear the full costs of these arbitration proceedings".

72. FIFA's submissions, in essence, may be summarised as follows:

(i) Applicable law

- The FIFA Statutes and the FIFA regulations, namely the FIFA RSTP, constitute the applicable law, and Swiss law shall apply subsidiarily should the need arise to fill any possible gap, pursuant to Article R58 of the CAS Code and Article 56 of the FIFA Statutes.

(ii) Validity and qualification of the Olimpija Contract

- The Olimpija Contract complied with the characteristics of an employment relationship, as established by CAS jurisprudence (determined job, salary, subordination relationship). It also includes numerous references to FIFA regulations and collective bargaining agreements. As a result, FIFA regulations are fully applicable.
- The Olimpija Contract was executed in accordance with the "Agreement regarding minimum requirements for standard player contracts in the professional sector in the European Union, and in the rest of the UEFA territory concluded between the EPFL, FIFPro, ECA and UEFA on 19 April 2012".
- Said instrument does not establish that both parents need to sign the player's contract for it to be considered valid.
- The Player's inconsistent behaviour does not deserve any legal protection, since it goes against the principles of good faith and *venire contra factum proprium*. It must be recalled that, during the FIFA DRC proceedings, the Player argued that he terminated the relationship with just cause under the

FIFA RSTP. Furthermore, in the CAS proceedings, the Player filed a statement from the Slovenian trade union to interpret the Olimpija Contract. He also invoked "*general legal principles concerning the right to employment of professional football players*" to defend his "right" to train with the first team. Ultimately, his Mother's alleged lack of power of representation would result in the invalid termination of the contract.

(iii) Player's breach of the Olimpija Contract and just cause

- The Player did not have just cause to terminate the Olimpija Contract, as demonstrated convincingly in the Appealed Decision. The Player did not establish any breach of trust, nor that Olimpija's conduct constituted a substantial violation of the employment agreement. To the contrary, the relevant timeline of events denotes the Player's eagerness to terminate the Olimpija Contract with Olimpija in order to stipulate a new labour agreement with a club as prominent as First Köln.
- In all likelihood, Olimpija did not call the Player up to the first team because his debut was part of a planned process which required time, effort and patience, bearing in mind that he was only 16 years old at that time. Olimpija never "demoted" the Player to the younger teams or "punished" him, nor did it enter into additional verbal agreements through its former President, who at most expressed personal promises with no legal value. It never received any formal objection about this so-called "unbearable situation" during the first seven months of the Olimpija Contract. This means that the Player, by his inaction, had in any case waived his alleged right to terminate the Olimpija Contract for this reason. Any immediate termination for just cause must take place within two days, based on Swiss jurisprudence, and not seven months late for opportunistic reasons.
- The Player's default notice only granted Olimpija a four-day deadline to remedy the situation, while the first team was away for a training camp. Olimpija, on its side, confirmed that it still wanted the services of the Player and, nevertheless, the Player responded by unilaterally terminating the Olimpija Contract. On the very next day, the Player signed a new contract with First Köln, and now plays with its U-19 team, which tends to show both the existence of prior negotiations and the quibbling nature of his reason for termination.
- It is no coincidence that, within the span of only seven days, the Player went from a friendly and comfortable relationship with Olimpija to the termination of his Olimpija Contract and signing a new contract with First Köln. All the elements on file reveal that no *ultima ratio* existed, and that the Player promptly decided to unlawfully terminate the Olimpija Contract to join First Köln in breach of the FIFA RSTP.

(iv) Inducement of First Köln to the Player's breach of contract

- Köln's principal defence to the presumption of inducement as per Article 17(4) of the FIFA RSTP is unconvincing. It is not plausible that its

"decision-makers" only became aware of the Player's situation after the termination of the Olimpija Contract, and that they signed the Player after conducting a "comprehensive investigation".

- Köln's involvement as from December 2021 and its admitted expression of interest to the Player's agent on 24 January 2022 induced the Player to breach the Olimpija Contract. This approach was not made by an "external consultant", but by Mr Jacob, who was its sporting director at that time, as evidenced by several newspaper articles.
- Köln was not able to demonstrate any evidence of its "comprehensive investigation", which he allegedly carried out within 24 hours. Worse still, First Köln entered its instruction for the Player's transfer into FIFA TMS at 4pm (rather than late at night), which makes its version of events hardly credible. This leads to the conclusion that it took the calculated risk of signing a player while fully aware of the questionable circumstances in which the Player's contractual relationship with Olimpija ended.
- Köln is also mistaken when it maintains that it is reduced to having to prove negative facts, whereas it is simply required to rebut a presumption. Likewise, although its initial financial offer was not overwhelming, it had the potential of significantly improving the Player's situation in terms of the "level of play" and future earnings prospects. This is also confirmed by the revised documents provided by First Köln during the FIFA DRC proceedings, which show that as of 1 July 2022, the Player received a contract upgrade, and started earning EUR 4,000 per month.

(v) Financial consequences

- The Player must bear the financial consequences of the breach of the Olimpija Contract, and pay compensation to Olimpija. First Köln is jointly and severally liable for such compensation under Article 17(2) of the FIFA RSTP.
- Olimpija claimed training compensation via FIFA TMS, and is thus barred from doing so in these proceedings.
- "Horizontal issues" between clubs or a club and a player do not need to be discussed further by FIFA. Reference is to be made to the Appealed Decision for their evaluation.

(vi) Sporting consequences

- The sporting sanctions imposed on the Player and First Köln in the Appealed Decision are well-founded.
- Article 17(3) of the FIFA RSTP expressly provides that *"sporting sanctions shall* [...] *be imposed on any player found to be in breach of contract during the protected period. This sanction shall be a four-month restriction on playing in official matches. In the case of aggravating circumstances, the restriction shall last six months"*. While the FIFA DRC is not required to automatically apply this provision, it did not hesitate to crack down in

similar situations the past. In addition, several CAS panels confirmed that these sanctions should be applied, save in exceptional circumstances, and that they are proportionate.

- Article 17(4) of the FIFA RSTP states that the only sanction that can be imposed against a club for inducing a breach of contract without just cause during the protected period is a ban *"from registering any new players, either nationally or internationally, for two entire and consecutive registration periods"*. In line with CAS jurisprudence, this provision establishes a standard sanction and cannot be evaluated in terms of proportionality or modulated. Either it is applied, or it is not.
- In the present case, both the Player and First Köln committed a severe breach of the principle of contractual stability during the protected period, without offering credible explanations to justify their behaviour nor relevant jurisprudence to support an alleged unequal treatment. First Köln's willingness to amicably settle the case by making an offer of EUR 100,000 to Olimpija cannot, as it argues, be considered in its favour. Quite the opposite, if it was confident in its legal situation, it would not have submitted such *"very lucrative offer"*. This lack of confidence in its own arguments is also illustrated by the detailed developments it dedicated to the Player's alleged absence of breach of contract, for which it may not have standing.
- Finally, Olimpija complied at all times with its contractual obligations and should not be sanctioned. Köln's and the Player's prayers for relief in that respect are inadmissible and/or unfounded, as they did not raise them in the first instance and have no legal interest or standing to request them.

V. JURISDICTION

73. Article R47 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* [...]."

74. Article 56(1) of FIFA Statutes (May 2022 edition) states that:

"*FIFA recognises the independent Court of Arbitration for Sport (CAS) with headquarters in Lausanne (Switzerland) to resolve disputes between FIFA, member associations, confederations, leagues, clubs, players, officials, football agents and match agents.*"

75. The jurisdiction of CAS is not contested and is further confirmed by the Order of Procedure duly signed by all Parties.

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

VI. ADMISSIBILITY

77. Article R49 of the CAS Code provides 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 57(1) of the FIFA Statutes provides that:

"*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 Appealed Decision was notified with grounds to Olimpija, Köln and the Player on 29 March 2023. Olimpija, Köln and the Player timely filed their Statements of Appeal with the CAS Court Office on 18 and 19 April 2023, i.e. within the twenty-one days allotted under the aforementioned provision.

80. The three appeals complied with all other requirements of Article R48 CAS Code, including the payment of the CAS Court Office fee.

81. It follows that the appeals filed by Olimpija, Köln and the Player are admissible.

VII. APPLICABLE LAW

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

83. Article 56(2) of the 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*".

84. Article 12(7) of the Olimpija Contract provides as follows:

"*The contracting parties agree that in the event of withdrawal from the contract without a valid legal or sporting reason damages shall be determined in accordance*

with the applicable collective agreement, the NZS regulations governing player registration and status, the FIFA rules and the practice of the arbitration of FIFA DRC and CAS". [...]

85. The recitals of the Olimpija Contract refer to FIFA regulations, *inter alia*, in relation to its conclusion, interpretation and all matters that are not expressly governed. Two provisions also refer in passing to Slovenian law in very specific instances (*"The player undertakes (...) to ensure the validity of the entry in the register of professional athletes on the basis of the provisions of the Sports Act (Official Gazette of the Republic of Slovenia, No. 22/1998 et seq."; "In the event of a dispute that under the rules of the NZS is subject to the jurisdiction of football arbitration, the contracting parties undertake to resolve the dispute solely within the framework of football arbitration and in accordance with the applicable collective agreement, and not before ordinary courts, except in cases where Slovenian law stipulates otherwise"*).

86. Against this background, all Parties concur that the FIFA regulations, in particular the FIFA RSTP, constitute the main applicable law, and that Swiss law should apply to fill any gaps in such regulations. However, according to Köln and the Player, the Olimpija Contract shall also be subject to Slovenian law due to its close ties with Slovenia and wording, especially when it comes to the question of the validity and qualification of the contract, additional oral agreements and grounds for termination.

87. The Panel notes that the Olimpija Contract does not contain any explicit choice-of-law clause, but that the Player and Olimpija are, based on Article 12, subjected to FIFA rules and regulations. In addition, pursuant to the CAS Code and the FIFA Statutes, FIFA regulations, in particular the FIFA RSTP (edition October 2022) are primarily applicable to the case at hand, and, if necessary, additionally, Swiss law.

88. The Panel fails to see how the Player and Olimpija would have globally decided to contractually deviate from the subsidiary application of Swiss law, even implicitly. Indeed, the only two provisions of the Olimpija Contract which refer to Slovenian law do so marginally and/or to exclude the application of this law, which, according to the legal writing, is not sufficient to conclude that there is an implied choice (see in particular HAAS U., "Die Rechtsprechung des CAS zur Vertragsstabilität im Verhältnis zwischen Fussballspielern und Klubs", Causa Sport 2008/3, p. 237, who specifies that the existence of a tacit choice of law cannot be based on a mere hypothesis). Moreover, they do not bind Köln, which was not a party to this contract.

89. Consequently, the Panel sees no room for the application of Slovenian law to the case at hand. It also wishes to emphasise that this question is largely of academic interest, since the FIFA RSTP govern a large spectrum of issues, whereas Swiss law and Slovenian law share many common features, as per the legal opinions provided by Profs. Vogt and Možina.

VIII. PRELIMINARY ISSUES

A. Evidentiary requests

a. FIFA statistics

90. In its Appeal Brief, Köln invited the Panel to order FIFA to provide some statistics, in order for it to be able to prove that in the majority of the cases in which a breach of contract occurred, the FIFA DRC did not impose sporting sanctions.

91. In its Answer, FIFA replied that such request was unsubstantiated and farfetched. It pointed out that Köln was free to extract statistics from FIFA's website if needed, and that its evidentiary request was vague, amounted to a fishing expedition and did not meet the standards for production under Article R44.3 of the CAS Code.

92. In August 2023, the Panel decided to reject Köln's request, stating that it would provide its reasons in the Final Award.

93. The Panel considers that general statistics would have little relevance, since it is primarily asked to decide on the basis of the particularities of the case. It therefore wishes to emphasise that the fact that a decision may not appear statistically correct would not necessarily mean that it was wrong in law. Finally, the Panel is of the opinion that, if required, the responsibility to establish statistics lies with the party holding an interest in this respect, *i.e.* Köln, which could have done so based publicly available decisions.

b. Due diligence report

94. In its Answer, the Player asked the Panel to order Olimpija to provide the Parties with the due diligence report prepared by Mr Blaž T. Bolcar on behalf of the auditors of the company, Revisore SportManagement GmbH & Co KG, before the club was acquired by new owners. He acknowledged that he was now himself represented by Mr Bolcar in these CAS proceedings, but argued that his counsel was not authorised to disclose the report due to his attorney-client confidentiality obligation.

95. On 28 August 2023, the Panel requested Olimpija to either submit the said report or state the reasons of its opposition. Olimpija objected. It underlined that the report prepared by the Player's counsel himself, contained confidential information and was irrelevant to the present matter, beyond the undisputed facts set out in the Parties' submissions.

96. On 7 September 2023, the Panel decided to reject Player's request and specified that the reasons for this decision would be provided in the Final Award.

97. The Panel notes that the Player's request was originated by the Olimpija's indication in its Appeal that the Player's current counsel, while conducting a legal due diligence investigation on Olimpija, did not raise any flag regarding the Olimpija Contract and did not mention the existence of the additional agreements now invoked before CAS. This circumstance would, in the Olimpija's contention,

undermine the credibility of the Player's claims in the current arbitration. The production of this document would show, according to the Player, that Olimpija's contentions are not true.

98. At the same time, however, the Panel remarks that the Player, while requesting, on the mentioned basis, the production of the due diligence report, indicated that the subject of his counsel's investigation was not the Player's compliance with the Olimpija Contract, but other aspects, which would not include the existence and violation of oral guarantees.

99. On the basis of the foregoing, the Panel came to the conclusion that the production of the due diligence report prepared by Mr Bolcar in the context of the acquisition of Olimpija by new investors is irrelevant for the purposes of the present arbitration: the Player and Olimpija agree that it contains no information with regard to the issues disputed in the present arbitration, while potentially containing other (irrelevant) confidential information.

B. Scope of the proceedings

100. In its written submissions, Olimpija argued that First Köln owed it an amount of EUR 69,972.60 as training compensation. Köln denied being the debtor of such a sum and having acknowledged such debt in the past.

101. At the hearing, Köln pointed out that Olimpija had already lodged a separate claim for training compensation via the appropriate channel, namely the FIFA TMS, leading to the opening of proceedings before the FIFA's relevant bodies. Olimpija did not contest this state of affairs, and accepted to withdraw Item 1.4 of the relief requested in its Appeal Brief, waiving, for the purposes of this arbitration, its claim regarding training compensation.

102. The Panel observes that, while under the CAS Code the parties are prevented from submitting new requests for relief after the exchange of written submissions (Articles R51, R55 and R56), they remain free not to further pursue part of the relief originally requested, as it happened in the present case with respect to the payment of the training compensation This outcome is also consistent with the FIFA DRC's reasoning, which in the Appealed Decision declared this specific claim to be inadmissible.

103. The Panel has duly acknowledged Olimpija's withdrawal of its corresponding request and, therefore, will not consider this issue.

C. Witnesses and hearing schedule

a. Reorganisation of the hearing

104. In their submissions, the Parties requested to hear a total of 21 witnesses.

105. At the Panel's request and in the interest of efficiency, the Parties subsequently

accepted to submit a jointly agreed hearing schedule, forego hearing four witnesses whose testimonies overlapped or were otherwise not absolutely essential, and produce witness statements for all individuals who had not yet provided one.

106. The Panel wishes to emphasise that all the witnesses' declarations – oral and/or written – were duly considered in its assessment, and that none of them was discarded as a result of this reorganisation. The Panel notes that the Parties have confirmed, without any reservation, that their right to be heard has been fully complied with.

b. Parties' representatives and timeline

107. In its Answer, Köln maintained that Olimpija had failed to indicate, in its Appeal Brief, the name of the additional witness it intended to call to support the existence of Dinamo's alleged binding offer, contrary to requirements of Article R51 of the CAS Code. It also argued that Olimpija's President, Vice-President and Managing Director could not *"produce their testimony as witnesses"*, given their status of party representatives.

108. The Panel notes that these issues have partly resolved themselves, since Olimpija subsequently waived the testimony of its additional witness and President. However, it will assess the weight of each witness testimony by putting it into context and taking into account the functions of the person concerned, in accordance with CAS jurisprudence (CAS 2018/A/6017, para 86).

c. Mr Bara's default of appearance at the hearing

109. At the hearing, Olimpija informed that Mr Andy Bara, previously announced as a witness, was not available to testify. As a result, the Player maintained that Mr Bara's witness statement should be excluded from the case file.

110. The Panel is cognisant that a witness statement must in principle be disregarded if the person who signed it does not attend the hearing, save in exceptional circumstances (CAS 2016/A/4501, paras 97ff).

111. In the case at stake, no valid reason was given by Olimpija to justify the last-minute default of Mr Bara, who simply indicated that he no longer wished to intervene, because his *"testimony could affect his business interests in the Bundesliga"*. That said, Mr Bara's witness statement was already provided in the FIFA DRC proceedings, and is thus indirectly part CAS' case file.

112. In view of the above, the Panel deems that Mr Bara's witness statement can remain in the case file. Nevertheless, as will be discussed below (§ 161), his probative value is very limited, not to say questionable, in view of the overall circumstances surrounding the case and the absence of cross-examination.

D. Köln's and Player's standing

113. In its Answer, FIFA expressed some doubts regarding Köln's standing to address factual issues that specifically concern the Player, such as the existence of a breach of the Olimpija Contract. It also contested Köln's and the Player's standing to request the imposition of sporting sanctions on Olimpija, while noting that their prayers for relief in this respect may also constitute inadmissible "counterclaims".

114. Olimpija also submitted that any prayers for relief from a club based thereof would lack legal interest and standing.

115. The Panel recalls that issues related to the parties' standing relates to the merits of the case, and not to the admissibility of the appeal. It is also aware that FIFA has exclusive authority over sporting sanctions, and that Köln is only indirectly concerned by the Player's arguments related to the termination of the Olimpija Contract (see e.g. CAS 2015/A/3140, para 8.15; CAS 2014/A/3707, para 169). That said, the Panel will address these issues, if necessary, in further details below.

E. Distinction between First Köln and Second Köln

116. In its written submissions, Köln drew a distinction between First Köln and Second Köln. It stressed that First Köln, who contracted the Player, is a different legal entity from Second Köln, making the imposition of damages and/or sporting sanctions against the latter not justified under all circumstances. At the same time, Köln underlined that Second Köln was not a party to the proceedings before the FIFA DRC and therefore that any sanction imposed on it would have been applied in violation of its right to be heard.

117. The Panel determines that the distinction operated by Köln does not need to further examined in the context of this arbitration, as it does not warrant different considerations and conclusions with respect to First Köln and Second Köln.

118. In fact, the Panel notes that:

i. the procedure before the FIFA DRC was conducted following a claim brought by Olimpija against the Player and First Köln (referred to as "*1. FC Köln*" or "*Second Respondent*"), being the Player's new club following the termination of the Olimpija Contract, and the entity that uploaded in the FIFA TMS the Köln Contract it had signed;

ii. before the FIFA DRC, submissions to answer the Olimpija's claim were made by "*1. FC Köln GmbH & Co. KGaA*", which identified itself as "*Köln*" or "*Second Respondent*", without any reservation or distinction between First Köln and Second Köln;

iii. the Appealed Decision indicated that the defined term "*Köln*" referred to the "*Respondent 2*" to the Olimpija's claim, i.e. "*1. FC Köln*". In addition, the FIFA DRC considered the position of "*Köln*" as the party that had signed a new contract with the Player following the termination of the Olimpija Contract: and on that basis found that "*Köln*" was jointly and severally liable

for the payment owed by the Player and that it had to be sanctioned for inducement of breach of contract;

iv. FIFA, in its letter of 12 April 2023 (§ 26 above) answered a request for clarification submitted via the DFB by First Köln (mentioned by FIFA as *"1. FC Köln"* or the *"Club"*), indicating that the sanction applied to *"all male teams of the Club ... irrespective of the Club's corporate structure"*;

v. FIFA Circular No. 1843, which was issued shortly after the Appealed Decision, on 28 April 2023, states that: *"In order not to hinder the development of young football players, and unless otherwise specified within the relevant decision imposing the sanction, as from the date of issuance of this circular, a club subject to a registration ban may register players for its youth teams, such possibility being, however, limited to players until the age of 15"*. This provides interpretative clarification as to the rules applicable at the time of the relevant facts and removes any doubt as to the scope of the ban to be enforced, if any

vi. Olimpija brought its appeal to CAS against the Appealed Decision naming *"1. FC Köln"* as one of the respondents.

119. As a result of the foregoing, it appears clear to the Panel that the addressee of the Appealed Decision is First Köln and not Second Köln.

120. The Panel, at the same time, remarks that:

i. no express objection to the participation of Second Köln in this arbitration was raised by any of the other parties;

ii. no separate and distinct conclusions with respect to First Köln and/or Second Köln were submitted by Köln;

iii. a vague area of uncertainty as to the actual scope of the transfer ban could be identified, because of the reference in the FIFA's letter of 12 April 2023 to the irrelevance of the corporate structure at Köln.

121. The Panel, however, refrains from further examining the issue, because, since the Appealed Decision has been challenged by Köln, a success of the appeal would also go to the benefit of Second Köln, to the extent it is affected by the transfer ban. In addition, the same holds true also in the event the transfer ban imposed by FIFA on First Köln is confirmed, even if it affects the activities conducted by Second Köln. The repartition between different legal entities organising distinct (by age and gender) football activities within a single sporting entity (such as Köln), globally considered, cannot impact on the scope of a sanction imposed by FIFA, which is by nature to be applied uniformly across the world of football (in its scope, clarified by FIFA Circular No. 1843 of 28 April 2023). In addition, the Panel finds that Second Köln participated without restriction in the present *de novo* arbitration (Article R57 of the CAS Code) and was in a condition to state its case. Therefore, no violation of any of the Second Köln's right can be found.

IX. MERITS

A. The Main Issues

122. The main issues to be resolved by the Panel are:

a. Was the Olimpija Contract an employment contract and validly concluded?

b. If so, did the Player have just cause to terminate the Olimpija Contract?

c. What are the financial consequences thereof?

d. What are the sporting consequences thereof?

a. Was the Olimpija Contract an employment contract and validly concluded?

123. The Player and Köln challenge the nature of the Olimpija Contract, which they claim qualifies as a mandate or service contract modelled on the template provided by the Slovenian trade union, resulting in the non-applicability of the FIFA RSTP. They also question the validity of the contract under Slovenian law, on the grounds that both parents were required to give their consent to the hiring of their minor child by signing it.

124. Olimpija and FIFA contest this position. They highlight that the Olimpija Contract complies with the characteristics of an employment relationship under CAS jurisprudence, as well as the applicable regulations, which allow the employment of minors with the consent of only one of their parents. They also point out to the alleged bad faith of the Player, who accepted his salary for almost 8 months on this basis and did not raise this argument during the FIFA DRC proceedings.

125. The Panel observes that, at first sight, the Olimpija Contract complies with the main characteristics of an employment relationship, as established by CAS jurisprudence, namely the personal performance, the time frame during which the work has to be performed, the financial compensation and the subordination of the employee to the employer (see e.g. CAS 2017/A/5402, para 103, with references to legal writing). In fact, the Player does not seem to be entirely opposed to this finding, since he filed a statement from the Slovenian trade union (an organisation aimed to protect employees) to interpret his contract and invoked *"general legal principles concerning the right to employment of professional football players"* to defend his alleged right to train with the first team.

126. Be it as it may, the qualification of the Olimpija Contract is not of essential importance in the present case. In any event, the FIFA RSTP specify, by way of introduction, that they are intended to apply broadly in the field of football, regardless of domestic specificities, for the purposes of harmonisation:

"These regulations lay down global and binding rules concerning the status of players, their eligibility to participate in organised football, and their transfer between clubs belonging to different associations".

127. Furthermore, as previously mentioned (§ 84-85), numerous provisions of the

Olimpija Contract expressly refer to FIFA regulations. In addition, it appears to the Panel rather odd for the Player on one side to deny the applicability of the FIFA RSTP to the Olimpija Contract and on the other side invoke some provisions of the FIFA RSTP to justify its termination and to claim compensation. As a result, the Panel finds it consistent with the Parties' expectations when signing the Olimpija Contract, the nature of that contract and the behaviour of the parties thereto to consider it as an employment contract subject to the FIFA RSTP.

128. The Panel also has no doubt concerning the validity of the Olimpija Contract, whether on the basis of Swiss law, applicable to this dispute on a supplementary basis, or even Slovenian law and the minimum standards proposed as a guidance by European football bodies.

129. Indeed, Article 19 SCC allows minors to sign contracts *"with the consent of their legal representative"* (usually their parent/s). Such consent can be given expressly or tacitly before, during or after a transaction. Essentially, the principle of good faith is decisive in establishing whether a parent has consented to the action of a child (for more details, see Commentaire romand du Code civil I, Art. 1-139, Helbing & Lichtenhahn, 2010, N4ff ad Art. 19, p. 200ff). Likewise, Prof. Možina, called upon to give his expertise on Slovenian private law, clarified at the hearing, upon the President's request, that the signature of only one parent was sufficient, if the other one did not express any contrary view or confirmed its agreement by its subsequent conduct. Finally, the standard agreement concluded on that matter between UEFA and various associations representing players' and clubs' interests does not establish that both parents need to sign a minor player's contract for it to be considered valid.[1]

130. In the present case, the Olimpija Contract was duly signed by the Mother and there is no indication that the Player's father, Mr Potočnik ("the Father") objected to it. On the contrary, according to the Player's submissions, the Father was involved in negotiations with Olimpija and then participated in meetings aimed at finding a solution with this club. Ultimately, the Player accepted his salary without reservation until his departure and did not question the probative force of said contract until his appeal to CAS, which also tends to confirm its validity according to the principle of good faith.

b. Did the Player have just cause to terminate the Olimpija Contract?

131. The Player and Köln argue that the Player had just cause to terminate his employment relationship with Olimpija, since the club had allegedly breached the Olimpija Contract by not calling him and not integrating him to the first team, at least for training, despite his reiterated requests. According to the Player and Köln,

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1 Article 3 of the "Agreement concerning the minimum requirements for standard player contracts in the professional football sector in the European Union and the rest of the UEFA territory" states that *"in the case of a minor, the parent/guardian must also sign the Contract"* (https://www.uefa.com/MultimediaFiles/Download/uefaorg/EuropeanUnion/02/63/58/66/2635866_DOWNLOAD.pdf).

Olimpija also failed to provide adequate training conditions, in violation of the oral commitments made by Olimpija's former managers when the Olimpija Contract was negotiated and signed.

132. Olimpija and FIFA maintain, on the contrary, that the Player was not entitled to train, let alone play, with the first team, that he benefited from optimal training conditions appropriate to his age, and that the oral agreements concluded on the fringes of the Olimpija Contract, if any, are invalid and not legally binding. They contend that the Player suddenly used this argument after seven months as a pretext to leave his team and join First Köln, which is evident from his behaviour and the course of the events.

133. The Panel notes that Article 14 of the FIFA RSTP determines as follows:

"*A contract may be terminated by either party without consequences of any kind (either payment of compensation or imposition of sporting sanctions) where there is just cause*".

134. The Panel understands that this provision is an exception to the principle of contractual stability, which is one of the principal tenets of the FIFA RSTP. Like any exceptions, it must be stringently construed to avoid abuse, as constantly highlighted in CAS jurisprudence:

"*The principle of* pacta sunt servanda *lies at the basis of the football system, since it gives legal foundation to the stability of contractual relations, which would be severely jeopardized if the parties to employment contracts - the players and the clubs - could all too easily get rid of the obligations undertaken thereunder: while clubs make investments in players, to be recovered over the term of the contract, the players derive their living from the contract. Both parties' expectations, objectively understood, are therefore that contracts are respected until their expiry. Such principle of contractual stability is expressly recognized by Article 13 RSTP, which confirms that* 'a contract between a professional and a club may only be terminated on expiry of the term of the contract or by mutual agreement'. *However, the principle of contractual stability is not absolute as Article 14 of the RSTP provides that* 'A contract may be terminated by either party without consequences of any kind [...] where there is just cause'. *Such exception to a fundamental principle is to be interpreted narrowly: therefore, only if there is 'just cause' can a binding employment contract be terminated by either the player or the club*" (CAS 2015/A/4046 & 4047, paras 92-93; see also CAS 2018/A/5607 & 5608, para 69).

135. Many CAS panels have also stressed that the termination of a contract for just cause should always be an action of last resort and, in principle, take place without delay (see notably amongst many others, CAS 2009/A/1956, para 25; CAS 2019/A/6570, para 80; CAS 2020/A/7175, para 74; CAS 2020/A/7054, para 226 ff; CAS 2021/A/8477 & 8492, paras 170 ff).

136. Against this background, the Panel must thus determine whether the grounds relied upon by the Player for terminating the Olimpija Contract existed, and were so severe that he could not have reasonably been expected to continue his employment relationship with Olimpija. This requires a closer look at the exact terms of the

Olimpija Contract and the additional oral agreements he invokes, as well as his overall conduct.

137. The Panel finds it useful to recall that the Olimpija Contract reads, in its relevant parts, as follows:

Article 8: *"The Club undertakes [...] to ensure conditions for training and playing matches in a manner that will offer the player the optimal conditions for playing matches and training with the club's first team under the professional guidance of the trainers of the club's first team. Other discriminatory treatment of the player is not allowed. In exceptional cases, special treatment of the player is allowed in cases where the player is recovering after illness or injury or, when a disciplinary measure has been imposed on the player".*

Article 18(2): *"The contracting parties shall agree any amendments or additions by means of a written addendum to this contract".*

138. In the Panel's view, Article 8 is sufficiently clear and cannot be interpreted as giving the Player an unconditional assurance that he could immediately train and/or play with the first team, when available. At most, it allowed the Player, who was only 15 years old at the time of signing, to benefit from optimal training conditions, with the aim of developing and, ultimately, being able to train and play with the first team on a regular basis, subject to his sports performances. Yet, even if the Player was in good shape according to his Mother, with the exception of ten days of imposed rest due to a COVID-19 infection, he obviously failed to convince the managers and coaches of Olimpija to immediately move him to the training with the first team.

139. The Player and Köln, however, do not base their submissions only on Article 8 of the Olimpija Contract. They also invoke additional verbal agreements, entered into around the time of signature of the Olimpija Contract, that would have been breached by Olimpija. Such agreements would complement, and if necessary, modify Article 8 of the Olimpija Contract.

140. Article 18(2) requires in principle the written form for any amendments or additions to the Olimpija Contract. As a result, the Player and Köln dedicated significant developments and efforts to demonstrate the validity and existence of oral agreements complementing Olimpija's written contractual obligations, including the confirmation of the integration into the first team, further special training with the fitness coach and first team's coach, and a new exit clause for transfers over EUR 100,000. They notably provided in support the reports and testimonies of Prof. Vogt and Možina, experts in Swiss and Slovenian contract law, who both insisted on the fact that the written form requirement could easily – and possibly automatically – be deviated by previous or simultaneous oral undertakings, provided that these do not conflict with the written contract. The Player and Köln also called factual witnesses, including the Player's parents, his agent, his former coaches, and former Olimpija managers to support their version of events.

141. The Panel notes that the expert opinions filed by the Player and Köln were not

contradicted by rival opinions, however unconvincing some explanations might be: in particular, the Panel is not entirely convinced, also taking into account the provision of Article 16 of the Swiss Code of Obligations (SCO),[2] by the indication that a clause providing for an "in-writing" requirement for modification to a contract can be easily modified orally (and therefore allow verbal modification to the contract), because that possibility would deprive such clauses in every circumstance of meaning and effect. The Panel also wishes to underline, in line with Prof. Vogt's legal opinion, that tacit deviations from written employment contacts can only be upheld in the presence of unambiguous, non-contradictory conduct, the interpretation of which does not reasonably give rise to any doubt (legal opinion, p. 5, footnote 8, with reference to SFT 4C_8/2001, para 2e.cc; see also SFT 4A_666/2017, para 4.3). One can legitimately wonder whether these conditions are met in this case, given that Article 8 of the Olimpija Contract, cited above (§ 137), patently does not have the meaning that the Player would like it to have. Regardless of the expert debates and conditions necessary for waiving the requirement of written form, the Player would have been well advised, at the time of Olimpija's change of management, to ask the former directors of the club to confirm in writing to their successors the exact content of their oral undertakings in order to dispel any ambiguity.

142. The Panel further notes that several witnesses, including the former President of Olimpija, Mr Mandaric, confirmed the existence of some form of oral undertakings concerning the playing/training conditions for the Player. It also emerged from the questioning of these same people that meetings were organised at the parents' initiative with Olimpija former and new representatives from September 2021 to January 2022 in order to discuss their dissatisfaction. Even if these testimonies must be put into perspective with the legal disputes currently opposing former and new managers, and the Player and his former club, there is *a priori* no reason to doubt their veracity, given their precise and convergent nature. Moreover, they are partially confirmed by an email of 24 January 2022 sent by Mr Janez Pejovnik, legal counsel for Olimpija, which states that: *"Your agreement with the club's representatives - in addition to the contract, as you state - of course also applies and the club fully respects it and will of course comply with it in the future"*.

143. However, it appears from the various testimonies that these oral commitments were more a matter of "personal promises", "best efforts" and "assurances", rather than additional binding agreements. This is evidenced by the statements of Mr Mandaric, who referred on several occasions to his own *"promises"* and to his *"honour"*. In addition, it would appear to the Panel to be strange on one hand to sign a binding contract and at the same time to enter into legally binding commitments agreed orally and not mentioned in the contract containing a different provision. If such additional verbal agreements were reached concurrently with the signature of the Olimpija Contract, or in the framework of its negotiation, with the legal representative of Olimpija, why not include them in the Olimpija Contract and

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2 Article 16(1) SCO states that "*Where the parties agree to make a contract subject to formal requirements not prescribed by law, it is presumed that the parties do not wish to assume obligations until such time as those requirements are satisfied*".

instead provide for a different rule?

144. The Panel further observes that, even accepting the validity and existence of additional binding agreements, *quod non*, no evidence has shown that these agreements included a specific and mandatory timeframe as to their implementation. Without questioning the disappointment and frustration of the Player and his parents regarding his progress, which from a parent's point of view can be understood, it is difficult to see how Olimpija would have had any interest in depriving its first team of a key player, if he had already reached the professional level to join it. Similarly, any implementation obligation upon the signing of the contract would, in principle, have obliged the Player to react immediately in the event of a breach, on penalty of foreclosure (§ 135).

145. Last but not least, the Panel considers that the breaches relied upon by the Player (and Köln) would in any case not meet the threshold of "just cause". The jurisprudence and legal writing quoted to support his alleged "right to play" in Olimpija's first team are not relevant to his situation, as they relate to well-established players who were demoted to a lower level team or deprived of adequate training conditions corresponding to their level of experience (see SFT 4A_53/2011; District Court of St. Gallen, 1 April 2019, SZ.2019.58; Dielsdorf District Court, 20 October 2014, ET140003-D, Causa Sport 2014, p. 387ff; STREIFF/VON KAENEL/RUDOLPH, Arbeitsvertrag, 7th ed., Art. 319 N 17; PORTMANN W., Individualarbeitsrecht, N 609; SCHERRER/MURESAN/LUDWIG, Sportrecht - Eine Begriffserläuterung, 3rd ed., p. 61; PORTMANN W., Basler Kommentar Obligationenrecht, 6th edition 2015, Art. 328 N 22). Yet, this is clearly not the case, as the Player was able to train with Olimpija U-17 team when he was aged between 15 and 16. It does not appear either from the statements of Olimpija's youth coaches and managers that the relevant training conditions were inadequate. In this respect, Mr Baskera, assistant coach at the Football School of Olimpija, described the training facilities as *"among the best in Slovenia"*. Other stakeholders merely underlined the absence of, or issues with, GPS systems and video analysis, or the alleged insufficient qualifications of the main coach (who temporarily acted on the basis of a licence held by one of his colleagues until he obtained his UEFA C diploma in November 2022). Even so, no legal consequences can be drawn from these criticisms, since many youth teams, whatever the type of contracts that they offer, do not use cutting-edge technology, and the temporary loan of licences may also occur at higher levels of play.

146. The Panel is comforted in its findings by the chronology of events. In this regard, it must be recalled that:

(i) The Olimpija Contract was signed in June 2021.

(ii) From June 2021 until January 2022, the Player only trained with the U-17 team, despite informal requests aimed at integrating him into the first team as from September 2022.

(iii) On 23 January 2022, the Mother put Olimpija in default and gave the latter "*by this Friday*" (*i.e.*, 28 January 2022) to *"fulfill all agreements"*.

(iv) Olimpija managers replied twice that they *"appreciated and respected the Player and count on him in the long run"*.

(iv) On 30 January 2022, the Player unilaterally terminated the Olimpija Contract. On 31 January 2022, namely on the last day of the transfer window, the Player signed with Köln, where he now plays in the U-19 team.

147. In sum, the Player did not complain (at least formally) about training and playing with the U-17 team for roughly seven months. Seven months and 23 days later, the Mother put Olimpija in default to fulfil its alleged obligations with a very short notice, despite knowing that the first team was away for a training camp. Olimpija, on its side, confirmed that they still wanted the services of the Player and, nevertheless, the Player responded by unilaterally terminating the Olimpija Contract. On the very next day, the Player signed a new contract with First Köln, which has not yet integrated him into its first team either.

148. As convincingly argued by FIFA, this tends to demonstrate that the Player tried to find a "cause" to terminate the Olimpija Contract before the closure of the transfer window, despite the absence of any *ultima ratio*. It also denotes the Player's eagerness to terminate the Olimpija Contract in order to stipulate a new employment agreement with a club as prominent as First Köln, regardless of its integration into the first team.

149. The Panel concludes that the grounds invoked by the Player to terminate the Olimpija Contract have no legal or factual basis, lack specific timeframe, do not constitute a "just cause", and are undermined by the chronology of events. In other words, the Player had no legitimate reason to leave and breached the Olimpija Contract.

c. Financial consequences

150. Having stated that the Player breached the Olimpija Contract, the Panel now turns to the financial consequences of such breach.

151. Olimpija maintains that it is entitled to receive much higher compensation from the Player (and by extension, from First Köln) than that calculated in the Appealed Decision. In its view, the FIFA DRC relied on an inadequate method of calculation, using a basis the residual value of the Olimpija Contract instead of the loss of value of the services of the Player (to be assessed based on the binding offer made by Dinamo at the end of 2021). It also failed to take the "specificity of sport" into account, including the fact that the breach occurred after half a season only and during the Protected Period, as defined by the FIFA RSTP.

152. While FIFA refrains from re-discussing the calculation of the compensation, Köln and the Player argue in the alternative that Olimpija failed to prove that FIFA DRC's calculation, based on long-standing practice, was incorrect or beyond its discretion. They also reject the validity of Dinamo's offer and highlight Olimpija's overall bad faith.

i. Compensation due to Olimpija by the Player

153. Article 17(1) of the FIFA RSTP provides for the consequences of terminating a contract without just cause. This provision is therefore the starting point to determine the compensation payable:

> *"The following provisions apply if a contract is terminated without just cause:*
> *1. In all cases, the party in breach shall pay compensation. Subject to the provisions of article 20 and Annexe 4 in relation to training compensation, and unless otherwise provided for in the contract, compensation for the breach shall be calculated with due consideration for the law of the country concerned, the specificity of sport, and any other objective criteria. These criteria shall include, in particular, the remuneration and other benefits due to the player under the existing contract and/or the new contract, the time remaining on the existing contract up to a maximum of five years, the fees and expenses paid or incurred by the former club (amortised over the term of the contract) and whether the contractual breach falls within a protected period* [...]."

154. In other words, so long as the parties to an employment contract did not agree to a specific amount of liquidated damages, the compensation for an unjustified, premature termination must be calculated taking into consideration:

- the law of the country concerned;
- the specificity of sport;
- and any other objective criteria, including in particular:
- remuneration and other benefits due to the player under the existing and/or the new contract;
- the time remaining on the existing contract up to a maximum of five years;
- the fees and expenses paid or incurred by the former club (amortized over the term of the contract); and
- whether the contractual breach falls within the Protected Period as defined under the *"Definitions"* chapter in the FIFA Regulations.

155. As repeatedly confirmed in CAS jurisprudence, the list of criteria set out in Article 17(1) of the FIFA RSTP is illustrative and not exhaustive. Other objective factors can and should be considered, such as the loss of a possible transfer fee and the replacement costs, provided that there exists a logical nexus between the breach and loss claimed. CAS precedents also indicate that, in the analysis of the relevant criteria, the order by which those criteria are set forth by Article 17(1) of the FIFA RSTP is irrelevant and need not be exactly followed by the judging body (CAS 2018/A/5607 & 5608, para 109, and the references mentioned).

156. The Panel observes that, according to CAS jurisprudence, it is for the judging authority to carefully assess, on a case by case basis, all the factors and determine how much weight, if any, each of them should carry in calculating compensation under Article 17(1) of the FIFA RSTP. In particular, even though each of the factors set out in Article 17(1) of the FIFA RSTP or in CAS jurisprudence may be relevant, any of them may

be decisive on the facts of a particular case. While the judging authority has a "wide margin of appreciation" or a "considerable scope of discretion", it must not set the amount of compensation in a fully arbitrary away, but rather in a fair and comprehensible manner. At the same time, as the CAS Code sets forth an adversarial rather than inquisitorial system of arbitral justice, a CAS panel has no duty to analyse and give weight to any specific factor listed in Article 17(1) of the FIFA RSTP or set out in CAS jurisprudence, if the parties do not actively substantiate their allegations with evidence and arguments based on such factor (CAS 2018/A/5607 & 5608, para 110, and the references mentioned).

157. The Panel further observes that there is an established consensus in CAS jurisprudence that the "positive interest" principle must apply in calculating compensation for an unjustified, unilateral termination of a contract under Article 17(1) of the FIFA RSTP. As aptly stated by CAS panels, "*given that the compensation to be granted derives from a breach or unjustified termination of a valid contract, it will be guided in calculating the compensation due by the principle of the so-called "positive interest" or "expectation interest" (...) [and] accordingly (...) determin[e] an amount which shall basically put the injured party in the position that the same party would have had if no contractual breach had occurred*" (CAS 2009/A/1880 & 1881, para 80; CAS 2018/A/5607 & 5608, para 111).

158. In practice, the majority of CAS panels tend to use the "residual value" method (namely the average of the residual value of the breached contract and of the new contract for the same timeframe) as a starting point, as did the FIFA DRC in the Appealed Decision. They then pay due consideration to other substantiated elements listed in Article 17 RSTP and/or raised by the parties, if any (see e.g. CAS 2014/A/3489 & 3490, paras 167ff; CAS 2014/A/3568, paras 71ff; CAS 2020/A/6744, paras 94ff; CAS 2020/A/6996, para 126; CAS 2020/A/7145, paras 174ff; CAS 2020/A/7310 & 7322, paras 158ff; CAS 2022/A/8600, 8604 & 8633, paras 278-280). Some panels, however, departed from this method, on the grounds that it did not allow for the salary savings made by the club, and/or the specifics of the case submitted to them. In rare cases, no compensation was awarded at all, as the club did not prove its damage (CAS 2018/A/5607 & 5608, paras 138ff; CAS 2019/A/6325, 6331 & 6332, paras 225ff; CAS 2020/A/6767, paras 276ff; CAS 2020/A/7193, para 114; CAS 2020/A/7253, paras 126ff; CAS 2020/A/7274, paras 144ff).

159. The Panel recognises that the "residual value" method is not an uncontested standard method to be applied automatically, and that it sometimes only partially reflects the value of the services of a player. It considers, however, that there is no reason to depart from it in the present case.

160. It is not denied that the Player, now aged 18, has real potential, given his recent acquisition by a club as renowned as First Köln, and his recent performances (15 goals during the last season with his new club, and two goals in the last three friendly games with the Slovenian youth team), as highlighted by his Mother at the hearing. The fact remains, however, that despite the hopes he raises, and the general statistics relating to successful transfers of other young Slovenian and foreign players provided to the file, he was not deemed ready to move up the ranks at Olimpija, and currently still

plays in U-19 squads, both at local and national levels. Yet, given the fierce competition that reigns in the world of football, belonging to a rising team in no ways guarantees access to the top ranks of that same team as an adult, or even to a more modest career.

161. Most crucially, the evidence provided by Olimpija in support of the taking into account of the loss of value of the services of the players, namely the so-called EUR 1,5 million offer made by Mr Bara on behalf of Dinamo was not – and that is an understatement – not confirmed at the hearing. Indeed, as indicated above (§ 109), Mr Bara cancelled his attendance as a witness at the hearing at the last minute for obscure reasons, which he could at least have thought of in advance. Similarly, the Chairman of Dinamo's Board of directors, Ms Peras, stressed that, as far as she knew, her club had never been interested in the Player's services, even though her senior position meant, in her words, that she was aware of *"all the official offers made"*. Worse still, Olimpija's former Sports Director, Mr Rudonja, indicated that his successor, Mr Barisic, had asked him in vain to prepare a false undated offer from Manchester City, which, without prejudice to other potential consequences, could suggest that Olimpija had attempted overall to artificially increase the Player's value.

162. The Panel also wishes to emphasise that, even if Olimpija had been able to produce a draft offer worthy of the name, which was clearly not the case, this should have been taken with caution, and analysed in light of the overall circumstances.

163. Be it as it may, the Panel finds that there is, at the very least, no logical or tangible nexus between the breach and the loss claimed by Olimpija, which makes the CAS awards that it invokes irrelevant and inapplicable (see in particular CAS 2008/A/1519 & 1520, paras 58 and 71ff; CAS 2009/A/1880 & 1881, para 93). Contrary to Olimpija's allegations, such finding does not run counter the global need to protect training clubs, which remain free to claim training compensation, if any, separately. Likewise, the salary increase processed by Köln after five months by way of an addendum does not appear to derive from a desire to circumvent FIFA rules, which is incidentally not alleged and less proven.

164. Although the Panel globally endorses *in casu* the FIFA DRC's calculation, it is prepared to admit, however, that the Appealed Decision is silent on the question of the specificity of the sport and the consequences of the timing of termination of the Olimpija Contract. Depending on the particular circumstances of the case, a breach during the Protected Period, i.e. during the first three years of the contract in accordance with the "Definitions" section of the RSTP, may constitute an aggravating factor justifying an increase in compensation due to the aggrieved party (CAS 2016/A/4843, para 135). In the case under scrutiny, it is not disputed that the breach occurred at a very early stage, namely after seven months and 23 days.

165. Considering the above, the Panel concludes that a slight increase in compensation of roughly 15%, from EUR 51,750 to EUR 60,000, would be reasonable in these circumstances and is thus granted.

ii. First Köln's joint liability

166. The Parties mainly address First Köln's legal situation through the lens of its potential inducement for the Player to breach the Olimpija Contract. Only FIFA explicitly argues that Köln should automatically be held jointly and severally liable for the compensation to be paid by the Player under Article 17(2) of the FIFA RSTP, irrespective of any inducement.

167. The Panel recalls that Article 17(2) of the FIFA RSTP provides that:

"*Entitlement to compensation cannot be assigned to a third party. If a professional is required to pay compensation, the professional and his new club shall be jointly and severally liable for its payment. The amount may be stipulated in the contract or agreed between the parties.*"

168. The FIFA RSTP Commentary (2021 edition) further explains that:

- "*Whenever a professional player must pay compensation to a club for a breach of contract, the player's new club will be jointly and severally liable to pay that compensation*". (p. 171); and
- *"The new club will automatically be responsible, together with the player, for paying compensation to the player's former club, regardless of any involvement in, or inducement to, the breach of contract. This means that the joint and several liability is not dependent on any fault, guilt, or negligence on the part of the new club"* (p. 172).

169. Moreover, CAS panels have repeatedly confirmed that Article 17(2) of the FIFA RSTP requires that the new club, so long as it is identified as such, be held jointly and severally liable with the player for the payment of any compensation awarded against the player under Article 17(1) of the FIFA RSTP, regardless of whether there is evidence that it was truly involved in or induced the player to breach his contract (e.g. CAS 2015/A/3953 & 3954, para 52; CAS 2014/A/3852, paras 110 to 114; CAS 2013/A/3149, para 99; CAS 2013/A/3411, para 125; CAS 2018/A/5607 & 5608, para 161; CAS 2020/A/7443 & 7446, para 229). The only exceptions to this rule are very specific cases where the former club voluntarily released its player, leaving him no option but to find a new employer club (CAS 2018/A/5607 & 5608, para 162; CAS 2013/A/3365 & 3366, at paras 161, 163 and 170).

170. The Panel understands that these principles, when applied to the matter at hand, mean that Olimpija is not required to prove that Köln, which became the Player's new club after his breach of contract, was aware of the Player's situation or otherwise acted with fault or negligently.

171. The Panel concludes that First Köln must be held jointly and severally liable with the Player to pay compensation to Olimpija.

d. What are the sporting consequences thereof?

i. Sporting sanction on the Player

172. The Panel now turns its attention to the question whether imposing a four month-restriction on playing in official matches on the Player is warranted.

173. The Player alleges that FIFA DRC should have used its discretion to exonerate him from any sanction, and that he suffers from unequal treatment compared to other case law, given his lack of previous condemnation and good faith. His reasoning is endorsed and reproduced almost word for word by Köln.

174. FIFA contends that this measure is well-grounded, and that the FIFA DRC exercises only a limited discretion when imposing minimum and/or standard sanctions. Olimpija essentially defers to FIFA's assessment.

175. Article 17(3) of the FIFA RSTP reads in its relevant part as follows:

"In addition to the obligation to pay compensation, sporting sanctions shall also be imposed on any player found to be in breach of contract during the protected period. This sanction shall be a four-month restriction on playing in official matches. In the case of aggravating circumstances, the restriction shall last six months".

176. The Panel is of the opinion that the first question raised by this text is the possibility for the FIFA DRC not to apply automatically a sanction as per Article 17(3) of the FIFA RSTP, and the existence of a discretion for the FIFA DRC to evaluate the particular and specific circumstances on a case-by-case basis. In that respect, the Player quotes two recent cases where the FIFA DRC exonerated a player from any sanction, whereas FIFA denies the existence of a consistent practice in this regard. It considers the cases cited to be isolated, and points out that one of them is the subject of an appeal to CAS (FIFA DRC Decision FPSD 7878; FIFA DRC Decision FPSD 6827 and CAS 2023/A/9595[3]).

177. The Panel notes that several CAS panels have considered that the literal interpretation of this provision implies the duty (and not just the possibility) for the FIFA DRC to impose sporting sanctions on a player who has breached his contract during the protected period. However, other panels, in line with the FIFA RSTP Commentary, recognised the existence of a flexible case-by-case approach, allowing the FIFA DRC a certain margin of discretion. Despite these divergences, the constant line is that, at the very least, clear arguments and specific circumstances are required to depart from this provision (CAS 2014/A/3574; CAS 2015/A/3953 & 3954, para 54, and the references; CAS 2021/A/7851 & 7905, para 114; FIFA RSTP Commentary, 2021 edition, ad Article 17, p. 178, and the references).

178. The Panel considers that, *in casu*, the Player failed to demonstrate the existence of specific circumstances allowing him to escape any sanction. As explained above (§ 131 ff), the Player terminated the Olimpija Contract without just cause less than eight months after signing it, during the protected period. On the very next day following the termination, he signed a new contract with First Köln, showing disrespect for the principles of contractual stability and *pacta sunt servanda*.

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3 This appeal resulted in a termination order on 1 November 2023.

179. The Panel understands, in a second stage, that it may have no discretion to go below the minimum four-month sanction provided for in Article 17(3) of the FIFA RSTP. It finds that such approach is not unreasonable and notes that it has been supported in CAS jurisprudence:

"Quant à la nature et la quotité de la sanction infligée, la Formation ne voit pas en quoi elle peut appliquer le principe de la proportionnalité, du moment qu'elle fait partie de règles codifies concernant le jeu au sein même de l'association. Il appartiendrait à un ou des membre (s) de cette association, voire à l'association elle-même (ou à ses sections), de modifier une telle règle s'il devait être consideré qu'elle est par trop sévère ou qu'il lui manqué la possibilité d'être nuancée. En d'autres termes, la Formation ne saurait se substituer au législateur dans l'application de la règle en cause" (CAS 2006/A/1154, para 13; CAS 2021/A/7851 & 7905, para 136).

Which can be freely translated as follows:

"Concerning the nature and the extent of the inflicted sanction, the Panel does not see how it can apply the principle of proportionality, as long as it is part of the codified rules of the game of the association concerned. It would be up to one or more members of this association, or to the association itself (or to its departments), to change such a rule should it be considered as too severe or lack the possibility of a nuanced application. In other words, the Panel cannot replace the legislator in the application of the rule in question".

180. In addition, the Panel concurs with other CAS panels that a sanction imposed at first instance shall not be reduced if it appears in any case justified (CAS 2019/A/6337, paras 115ff; CAS 2019/A/6463, para 152; CAS 2020/A/6796, paras 136 and 161; CAS 2021/A/7851 & 7905, paras 137-138). Yet, this is undoubtedly the case here, given the specific circumstances previously mentioned. For the same reasons, the allegations of unequal treatment put forward by the Player fall short, especially since the FIFA DRC has imposed sanctions in many similar cases (see e.g. FIFA DRC Decision FPSD-627; FIFA DRC Decision FPSD-7693; FIFA DRC Decision Ref 19-00348; FIFA DRC Decision Ref 1502022; FIFA DRC Decision of 4 August 2022).

181. Consequently, the Panel is satisfied to confirm the sanction imposed on the Player in the Appealed Decision.

ii. Sporting sanction on Köln

182. The Panel's final task is to examine the question of Köln's sporting sanction. This involves determining whether First Köln induced the Player to breach the Olimpija Contract and, if so, whether imposing a two-season transfer ban is justified.

183. Olimpija argues that First Köln should be held accountable of the Player's breach, without expressly stating what its sanction should be. It points to Article 17(4) of the FIFA RSTP, which establishes that any club signing a professional who has

terminated his contract without just cause is presumed to have induced that professional to commit a breach.

184. Köln's main defence to this presumption is that that First Köln's "decision-makers" did not become aware of the Player's situation with Olimpija until after the termination of the Olimpija Contract, and only signed him after performing a "comprehensive investigation". Its alternative defence characterises the sanction imposed as groundless and unequal, considering its overall behaviour and situation.

185. FIFA finds this position unconvincing given the timeline and evidence on file, and its standardised catalogue of sanctions, while the Player does not comment.

186. Article 17(4) of the FIFA RSTP provides as follows:

"In addition to the obligation to pay compensation, sporting sanctions shall be imposed on any club found to be in breach of contract or found to be inducing a breach of contract during the protected period. It shall be presumed, unless established to the contrary, that any club signing a professional who has terminated his contract without just cause has induced that professional to commit a breach. The club shall be banned from registering any new players, either nationally or internationally, for two entire and consecutive registration periods. The club shall be able to register new players, either nationally or internationally, only as of the next registration period following the complete serving of the relevant sporting sanction".

187. In the Panel's view, Article 17(4) of the FIFA RSTP contains a regulatory presumption which leads to the reversal of the burden of proof, by which any club that signs a professional player who has terminated his contract without just cause has induced that player to commit a breach of contract. For the remainder, it raises the same questions as to the automatic application of a sanction and the margin of discretion that it leaves to the adjudicatory bodies as for Article 17(3) of the RSTP, whose jurisprudential developments are applicable *mutatis mutandis* (CAS 2021/A/7851 & 7905, paras 112ff, 120ff and 135ff; FIFA RSTP Commentary, 2021 edition, ad Article 17, p. 178, and the references).

188. The Panel considers that First Köln failed to rebut the presumption enshrined in Article 17(4) of the FIFA RSTP.

189. More specifically, the Panel deems that the sequence of events reported by Köln in its written submissions is quite telling and justifies the sporting sanction imposed on First Köln by means of the Appealed Decision:

i) During the second half of December 2021, Mr Sukalo, the Player's Agent, informed Mr Jakobs, consultant for Köln, about the Player from a sporting point of view but also about the problems he was experiencing with Olimpija.
ii) On 24 January 2022, Mr Sukalo called Mr Jakobs again to find out whether First Köln was interested in principle in the Player in case he was not contractually bound any longer with Olimpija.

iii) On 30 January 2022, Mr Barisic, Managing Director of Olimpija, called Mr Heidrich, the head of Köln's youth academy, and informed him that he wanted to speak directly with the President of First Köln, in order to clarify some persistent rumors about the Player's departure. Mr Heidrich admitted receiving this call and passing on the request, but denied understanding the purpose and context of the call.

iv) On the same date, the Mother notified the unilateral termination of the Olimpija Contract to Olimpija.

v) On 31 January 2022, First Köln uploaded an instruction for the transfer of the Player from Olimpija to Köln in the FIFA TMS, with a copy of the Köln Contract, dated of the same day.

190. The Panel is persuaded that it can be inferred from this timeline that First Köln played an important role in the Player's decision to terminate the Olimpija Contract. By its strong interest, First Köln provided a "safety net" without which the Player would in all likelihood not have dared to leave his training club.

191. A potential reason for not imposing a sporting sanction would be, for example, a situation where First Köln would have been able to establish that it only came into contact with the Player after the termination. However, in a situation where First Köln was already in contact with the Player several weeks prior to the termination, and signed the Player immediately after, the Panel estimates that it cannot be considered that First Köln rebutted the presumption that it induced the Player to breach the Olimpija Contract.

192. According to the testimonies given at the hearing, especially from Olimpija representatives and Mr Jakobs, it became clear to the Panel that First Köln was highly interested in hiring the Player, and had paved the way for his transfer, much before the Player terminated the Olimpija Contract. Mr Jakobs himself acknowledged that he had told Mr Sukalo, six days prior the Olimpija Contract's termination, about his "general interest in the Player", which he saw as a rising talent and possible target in the future. Whether he acted as an external consultant, as First Köln maintains without providing his employment contract, or as an interim director, as the various press articles produced by FIFA suggest, is not of primary importance. In any event, First Köln appears to have given credence to his expertise, since it hired the Player on the basis of his recommendations, and let him act as its auxiliary (for more details, see Article 55 SCO, which makes the employer liable for acts caused by its employees or "any other auxiliary" acting as such by virtue of a *de facto* or *de jure* relationship; F. WERRO, Commentaire romand, Code des Obligations I, 2021, ad Art. 55, p N 7 p. 591).

193. Against this background, the Panel finds that the jurisprudence quoted by Köln on the impossibility to prove negative facts is of no avail. This jurisprudence pertains to a doping case, which is unrelated to its situation, namely a presumption of inducement to a breach of contract that simply needs rebutting (CAS 2011/A/2384 & 2386). Good examples of how clubs were able to provide evidence can be found in various CAS awards (see e.g. 2022/A/8600, 8604 & 8633, where the new club went to great lengths to comply with its burden of proof even going so far as to

provide forensic reports and message/email analysis; and CAS 2008/A/1453, para 21, where both the correspondence exchanged between the relevant stakeholders and the player's testimony exonerated the new club). Likewise, the fact that the salary offered by First Köln was not extremely high does not in itself preclude recognition of an inducement, especially as the Player was subsequently offered a salary increase and benefited of an overall upgrade of his situation as a result of Köln's high standing.

194. The Panel further finds that First Köln did not conduct sufficient due diligence when entering into the Köln Contract with the Player. In this regard, Köln's allegation that its legal team was able to conduct a due diligence assessment in relation to the termination of the Olimpija Contract of 30 January 2022 prior to signing the Player the following day appears dubious. First Köln was unable to present any evidence (such as emails with a clear stamp or reports) of its so called "comprehensive investigation", which it allegedly carried out on within 24 hours, at the very end of the international transfer window. Worse still, First Köln entered its instruction for the Player's transfer into FIFA TMS at 4pm (rather than late at night), which makes its version of events even less plausible. Moreover, Mr Jakobs' witness statement refers to the Player's allegations and his lawyer documents as his main source of information (*"The Player's lawyer had provided us with various information (testimonies, documentation regarding the meetings and reminders etc) [...] based on such information, we decided to make the Player an offer and try to sign him"*). This overall suggests that First Köln merely relied on reported speeches.

195. The Panel shares FIFA's view that First Köln, by making various contacts with the Player's agent, failing to exercise due diligence and subsequently signing the Player, voluntarily took the risk of exposing itself to a charge of inducement to breach of contract and its resulting sporting sanction. In principle, this type of situation should be avoided as it undermines the principle of contractual stability. As such, a strict application of Article 17(4) of the FIFA RSTP is considered justified in the present case.

196. Thus, even assuming that they could be reviewed, the automatic application and proportionality of the sanction imposed on First Köln are not open to criticism. Notwithstanding Köln's view, the fact that its managers showed a "spirit of conciliation" in making a substantial settlement offer to Olimpija tends above all to demonstrate that they were potentially aware of the legal weaknesses of their case. Similarly, the decisions cited by Köln in order to prove an alleged inequality of treatment (coincidentally, the same two references relied upon by the Player) do not establish any consistent FIFA practice and do not concern cases of inducement. Ultimately, the fact that Köln did not commit any infringement of this type in the past is not absolutely decisive in the case of an inducement (see the FIFA RSTP Commentary, 2021 edition, p. 179, which only refers to the concept of "repeat offender" as an aggravating factor when clubs have terminated a contract without just cause or breached their contractual obligations).

197. Consequently, the Panel confirms the sanction imposed in the Appealed Decision.

B. Conclusion

198. Based on the foregoing, the Panel finds that the Appealed Decision must be upheld, with the exception of amount of the compensation, which shall be adjusted slightly, as follows:

a) The Olimpija Contract was an employment contract and validly concluded.

b) The Player did not have just cause to terminate the Olimpija Contract.

c) The Player and First Köln are jointly and severally liable to pay compensation for breach of contract to Olimpija in the amount of EUR 60,000 plus interest at a rate of 5% *per annum* as from 30 January 2022.

d) The Player is declared ineligible for four months in official matches following the notification of the present decision.

e) First Köln, which induced the Player to terminate the Olimpija Contract, is banned from registering any new players, either nationally or internationally, for the two next entire and consecutive registration periods following the notification of the present decision. The scope of the ban imposed on Köln is clarified by FIFA Circular No 1843 of 28 April 2023.

199. The above conclusion, finally, makes it unnecessary for the Panel to consider further the other requests submitted by the Parties. Accordingly, all other prayers for relief are dismissed.

X. Costs

200. Article R64.4 of the 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".*

201. Article R64.5 of the 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".

202. Given the outcome of the arbitration, the Panel considers it reasonable and fair that the costs of the arbitration, in an amount that will be determined and served on the Parties by the CAS Court Office, shall be borne by each party in the proceedings that it has initiated. In reaching its decision, the Panel considered in particular the fact that the appeal filed by Olimpija, even if it has to be regarded as partially upheld, *de facto* led to a marginal modification of the Appealed Decision, while the position of Köln and the Player has remained unchanged.

203. In line with the same reasoning, and considering that FIFA was not represented by an external counsel, the Panel rules that all Parties shall bear their own 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 18 April 2023 by NK Olimpija Ljubljana against the decision issued on 1 February 2023 by the Dispute Resolution Chamber of the *Fédération Internationale de Football Association* is partly upheld.

2. The appeal filed on 19 April 2023 by 1. FC Köln GmbH & Co. KGaA and 1. FC Fußball-Club Köln 01/07 e.V. against the decision issued on 1 February 2023 by the Dispute Resolution Chamber of the *Fédération Internationale de Football Association* is dismissed.

3. The appeal filed on 19 April 2023 by Jaka Cuber Potocnik against the decision issued on 1 February 2023 by the Dispute Resolution Chamber of the *Fédération Internationale de Football Association* is dismissed.

4. The decision issued on 1 February 2023 by the Dispute Resolution Chamber of the *Fédération Internationale de Football Association* is confirmed, save for para 2, which is amended as follows (emphasis added):

   "2. The Respondent 1, Jaka Čuber Potočnik, has to pay to the Claimant EUR 60,000 as compensation for breach of contract without just cause plus 5% interest p.a. as from 30 January 2022 until the date of effective payment".

5. NK Olimpija Ljubljana shall bear the entirety of the arbitration costs in the procedure CAS 2023/A/9578.

6. 1. FC Köln GmbH & Co. KGaA and 1. FC Fußball-Club Köln 01/07 e.V. shall bear the entirety of the arbitration costs in the procedure CAS 2023/A/9579.

7. Jaka Cuber Potocnik shall bear the entirety of the arbitration costs in the procedure CAS 2023/A/9580.

8. Each party shall bear its own legal fees and other expenses incurred in connection with these arbitration procedures.

9. All other and further motions or prayers for relief are dismissed.

Seat of arbitration: Lausanne, Switzerland

Date: 21 December 2023

THE COURT OF ARBITRATION FOR SPORT

Luigi **Fumagalli**
President of the Panel

Jordi **López Batet**
Arbitrator

Rui **Botica Santos**
Arbitrator

Alexandra **Veuthey**
Clerk