

CAS 2023/A/10208 Evgeni Marinov v. FIFA & Kenan Kurtes

ARBITRAL AWARD

delivered by the

COURT OF ARBITRATION FOR SPORT

sitting in the following composition:

Sole Arbitrator: Mr João Nogueira da Rocha, Attorney-at-law in Lisbon, Portugal

in the arbitration between

Evgeni Marinov, Bulgaria

Represented by Mr Georgi Gradev and Mr Marton Kiss, SILA International Lawyers, Sofia, Bulgaria

-Appellant-

and

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

Represented by Ms Cristina Pérez González, Senior Legal Counsel, FIFA Litigation Department

-First Respondent-

Kenan Kurtes, Turkey

Represented by Mr Arda Zenginpeduk, Attorney-at-law in Ankara, Turkey

-Second Respondent-

I. PARTIES

1. Mr Evgeni Marinov (“Mr Marinov” or the “Appellant”) is a registered FIFA Match Agent of Bulgarian nationality.
2. The *Fédération Internationale de Football Association* (“FIFA” or the “First Respondent”) is the international governing body of football. FIFA has its headquarters in Zurich, Switzerland.
3. Mr Kenan Kurtes (“Mr Kurtes” or the “Second Respondent”) is a registered FIFA Match Agent of Turkish nationality.
4. FIFA and Mr Kurtes shall jointly be referred as the “Respondents” where applicable. The Appellant and the Respondents shall jointly be referred as the “Parties” where applicable.

II. BACKGROUND FACTS

5. Below is a summary of the relevant facts and allegations based on the Parties’ written submissions, pleadings and evidence adduced. Additional facts and allegations found in their written submissions, pleadings and evidence may be set out, where relevant, in connection with the legal discussion which follows. While the Sole Arbitrator has considered all the facts, allegations, legal arguments and evidence submitted by the Parties in the present proceedings, it refers in its Award only to the submissions and evidence it considers necessary to explain its reasoning.
6. On 26 April 2019, the Cameroonian Football Association (FECAFOOT) granted a mandate to Mr Kamga, to organize friendly matches for FECAFOOT men’s national team.
7. On the same day the Football Federation of Turkmenistan (FFT) mandated “*Rival Tour Agency from Antalya Turkey and Mr Kenan Kurtes*” in writing to “*negotiate and take care for the conditions and the details in respect of the possible friendly match as follows: Turkmenistan – Cameroon Date: 08.06.2019*”.
8. Mr Ceyhun Hacıyev, acting in the name and on behalf of Mr Kurtes, the company Rival Tour Agency and FFT instructed Mr Marinov to organize a friendly match between the Cameroon and Turkmenistan national teams (the “Match”) in Madrid (Spain) on 9 June 2019.
9. In this respect, in May 2019, Mr Hacıyev, Mr Kamga, and Mr Marinov exchanged many messages over WhatsApp and by email in relation to the Match organization.
10. On 8 May 2019, the FFT wrote *inter alia* to the FECAFOOT, Mr Kamga and Mr Marinov, confirming its participation in the Match in Madrid.
11. On 15 May 2019, Mr Kamga and Mr Marinov concluded a match contract (the “Contract”), by virtue of which a friendly match would be organized between the Cameroon and Turkmenistan “A” national teams to be played in Madrid (Spain) on 9

June 2019. The FFT was not a party to the Contract, however, accordingly, to the Contract's preamble, the FFT granted a mandate to Mr Marinov.

12. According to article 2 of the Contract, Mr Kamga and Mr Marinov were responsible *inter alia* for the transportation, accommodation and visa of their respective teams, as follows:

“ARTICLE 2: TRANSPORTATION, ACCOMODATION AND TRAINING FACILITIES

Each match agent is the only responsible of fully taking in charge and at his expenses of the full local and international transportation cost, training pitches, hotels, visa of his team (Mr. Kamga for Cameroon delegation and Mr. Marinov for Turkmenistan delegation).”

13. As per article 4 of the Contract, Mr Kamga and Mr Marinov agreed that “in case of cancellation of the match (...) the offending party will reimburse the costs and the damages incurred by the other parties”:

“ARTICLE 4 CONFIDENTIALITY, ANNULATION & DISPUTE

This contract is confidential between the two parties without time limitation. In case of cancellation of the match for a case of force majeure including, without limitation, war, revolution, riots, attacks, of for any reason beyond the control of the parties, none of party shall be liable to the other for any compensation. In other case, the offending party will reimburse the costs and the damages incurred by the other parties (TFF, FECAFOOT, the Club organizer in any, and, the match agent of TFF and FECAFOOT)”

14. On 18 May 2019, the FFT sent a letter to Mr Kamga and the FECAFOOT cancelling its participation and saying that “(...) we regret to inform you that we will be unable to take it ahead, because of short time that we have to arrange visa matters and financial inability of the federation to support this trip”.
15. In light of the above, by means of a letter to Mr Marinov and the FFT dated 18 May 2019, Mr Kamga expressed “a lot of astonishment of your desire to unilaterally annul the friendly match Cameroon vs Turkmenistan of 9.6.2019 in Madrid. I would like to get your attention on the juridical and financial consequences of such a decision”.
16. The Match was eventually not played and Mr Kamga and Mr Marinov did not reach an amicable agreement to the dispute.
17. The FFT played a match against Uganda in Abu Dhabi (UAE) at the same date of the cancelled Match (*i.e.* 09 June 2019).
18. On 22 May 2019, Mr Kamga found an alternative to the Match and, on 9 June 2019, a match took place between the “A” national teams of the FECAFOOT and the Football Association of Zambia in Madrid (Spain).
19. On 4 May 2021, the match agent Mr Kamga filed a claim before the FIFA Player's Status Committee (the “PSC”) against Mr Marinov.

20. On 17 August 2021, the PSC passed a decision on the Claim (hereinafter: the “Decision”), whereby essentially Mr Marinov was found to have breached the Contract without just cause and ordered to pay a compensation to Mr Kamga of EUR 27,000 plus interest. The grounds of said Decision were notified to the parties on 20 September 2021.
21. On 1 October 2021, Mr Marinov appealed the Decision to the Court of Arbitration for Sport (CAS) and named as Respondents Mr Kamga, the FFT and Mr Kurtes.
22. On 4 September 2023, CAS issued an award in CAS 2021/A/8368 (the “CAS Award”), in which the PSC Decision was partially confirmed and the compensation amended to EUR 13,700 plus interest. Moreover, since the Second Respondent was not a party in the FIFA proceedings the Sole Arbitrator decided that Mr Kurtes did not have standing to be sued.
23. In September 2023, the Appellant lodged a claim before FIFA which was exclusively lodged against Mr Kurtes.
24. On 23 October 2023, the FIFA general secretariat informed the Appellant that the FIFA Football Tribunal did not appear to have jurisdiction to deal with the Appellant’s claim as the statute of limitations of two years had already elapsed.
25. At the same date, the Appellant sent a further correspondence insisting on the admissibility of the claim and mainly arguing that *“there was an arbitration procedure between the parties in CAS, which just ended with the award CAS 2021/A/8368 dated September 4, 2023. Hence, the event giving rise to the dispute was the date of issue of the CAS award. There were no legal grounds to file a claim against the Respondent before that. In any event, the CAS proceedings have interrupted the limitation period (Article 135.2 of the Swiss Code of Obligations), and thus, a new prescriptive period commenced when the dispute was settled before CAS on September 4, 2023 (Article 138.1 of the Swiss Code of Obligations). See CAS 2020/A/6971 at paras. 115-116.”*
26. On 26 October 2023, the Appellant lodged a further claim against Mr Kurtes (hereinafter the “Second PSC Claim”), and requested FIFA to issue a decision, *inter alia*, on the admissibility of his claim.
27. On 3 November 2023, the PSC rendered the Appealed Decision, deciding as follows:
 - “1. *The claim of the Claimant, Evgeni Marinov, is inadmissible.*
 2. *This decision is rendered without costs.*”
28. Upon request of the Appellant, the grounds of the Appealed Decision were notified to the Parties on 27 November 2023.

III. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT

29. On 7 December 2023, pursuant to the provisions of Articles R47 and R48 of the Code of Sports-related Arbitration (the “Code”), the Appellant filed its Statement of Appeal.

30. On 15 December 2023, FIFA agreed to submit this matter to a Sole Arbitrator, whereas the Second Respondent failed to submit his position in this regard within the prescribed time limit.
31. On 23 December 2023, in accordance with R51 of Code, the Appellant filed its Appeal Brief.
32. On 27 December 2023, the CAS Court Office confirmed that the First Respondent's time limit to file its Answer would be fixed after the payment by the Appellant of his share of the advance of costs, pursuant to Article R55 (3) of the Code.
33. On 16 January 2024, the CAS Court Office confirmed that the Second Respondent's time limit to file its Answer would be also fixed after the payment by the Appellant of his share of the advance of costs, pursuant to Article R55 (3) of the Code.
34. On 16 February 2024, the Appellant submitted an Application for Legal Aid and, consequently, the CAS Court Office stayed his time limit to pay the advance of costs.
35. On 9 July 2024, the ICAS Athletes' Commission granted the Appellant's request for assistance for CAS administrative costs.
36. On the same day, the CAS Court Office invited the Respondents to file their Answers within a 20-day deadline.
37. On 29 August 2024, in accordance with Article R55 of the Code and further to several agreed upon extensions of time, the First Respondent filed its Answer.
38. On 30 August 2024, the CAS Court Office informed the Parties that Mr João Nogueira da Rocha had accepted his appointment as Sole Arbitrator by the Division President in accordance with Article R54 of the Code and forwarded Mr Nogueira da Rocha's disclosures to the Parties.
39. On 4 September 2024, in accordance with Article R55 of the Code and further to several granted extensions of time, the Second Respondent filed its Answer.
40. On 5 September 2024, the Parties were invited to inform the CAS Court Office whether they prefer a hearing to be held in this matter or for the Sole Arbitrator to issue an award based solely on the Parties' written submissions.
41. Also on 5 September 2024, within the granted time limit, the Appellant and the First Respondent confirmed that they deemed a hearing unnecessary while the Second Respondent failed to communicate its position, within the prescribed deadline.
42. On 12 September 2024, the CAS Court Office noted the absence of filing of a petition for challenge and confirmed the nomination of Mr Nogueira da Rocha as Sole Arbitrator.
43. On 30 October 2024, the CAS Court Office informed the Parties that the Sole Arbitrator deemed himself sufficiently well-informed to decide the case based solely on the Parties' written submissions, without holding a hearing. With the same communication, the Parties were provided with the Order of Procedure, duly signed and returned by the

Appellant and the First Respondent on 4 November 2024. Later, on 6 November 2024, the Second Respondent provided the CAS Court office with a copy of that Order of Procedure duly signed.

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

IV. SUBMISSIONS OF THE PARTIES

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

A. Submissions of the Appellant

46. The Appellant's submissions, in essence, may be summarized as follows:
- In the claim presented at PSC in September 2023, the Appellant intended to be reimbursed of the compensation and costs adjudicated in the CAS 2021/A/8368 award dated 4 September 2023.
 - The Appealed Decision erroneously ruled that the Appellant's claim against the Second Respondent for damages is time-barred.
 - It failed to interpret and apply Article 22.3 of the FIFA Match Agent Regulations ("MAR") in light of the facts leading to the dispute.
 - According to CAS's well-settled jurisprudence, the sentence "since the facts leading to the dispute arose" refers to an objective moment in time that is to be ascertained.
 - In this respect, PSC failed to consider that a cause of action for reimbursement against another party requires that there is a right to recover this payment against said party.
 - In the present case, such a right for the Appellant arose when CAS rendered the final award on the dispute between Joseph Kamga and the Appellant that is, 4 September 2023.
 - Therefore, the Appellant seeks an award annulling the decision being appealed and referring the case back to FIFA, ordering it to issue a decision on the substance of the dispute between the Second Respondent and the Appellant.

- According to well-settled jurisprudence, the event that gives rise to a dispute and triggers the two-year limitation period needs to be an objective moment in time that can be traced and ascertained by the parties involved.
- The proposition of the PSC that the Appellant could have filed a claim against the Respondent in May 2019 fails in light of the clear FIFA Procedural Rules. Article 9.1 (g) of the said rules required that petitions contain the amount in dispute insofar as it is a financial dispute.
- Mr. Kamga lodged no financial claim against the Appellant in May 2019. Mr. Kamga filed his claim in May 2021. In such circumstances, the Appellant could not anticipate that Mr. Kamga would sue him two years later and could not quantify his claim for reimbursement against the Second Respondent.
- Therefore, the Appellant had no valid cause of action for reimbursement against the Second Respondent in May 2019. Hence, the two-year limitation period did not start then.
- On 4 May 2021, Mr. Kamga filed a claim against the Appellant with FIFA, requesting compensation for breach of contract of EUR 149,560.10. The Appellant objected to the claim and requested to be dismissed entirely.
- Obviously, the Appellant could not claim reimbursement of EUR 149,560.10 against the Second Respondent in May 2021 because a cause of action for reimbursement against another party requires that a payment was made and that there is a right to recover this payment against said party. FIFA would have rejected such a potential claim as premature and groundless.
- The Appellant's knowledge of Mr. Kamga's claim to FIFA in May 2021 is irrelevant for the moment when the prescription period started running. Because of legal certainty, "the facts leading to the dispute" must be an objective moment in time.
- Therefore, the Appellant had no valid cause of action for reimbursement against the Second Respondent in May 2021. Hence, the two-year limitation period did not start then.
- The amounts in dispute between the Appellant and the Second Respondent were only established on 4 September 2023, when the CAS Award was rendered, as a consequence of which the Appellant could not have filed a claim against the Respondent in May 2019 or May 2021 but in September 2023 at the earliest. As soon as CAS ruled on the principal amount and the procedural costs in the CAS Award, the Appellant could objectively quantify his claim against the Second Respondent and sought recourse against the latter to FIFA.
- As a result, the establishment of the amounts in dispute in the CAS Award on 4 September 2023 was the fact leading to this dispute in the sense of Article 22.3 MAR. Hence, the claim filed by the Appellant against the Second Respondent

with FIFA on September 20, 2023, further amended on October 26, 2023, was not time-barred under Article 22.3 MAR.

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

1. *Annul the Appealed Decision.*
2. *Refer the case back to FIFA and order FIFA to take a formal decision on the merits of the Appellant's claim against the Second Respondent.*
3. *Order FIFA to bear all costs incurred with the present procedure.*
4. *Order FIFA to pay the Appellant a contribution towards its legal and other costs in an amount to be determined at the Sole Arbitrator's discretion.*

B. Submissions of the First Respondent

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

- The Appellant refers to Articles 135 (2) and 138 (1) of the SCO and alleges that *“the filing of the Statement of Appeal against the Second Respondent with CAS on October 1, 2021, in case CAS 2021/A/8368 interrupted the two-year limitation period, and thus, a new prescriptive period of two years commenced when the dispute was settled before CAS on September 4, 2023.”*
- According to the well-established jurisprudence of CAS, Swiss law applies in a subsidiary manner, when there is a gap or lacuna in the pertinent FIFA Regulations.
- The applicable law for the matter at hand is the various Regulations and Statutes of the Respondent, and Swiss Law applies on a complimentary basis.
- Swiss law should only be applied if there is a lacuna in its application.
- As there is no lacuna, there is no need to apply Swiss Law into play on a subsidiary basis, as any judging body need only follow the applicable regulations.
- More relevantly to the present case, it is worth noting that the Panel in procedure CAS 2020/A/7154 stated that *“Article 138 SCO only refers to a civil claim through public courts [...] This is all the more true considering that Swiss law only applies subsidiarily, i.e. absent any clear guidance from the RSTP.”* (emphasis added)
- The above reasoning applies *mutatis mutandis* to the present matter. The Regulations (i.e. the Match Agent Regulations) are unequivocal in establishing a 2-year prescriptive period from the date the dispute arose.

- Therefore, since the Regulations are clear when establishing a 2-year limitation period from the event giving rise to the dispute, there is no need for FIFA (and now CAS) to resort to Swiss law in a subsidiary manner.
- *In casu*, bearing in mind that the dispute arose on 18 May 2019 (when the FFT sent the Cancellation Letter), the Appellant should have lodged his claim against Mr Kurtes on or before 17 May 2021.
- Even if the Appellant’s reasoning could be followed (*quod non*), and one were to consider that a new prescriptive period commenced when the CAS Award was rendered, it is relevant to recall that such CAS Award exclusively addressed the dispute between the Appellant, Mr Kamga, and the FFT (i.e., those that had been correctly summoned during the First PSC proceedings). Differently put, the CAS Award only resolved the dispute between the counterparties mentioned in the Match Contract of 15 May 2019: Mr Kamga, the FFT, and Mr Marinov.
- For the sake of clarity, it is worth emphasizing that the Sole Arbitrator himself included the following consideration in the CAS Award:

“99. According to the FIFA Procedural Rules, i.e. Article 9.1, the First Respondent determined who were the Respondents in the proceedings before PSC, and he did not involve the Third Respondent in that case. Therefore, the Single Judge of the PSC could rule solely on the First Respondent’s claims regarding the alleged breaches of the counterparties mentioned in the Contract.

100. Therefore, if FIFA was not entitled to issue a decision against the Third Respondent, since he was not a party in those proceedings, so is the CAS.”
(emphasis added)

- In this respect, the Sole Arbitrator was keen to emphasize that his assessment was *“strictly related to the entire subject of the dispute between the same parties of the first instance’s proceedings.”* (emphasis added)
- It is a fact that (i) Mr Kurtes was not a party to the First PSC proceedings; and (ii) the CAS Award clearly states that Mr Kurtes had *“no standing to be sued”* in the context of the First CAS proceedings. Consequently, since CAS confirmed that no decision could be issued against Mr Kurtes (CAS Award, para. 100), it is evident that the limitation period was not suspended or interrupted with respect to the dispute between the Appellant and Mr Kurtes (a dispute that merely concerns a claim for damages).
- Thus, the Appellant’s line of argumentation shall be dismissed.
- In addition, as a last remark, FIFA finds relevant to emphasize that the Appellant had several opportunities to correctly summon Mr Kurtes:

- i. When the Appellant submitted his Answer regarding Mr Kamga's claim of 4 May 2021 (the First PSC Claim), Mr Marinov could have tried to involve Mr Kurtes by lodging a counterclaim, for example. Notably, Mr Marinov not only failed to do so, but he also did not even mention Mr Kurtes in his response to Mr Kamga's claim.
- ii. Furthermore, as stated in the CAS Award, "*the Appellant argue[d] that he intend[ed] to file a new claim against the Third Respondent for damages with the FIFA bodies.*" Although the Appellant submitted in his First CAS Appeal (appeal filed on 21 October 2021) that he intended to file a new claim against Mr Kurtes, the Appellant remained passive and did not lodge a claim against Mr Kurtes until 26 October 2023, almost two years later.

- The foregoing suggests that the Appellant, knowing he had failed to take timely action against Mr Kurtes, filed his claim before the PSC (the Second PSC Claim) with the intention of artificially extending the Appellant's time limit to exercise an action against Mr Kurtes.
- This would clearly undermine the legal certainty and foreseeability of the FIFA regulations (more specifically, the MAR) and violate the doctrine of *venire contra factum proprium*.
- In light of the above, it results clear that the Appellant, only due to his own failure to take timely action, is precluded from lodging a claim against Mr Kurtes.

49. Based on its above-mentioned allegations, the First Respondent requests the CAS for the following relief:

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

C. Submissions of the Second Respondent

50. The Second Respondent's submissions, in essence, may be summarized as follows:

- First of all, it is clear that the contract related to this dispute is signed between Mr. Joseph Kamga and the Appellant. Since Second Respondent has not any contractual relationship with the Appellant, there is no legal ground to claim such issue against the Second Respondent
- Secondly, the PSC has decided that time limit of two years to file this claim is elapsed since the event giving rise to the dispute happened more than two years before filing this claim hereby.

- At this point, the main discussion is to specify the event that giving rise to the dispute. When the facts and evidence submitted by the Appellant are examined, it can simply be understood that all of the events giving rise to this dispute happened in 2019 and the final event of FFT cancelling the friendly game happened on 18 May 2019.
- At that date, the Appellant held and had the possibility to access every evidence to present a claim against the Second Respondent in case that he believes the cancellation of the friendly game is Second Respondent's fault.
- Therefore, the "event giving rise to the dispute" is clearly the cancellation of the friendly game which happened on 18 May 2019. On that date, Appellant held the contract which he signed with Mr. Joseph Kamga and also, on the same date Mr. Joseph Kamga has clearly stated in his legal notice that he will pursue legal action for his damage arising from cancellation of the friendly game, which he grounds his actions on the contract between him and the Appellant.
- In his appeal brief, the Appellant states that he had no valid cause of action for reimbursement against the Second Respondent until the final CAS award issued on 4 September 2023. However, it is clearly determined in the contract between Appellant and Mr. Joseph Kamga that in case of a cancellation the Appellant shall be responsible for the compensation of damages of Mr. Joseph Kamga.
- Mr. Joseph Kamga also directly sent a legal notice to the Appellant informing that he is asking for his damages. At that point, it is impossible for the Appellant to claim that it should not be expected from him to take an action starting from that date until September 2023.
- Even if one accepts that 18 May 2019 shall not be considered as the date that event which gives rise to the disputes has happened, the date that the Single Judge of FIFA Players' Chamber issued the award, 17 August 2021, is another clear event and date that Appellant shall be aware that he will compensate the damage of Mr. Joseph Kamga.
- To conclude, decision of the Players' Status Chamber Ref. Nr. FAD-21250 passed on 03 November 2023 stating that the claim of the Appellant is inadmissible is lawful and consistent with the procedural rules of FIFA and also with the principle of legal certainty within the FIFA dispute resolution system.

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

1– To reject the appeal of the Appellant

2– To uphold the decision of the Players' Status Chamber Ref. Nr. FAD-21250

3– To order Appellant to bear all costs incurred with the present procedure

4– To order Appellant to pay the Second Respondent a contribution towards his legal and other costs in an amount at least CHF 4.000.

V. JURISDICTION

52. Article R47 of the CAS Code states:

“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. [...]”

53. Article 57 (1) of the FIFA Statutes states:

“Appeals against final decisions passed by FIFA’s legal bodies and against decisions passed by confederations, member associations or leagues shall be lodged with CAS within 21 days of receipt of the decision in question.”

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

VI. ADMISSIBILITY

55. 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.”

56. In the present case, Article 57 (1) of the FIFA Statutes provides that appeals shall be lodged with the CAS within 21 days of notification of the appealed decision.

57. The grounds of the Appealed Decision EPP were notified to the Appellant on 27 November 2023. The Appellant filed its Statement of Appeal with CAS on 7 December 2023, hence within the 21-day time limit established by the applicable regulations. Furthermore, the Appeal complied with all of the admissibility requirements set out by Articles R48 *et seq.* of the Code. It follows that the Appeal is admissible.

VII. APPLICABLE LAW

58. Article R58 of the CAS Code reads as follows:

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

59. Article 56 (2) of the FIFA Statutes provides:

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

60. Therefore, taking into account the aforementioned, the Sole Arbitrator finds that the various regulations of FIFA are to be applied primarily and, subsidiarily, Swiss law, in accordance with Article 56.2 of the FIFA Statutes, should the need arise to fill a possible gap in the various regulations of FIFA.

VIII. MERITS OF THE APPEAL

A. What is this case about?

61. The present Appeal has been lodged against a PSC’s decision which considered time-barred the claim filed by the Appellant on 20 September 2023 and, therefore, inadmissible.

62. The Appellant considers that the PSC failed to interpret and apply Article 22.3 of the FIFA Match Agent Regulations (the “MAR”).

63. Said article reads as follows:

The FIFA Players’ Status Committee shall not consider any dispute under these regulations if more than two years have elapsed since the facts leading to the dispute arose, and in any case no later than six months after the match agent concerned has terminated his activity as such.

64. The Appellant claimed that he intended to be reimbursed by the Second Respondent and that right only arose with the final award issued by CAS on 4 September 2023.

65. Contrary to the Appellant, the Respondents consider that the facts leading to the dispute arose in May 2019, precisely on 18 May 2019, when the FFT sent the Cancellation Letter.

66. The Appellant also claims that, in any case, the CAS 2021/A/8368 proceedings have interrupted the limitation period and thus, a new prescriptive period commenced with the issuance of the CAS Award (articles 135 (2) and 138 (1) of the Swiss Code of Obligations [“SCO”]).

67. Such Articles read as follows:

Article 135

The prescriptive period is interrupted:

[...]

2. By debt enforcement proceedings, an application for conciliation, submission of a statement of claim or defence to a court or arbitral tribunal, or a petition for bankruptcy.

Article 138

1. Where the prescriptive period has been interrupted by an application for conciliation, or the submission of a statement of claim or defence, a new prescriptive period commences when the dispute is settled before the relevant court.

68. Therefore, the Appellant seeks for an award annulling the Appealed Decision and referring the case back to PSC in order the later to issue a decision on the merits.

B. The issues to be addressed by the Sole Arbitrator

69. The first issue to be addressed by the Sole Arbitrator is if Swiss Law is subsidiarily applicable to this case.

70. The second issue to be addressed by the Sole Arbitrator is to determine on what date the prescriptive period began.

B1. The subsidiarily application of Swiss law

71. As set forth above, the applicable law for the matter at hand is the various Regulations and Statutes of the First Respondent, and Swiss Law applies on a subsidiary basis. That is, if there is a gap or a lacuna in the various Regulations, then the Sole Arbitrator should apply Swiss Law.

72. Swiss law can only be applied in circumstances where there is a conflict, lacuna or ambiguity in the interpretation or application of a particular article of the FIFA Regulations such that Swiss law is applied to the extent necessary. Swiss law does not supersede or supplant any clear Regulations of FIFA. If this were so, then Swiss law would supplant all aspects of the Regulations of FIFA and, therefore, such Regulations would be irrelevant.

73. The Sole Arbitrator considers that Article 22.3 of the MAR is unequivocally worded and leaves no room for interpretation and leniency. The sentence *“The FIFA Players’ Status Committee shall not consider any dispute under these regulations if more than two years have elapsed since the facts leading to the dispute arose,”* refers to an objective moment in time that is to be ascertained.

74. However, the Appellant does not seek the application of Swiss law to the two-year limitation period but rather to its interruption.

75. As FIFA Regulations, in particular Article 22 MAR, are silent regarding the prescriptive period interruption, Swiss Law shall apply, namely Articles 135 (2) and 138 (1) SCO.

76. Bearing in mind the application of the above SCO articles, the Appellant considers that the filing of the Statement of Appeal against the Second Respondent on 1 October 2021 (CAS 2021/A/8368), interrupted the two-year limitation period and a new prescriptive period commenced when the decision on said award was rendered.

77. However, the Sole Arbitrator took duly note that, although Mr Kurtes (here the Second Respondent) being designated as a respondent in the appeal registered under CAS 2021/A/8368, had no standing to be sued as he was not a party to the FIFA proceedings leading to the in the Decision passed on 17 August 2021.

78. As the Sole Arbitrator wisely referred in CAS 2021/A/8368:

“99. According to the FIFA Procedural Rules, i.e. Article 9.1, the First Respondent determined who were the Respondents in the proceedings before PSC, and he did not involve the Third Respondent [here the Second Respondent] in that case. Therefore, the Single Judge of the PSC could rule solely on the First Respondent’s claims regarding the alleged breaches of the counterparties mentioned in the Contract.

100. Therefore, if FIFA was not entitled to issue a decision against the Third Respondent, since he was not a party in those proceedings, so is the CAS.”

[...]

103. Considering the above, the Sole Arbitrator points out that he is bound to assess whether the Appealed Decision is flawed under procedural or substantial reasons strictly related to the entire subject of the dispute between the same parties of the first instance’s proceedings.

79. It is not disputed that Mr Kurtes was not a party in the first instance’s proceedings.

80. In CAS 2020/A/7154, the Panel stated:

“The majority of the Panel also finds that the limitation period is not suspended or interrupted by the initial claim of the Player filed against PAE and ARIS AS, because ARIS was not a party to such proceedings [...].”

81. The Sole Arbitrator fully agree with the First Respondent when it states:

56. The same reasoning applies to the case at hand. After all, it is a fact that (i) Mr Kurtes was not a party to the First PSC proceedings; and (ii) the CAS Award clearly states that Mr Kurtes had “no standing to be sued” in the context of the First CAS proceedings. Consequently, since CAS confirmed that no decision could be issued against Mr Kurtes (CAS Award, para. 100), it is evident that the limitation period was not suspended or interrupted with respect to the dispute between the Appellant and Mr Kurtes (a dispute that merely concerns a claim for damages).

82. Therefore, the Sole Arbitrator considers that no interruption of the prescriptive period occurred arising from the filing of the Statement of Appeal in CAS 2021/A/8368.

B2. The date on which the prescriptive period began

83. As the Sole Arbitrator considers above, it cannot be considered that the filing of the Statement of Appeal against the Second Respondent on 1 October 2021 (CAS 2021/A/8368), interrupted the two-year limitation period.

84. Nevertheless, the Appellant primarily alleges that until the issuance of the final award in CAS 2021/A/8368 dated 4 September 2023, he had no valid cause to file a claim with the PSC as the amounts in dispute were only established and quantified in said award.

85. The Appellant bases his allegation in the light of article 9.1 (g) of the FIFA Procedural Rules (ed. 2018) in force at the time, that required that petitions must contain the amount in dispute insofar as it is a financial dispute.
86. However, the Sole Arbitrator considers that there was no requirement for the Appellant to wait for said award before taking legal action against Mr Kurtes.
87. As a matter of fact, the Sole Arbitrator took duly note that, on 18 May 2019, when the FFT sent the Cancellation Letter, the Appellant could objectively realize that, under the terms of the match contract signed between him and Mr Kamga, the later could ask for compensation.
88. As, per article 4 of the contract, the parties agreed that *“in case of cancellation of the match (...) the offending party will reimburse the costs and the damages incurred by the other parties”*.
89. Moreover, by means of a letter to the Appellant and the FFT, also dated 18 May 2019, Mr Kamga expressed *“a lot of astonishment of your desire to unilaterally annul the friendly match Cameroon vs Turkmenistan of 9.6.2019 in Madrid. I would like to get your attention on the juridical and financial consequences of such a decision”*.
90. At this juncture, the Sole Arbitrator finds it necessary to clarify the reason why the Appellant intends to be reimbursed by the Second Respondent.
91. During the procedures of the claim filed on 4 May 2021 by Mr Kamga before the PSC against Mr Marinov, it was proved that the letter sent by the FFT on 8 May 2019 was fake. This was also confirmed in the CAS 2021/A/8368 Award. Through that fake letter the FFT *“agree to play an international match vs the A-National Team of Cameroon on the 9.06.2019 (18h:00) in Spain”*.
92. The Appellant submits that the above-mentioned letter triggered the conclusion of the Match Contract with Mr Kamga on 15 May 2019.
93. The Sole Arbitrator notes that the Appellant submits that Mr Kurtes is responsible for the forgery of the FFT letter of 8 May 2019, he now seeks for the reimbursement of the compensation he was ordered to pay to Mr Kamga.
94. The Respondents, in their Answers, contend that the Cancellation Letter of 18 May 2019 was the date when the event given rise to the dispute took place. Then according to them, the time limit to present a claim by the Appellant against the Second Respondent should have been 18 May 2021.
95. Nevertheless, at that date, the Appellant submits that he had no knowledge that the Cancellation Letter was forged and, consequently, there was no room for an eventual reimbursement by the Second Respondent at that time. Accordingly, on 4 May 2021, Mr Kamga filed a claim with the PSC against Mr Marinov and the FFT asking for the payment of the compensation allegedly due under the above quoted article 4 of the contract.

96. The Sole Arbitrator finds that the certain and objective point in time that can be considered as the event given rise to the dispute is when the Appellant became aware of the FFT's submission alleging that the Cancellation Letter was forged.
97. The FFT's main submission made during the proceedings before the PSC was the time at which the Appellant was aware of the potential responsibility of the Second Respondent and, therefore, the Appellant must have called the Second Respondent to the PSC proceedings or, alternatively, to file a separate claim against Mr Kurtes before the PSC.
98. As the FFT's submission alleging that the Cancellation Letter was forged was raised during the PSC proceeding, this means that said allegation was made prior to the issuance of the PSC decision, that is, 17 August 2021 and, obviously, was known by the Appellant.
99. However, the Appellant remained passive until the 20 September 2023 when he lodged the claim against the Second Respondent in front of the PSC.
100. At that time and taking into account the two years limitation period that began in a date prior to 17 August 2021, and which expired on 17 August 2023, the Appellant was precluded to file a claim for the first time against the Second Respondent.
101. Therefore, the claim filed with the PSC on 20 September 2023 is inadmissible as it was correctly decided in the Appealed Decision.

IX. CONCLUSION

102. In conclusion, for all the reasons set out above, the Sole Arbitrator considers that the appeal shall be dismissed and that the Appealed Decision shall be confirmed.

X. COSTS

(...).

ON THESE GROUNDS

The Court of Arbitration for Sport rules that:

1. The Appeal filed by Evgeni Marinov against the Decision of the FIFA Players' Status Chamber of the FIFA Football Tribunal rendered on 3 November 2023 is dismissed.
2. The Decision of the FIFA Players' Status Chamber of the FIFA Football Tribunal rendered on 3 November 2023 is confirmed.
3. (...).
4. (...).
5. (...).
6. All other motions or prayers for relief are dismissed.

Seat of arbitration: Lausanne, Switzerland

Date: 27 February 2025

THE COURT OF ARBITRATION FOR SPORT

João Nogueira da Rocha
Sole Arbitrator