



TAS / CAS
TRIBUNAL ARBITRAL DU SPORT
COURT OF ARBITRATION FOR SPORT
TRIBUNAL ARBITRAL DEL DEPORTE

CAS 2024/A/10325 Sony Norde v. FIFA & Melaka FC

ARBITRAL AWARD

delivered by the

COURT OF ARBITRATION FOR SPORT

sitting in the following composition:

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

in the arbitration between

Mr Sony Norde, Haiti

Represented by Mr Juan de Dios Crespo Pérez, Mr Alfonso León Lleó and Mr Gytis Račkauskas, Attorneys-at-law, Ruiz-Huerta & Crespo, Valence, Spain

- Appellant -

and

Fédération Internationale de Football Association, Zurich, Switzerland

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

- First Respondent –

Melaka FC, Malaysia

- Second Respondent –

* * * * *

I. PARTIES

1. Mr Sony Norde is a professional football player, born on 27 July 1989 and of Haitian nationality (the “Player” or the “Appellant”).
2. The Fédération Internationale de Football Association (“FIFA”) is an association under Swiss law and has its registered office in Zurich, Switzerland (“FIFA” or, together with Melaka FC, the “Respondents”). FIFA is the governing body of international football at worldwide level. It exercises regulatory, supervisory and disciplinary functions over continental confederations, national associations, clubs, officials and players worldwide.
3. Melaka FC is a football club with its registered office in Melaka, Malaysia (“the New Club” or, together with FIFA, the “Respondents”). It is a member of the Melaka Football Association, affiliated with the Football Association of Malaysia (“FAM”), which is one of the member associations of FIFA.
4. The Player and the Respondents are jointly referred to as the “Parties”.

II. INTRODUCTION

5. The present arbitration proceedings concern a decision of the FIFA Administration (the “Appealed Decision”), which refused to consider the New Club as the sporting successor of the Malaysian Football Club Melaka United FC (the “Old Club”) and, consequently, as liable for the debts incurred by the Old Club in an employment-related dispute with the Player.
6. The Player is challenging the Appealed Decision, while FIFA seeks a confirmation thereof. Despite having been duly invited to do so, the New Club did not file any submissions or requests for relief in these arbitration proceedings.

III. FACTUAL BACKGROUND

7. Below is a summary of the relevant facts and allegations based on the Player’s and FIFA’s written submissions and evidence adduced in these proceedings. References to additional facts and allegations found in the written submissions and evidence will be made, where relevant, in connection with the legal analysis that follows. While the Sole Arbitrator has considered all the facts, allegations, legal arguments, and evidence submitted by the Player and FIFA in the present proceedings, he refers in his Award only to the submissions and evidence he deems necessary to explain his reasoning.
- A. *Events prior to the Old Club’s exclusion from the 2022 Malaysia Super League***
8. The Parties disagree as to the origin of the Old Club. The Player claims it was established in 1924, while FIFA contends that 1924 marks the founding of Melaka United, which is a distinct legal entity from Melaka United FC (the Old Club). According to FIFA, the

two clubs are separate, with differences in legal structure, logo, TMS ID, website and email address.

9. For reasons that will be explained in more detail later in this award, Melaka United was indeed the Old Club before its privatisation, which took place on 10 August 2020. As a matter of fact, the records show that Melaka United FC succeeded Melaka United at that time. For ease of reference, the Old Club will be referred as such hereafter, irrespective of its legal status before or after privatization.
10. Until 10 August 2020, the Old Club was a “*state football team*” (or “Football Association”) operated by the Melaka United Soccer Association (“MUSA”). Until then and for at least the three previous seasons, it was competing in the Malaysia Super League (the Malaysian top professional football league), Malaysia Cup and Malaysia FA Cup.
11. According to information provided by the FAM to FIFA on 10 April 2023 (the “FAM Report”), “*Melaka United FC was established in the end of year 2020 after the FAM had decided that the State football association are no longer allowed to participate in professional Malaysia football league. All the football team that already participated in the league are obliged to be privatized and undergo the club licensing process for them to compete in the professional Malaysia football league*”.
12. According to the FAM Report, the Old Club was incorporated on 10 August 2020 and was then “*operated as a Sendirian Berhad company and [is] limited by shares*”.
13. The MUSA was the sole shareholder of the Old Club following its privatization. At that point, the change in legal structure (from “state football team” to “*Sendirian Berhad company*”) did not affect the football activities of the Old Club, which continued to play in the Malaysia Super League and Malaysia Cup in 2021 and 2022 (*i.e.* after its privatization). In particular, it is uncontested, or at least no evidence or allegation to the contrary has been presented, that the Old Club’s football team remained the same before and after privatization.
14. According to the FAM Report, “[the MUSA] *had completed the privatization process by divesting their interest in the state football team by selling hundred percent (100%) of its shares in the football team to the new owner an entity known as The Ken team Medical Supply Sdn Bhd who rebrand the team as Melaka United FC to participate in the Malaysia Super League (1st division League) in year 2021 till 2022*”.
15. However, the official extract from the register of shareholders submitted in the FAM Report shows that, on 5 April 2023, 70% of Old Club’s shares were held by Kenteam Medical Sdn Bhd and 30% by Mr Abd Kadir Bin Md Idris.
16. In a written statement dated 27 September 2022, which remains available on the Old Club’s Facebook page as of today, Mr Abd Kadir Bin Md Idris made the following declaration: “[...]”

1. *That I am the 30% shareholder of Melaka United Football Club Sdn. Bhd. company No. 202001022803 (1379123-P)] for and on behalf of Melaka Football Association (MUSA).*
 2. *In August 2020, I was instructed by YAB Datuk Seri Sulaiman Md Ali, the Chief Minister of Melaka and the President of the [MUSA], to become the Director and shareholder of Melaka United Football Club Sdn Bhd. In the early formation of the said company, I only held one share of the company.*
 3. *In May 2021, a company known as Kenteam Medical Sdn. Bhd. was interested in buying the shares of Melaka United Football Club Sdn Bhd. Following that, the company's shares increased to 1,000,000 shares. I later held 30% of the company, which amounts to 300,000 shares, as a Trustee on behalf of the [MUSA]. The remaining 70% of the company's shares are held by Kenteam Medical Sdn Bhd.*
 4. *During my tenure as a Director and Shareholder, acting as Trustee on behalf of the [MUSA], I never expended any funds on the company.*
 5. *I am only responsible for signing any company documents that are in line with the company's current operations, subject to the agreement of the Board of Directors.*
 6. *I deny that I am the individual responsible for providing the team's financing, as I only hold shares in the company Melaka United Football Sdn. Bhd. on behalf of the [MUSA].*
 7. *Any company's annual expenses borne by [the MUSA] and Kenteam Medical Sdn. Bhd. are based on their respective shareholdings.*
 8. *I deny the statement made by the new President of the [MUSA], Datuk Wira Nur Azmi Ahmad on 25.9.2022, claiming that the [MUSA] had no connection with Melaka United Football Club Sdn. Bhd. based on the aforementioned facts.”*
17. In a statement dated 4 December 2022, which is still posted on the Old Club's Facebook page today, Mr Datuk Wira Justin Lim, the CEO of the Old Club, submitted the following:

“I have been called upon to make this statement and I want to emphasize that Kenteam Medical Sdn Bhd (“Kenteam”) as a 70% shareholder in the Melaka United Football Club Sdn Bhd (“MUFC”), has fulfilled its 100% financial responsibility for the years 2021 and 2022 in accordance with the agreement between Kenteam and Melaka United Soccer Association (“MUSA”), which holds a 30% stake in MUFC. This has been represented by MUSA's nominee, Datuk Kadir Abd Idris (“Datuk Kadir”). The agreement between Kenteam and MUSA stipulates that all financial responsibilities in MUFC, including but not limited to salaries and operating costs, should be jointly borne based on their respective shareholdings in MUFC.

For the record, Datuk Kadir was a former Secretary (Private) to the Honourable Chief Minister of Melaka, Datuk Seri Utama Sulaiman Md. Ali, where Datuk Kadir has been instructed to hold 30% shares in MUFC as the nominee on behalf of MUSA.

Kenteam will continue to pursue MUSA as a 30% shareholder in MUFC, to ensure that they fulfill their responsibilities, which up until now, have not paid even a cent. For your information, we have made a demand to MUSA, and communication has been ongoing since August 2022. Unfortunately, they have not addressed this matter, ultimately resulting in the MUFC team not participating in the Malaysia Cup and not obtaining the 2023 National License.

Consequently, Kenteam has decided to sell 70% of its shares in MUFC to interested parties to bolster the company's funds and settle outstanding debts. This negotiation process has already commenced and interested parties have been given 30 days to finalize the sale and purchase agreement.

Furthermore, it is even more disheartening to hear rumors through a press conference that MUSA has taken a hands-off approach by establishing a new team to compete in the M3 League, seemingly relinquishing their responsibilities to MUFC.

Due to MUSA's action in establishing a new team, MUFC's application to compete in the M3 League was rejected by the Amateur Football Leagues (AFL) due to a lack of nomination and confirmation from the Melaka Football Association.

All these developments have been communicated to all parties within this club, including coaches, players and secretariat, well in advance. This was during a time when the club management required the cooperation of all parties to address the licensing issue.

Lastly, I want to emphasize that Kenteam and I have done everything within our power and have shown 100% commitment to the Melaka United Football Club. However, it is highly disappointing when other shareholders in MUFC shirk their responsibilities towards the players and the welfare of MUFC, opting to stand aside instead. Consequently, it is with a heavy heart that I must convey that I can no longer fight for Melaka United Football Club if there's still a hands-off attitude from other shareholders in MUFC, namely MUSA. Kenteam will proceed with its intention to sell 70% of the shares in MUFC to any interested parties."

B. The Old Club's exclusion from the Malaysia Super League

18. During its congress held on 16 January 2022, the MUSA addressed the issue of salary arrears of players and promised that it would be resolved soon.
19. According to a press article published on 5 August 2022, "*Olympic Council of Malaysia (OCM) vice-president Datuk Nur Azmi Ahmad has been appointed the new Melaka United Football Association (Musa) president, replacing Chief Minister Datuk Sulaiman*

Md Ali. [...] Musa expressed hope that the appointment would spur Melaka football to a higher level in the future.”

20. On 21 September 2022, the Malaysian Football League (“MFL”) issued a media statement confirming that the Old Club was banned from playing in the Malaysia Cup competition following the team's failure to pay the salary arrears of players and officials by the set date.

21. In a press article published on 25 September 2022, the following was reported:

“The management of Melaka United FC will be taken over completely by the Melaka Football Association (MUSA) next season to ensure the club is no longer plagued by players’ salary arrears.

MUSA president Datuk Nur Azmi Ahmad said the new management will involve the state football association together with four other private companies that will jointly manage the club.

“This is to ensure that the Melaka United team can continue to compete in the Super League next year and we will discuss in detail with the executive councillors and all parties involved to find the best way to solve the club’s problems”.

“MUSA will hold 40 per cent of the shares while 60 per cent will be shared by the four private companies that will be decided later,” he said here today.

Earlier, he attended the MUSA Extraordinary General Meeting (EGM) to confirm his appointment as the new MUSA president to replace Chief Minister Datuk Seri Sulaiman Md Ali.

Commenting on the issue of salary arrears for players and officials, Nur Azmi said they will discuss with MUFC chief executive officer Datuk Seri Justin Lim, who is also the owner of KenTeam Sdn Bhd, to resolve the problem since the association is not involved in the aspect of salary payment. [...]

He said KenTeam only paid one month's salary to the players and not the three months that it should have, causing Melaka United to be banned by the Malaysian Football League (MFL) from playing in the Malaysia Cup this season and the decision was final.

As such, he appealed to Melaka football supporters to be patient and give space to MUSA to solve all the problems arising and take back the management of the club.”

22. The same day, the MUSA held an official conference, where its President, Mr Daturk Wira Nur Azmi Ahmad, made the following declaration, according to a video available on youtube and with English subtitles transcribed by the Player as follows:

“[The MUSA] will take over the state football team again starting next season. MUSA President, Daturk Wira Nur Azmi Ahmad said [...] this has one image of the state of Melaka itself and I, we will make sure so that this matter can be resolved well in 2023 anyone owns and I have made sure that MUSA will be the owner of 40 percent [...] Datuk Wira Nur Azmi Ahmad promise Malacca football team will

remain in action in the Super League next season and I promise to all and fan of the state of Malacca, and even if we miss the Malaysia Cup with the salary situation our team's condition is not very consistent, and I make sure next year we become 8th best team to qualify for the Malaysian Cup automatically and debt, we will definitely pay our outstanding debts before approaching 2023 Super League later, yes and that's for sure too, MUSA is responsible, which like I said again [...] we have to settle it, and also our EPF has to be completed, otherwise we are not eligible, not just salary. If we don't finish [...] we don't even qualify for the super league and I will make sure things the matter can be resolved as soon as possible, - he said at the conference after attending the extraordinary congress of MUSA”.

23. On 15 October 2022, the Old Club played its last match in the Malaysia Super League.
24. In October 2022 and due to unpaid player salaries, the MFL rejected the Old Club's application for a license to participate in the 2023 Malaysia Super League.
25. On 2 November 2022, the Old Club's appeal against the decision of the MFL was rejected, with the result that its team would at best be relegated to the Malaysian amateur league, the M3 League.
26. On 3 November 2022, the MUSA incorporated the New Club, a “*Sendirian Berhad company [...] limited by shares*”, and became its sole shareholder.
27. On 4 November 2022, the New Club applied to participate in the M3 League.
28. On 15 November 2022, the Old Club applied to participate in the M3 League.
29. The following is highlighted in the FAM Report:
 - “*For the past 2 years (season 2021 and 2022), [the Old Club] had participate (sic) in the Malaysia first division league before the club failed to get the license for season 2023 due to the non fulfillment of financial criteria.*
Due to the non participation of [the Old Club] in the Malaysia professional league, they had send an application to participate in Amatuer (sic) Football League for season 2023. Any clubs that participate in this league is not require (sic) to undergo the licensing criteria. However their application [was] rejected by the Amateur Football League board of directors.”
 - “[The New Club] currently participate (sic) in amateur football league in season 2023.
The Amatuer (sic) Football League received the request from Melaka FC to participate in the league and accepted the Melaka FC application. Their application [was] accepted by the Amateur Football League board of directors.”
30. In a press article published on 15 November 2022, the following was reported:

“The Melaka United Soccer Association (Musa) will revert to being named the Melaka Football Association while the state football team will be known as Melaka FC under a rebranding exercise.

Musa president Datuk Nur Azmi Ahmad said the move would be the start of the association's efforts to empower and revive the state football team's fortunes after being eliminated from the highly competitive top-tier Super League next season.

“Changing the association's name back to its original form, which has been in existence since 1924, is also a move to return Melaka football to its heyday, when it used to produce so many quality players, including national football legend Datuk Soh Chin Aun”.

“These changes are also seen as being able to breathe new life into and boost Melaka football — because we do not view Musa as a brand that is capable of developing or raising the stature of football in the state,” he told reporters after the launch and draw for the 2022 Governor's Cup in Ayer Keroh last night.

Elaborating, Nur Azmi said the Melaka football team will also compete in next season's M3 League and they will be known as Melaka FC instead of Melaka United FC.

He said the team are currently preparing for the M3 League and their main aim is to gain promotion back to the Super League in 2024, besides competing in the FA Cup next season.

“Indeed, branding is not important, but administration and management must be prioritised. I believe that if the administration is run smoothly, InsyAllah, our target of getting Melaka back into the Super League in 2024 can be achieved”.

“We are also committed to the issue of salary payment, in addition to creating a special account to ensure that players' salaries can be settled every month so that the problem of salary arrears does not recur,” he said.

He said they also intend to strengthen the Melaka FC squad by listing at least 10 Melaka-born players, shortlisting four coaches — two foreigners and two locals — and appointing a technical committee.

“Our goal is to ensure the team will be ready by at least December before the M3 League begins next February”.

“Hang Jebat Stadium will continue to be Melaka FC's home venue and all supporters will be able to watch matches for free at the initial stage,” he said.”

31. On 4 December 2022, the CEO of the Old Club, Mr Datuk Wira Justin Lim, announced that Kenteam Medical Sdn Bhd had decided to sell its 70% stake in the Old Club and criticised the MUSA for allegedly shifting its focus by forming a new team for the M3 League and distancing itself from the Old Club's financial woes.
32. On 31 December 2022, in a press article entitled “Why are Melaka still in the M-League?” it is reported that “[the] Professional Footballers Association of Malaysia (PFAM) are not amused that Melaka, despite not being given a national licence for next

year for failing to pay players salaries, are still part of the M-League". The article refers to comments made by PFAM CEO, Mr Izham Ismail, who expressed concern that a club could participate in the amateur league in another form when it was in serious financial difficulty and owed six months' wages to its players.

33. According to the Player, Kenteam Medical Sdn Bhd is currently going through a winding up process.
34. According to the FAM Report, the Old Club "*is not under any insolvency/bankruptcy/liquidation proceeding in Malaysia*". Since then, however, it appears that, on 5 June 2024, some players filed a civil suit against the Old Club in the High Court of Melaka. The Old Club did not appear before this instance, nor did it comply with the payment order it was given. According to the Player, a petition to open winding-up proceedings is about to be filed against the Old Club.
35. Pursuant to the information contained in the Transfer Matching System ("TMS"), the Old Club still appears as an "Active" club. However, none of the Parties was able to confirm whether the Old Club is still playing at the present time.

C. The Player's claim against the Old Club

36. On 1 January 2020, the Player and the Old Club signed a first employment contract valid as from 16 January 2020 until 30 November 2020. This contract was signed before the Old Club's privatization and was apparently reconducted.
37. On 27 December 2021 (*i.e.* after the Old Club's privatization), the Player and the Old Club signed a new employment contract, effective from 1 January until 31 December 2022.
38. Between August and October 2022, the Player served four formal notices to the Old Club for the payment of outstanding salaries.
39. On 16 December 2022 and in the absence of payment of his salary arrears, the Player filed a claim against the Old Club with the FIFA Dispute Resolution Chamber ("DRC").
40. On 7 March 2023, the DRC rendered a decision whereby it ordered the Old Club to pay to the Player the following amounts (the "DRC Decision"):
 - USD 100,000 net as outstanding remuneration plus interest p.a. as follows:
 - 5% interest p.a. over the amount USD 20,000 of as from 8 July 2022 until the date of effective payment;
 - 5% interest p.a. over the amount USD 20,000 of as from 8 August 2022 until the date of effective payment;
 - 5% interest p.a. over the amount USD 20,000 of as from 8 September 2022 until the date of effective payment;

- 5% interest p.a. over the amount USD 20,000 of as from 8 October 2022 until the date of effective payment;
 - 5% interest p.a. over the amount USD 20,000 of as from 8 November 2022 until the date of effective payment;
 - USD 5,600 corresponding to flight tickets.
 - USD 60,000 net as compensation for breach of contract without just cause plus 5% interest p.a. as from 23 October 2022 until the date of effective payment.
41. In accordance with items 5 and 6 of the DRC Decision, in the event that the Old Club did not pay the sums awarded in full within 45 days of the notification of the DRC Decision, the Player was entitled to request a ban from registering new players, either nationally or internationally, until such time as the sums due had been paid.
42. On 9 March 2023, the DRC Decision was notified to the Player and to the Old Club.
43. No one requested the grounds of the DRC Decision, which became final and binding in accordance with Article 15 (5) of the applicable FIFA Procedural Rules Governing the Football Tribunal.
44. Upon the Player’s request dated 16 May 2023 and on 1 June 2023, FIFA implemented a ban as detailed in the following terms:
- “We take due note that in its correspondence, the Creditor informs us that the respondent, the Club Melaka FC (sic), has not complied with its financial obligations in accordance with the decision of FIFA.*
- In this regard, we wish to inform the parties that a ban from registering new players internationally has been implemented by FIFA as of today.*
- Moreover, and in accordance with the aforementioned decision, respondent's member association is requested to immediately implement on the respondent. the Club Melaka FC, a ban from registering new players at national level”.*
45. Although the above quoted text may suggest otherwise, the ban was imposed on the Old Club, not the New one.
46. On 31 August 2023, the Player requested FIFA to open disciplinary proceedings against the New Club as well as against the FAM.
47. On 1 September 2023, the FAM confirmed to FIFA that the transfer ban on the Old Club was in effect and that the latter could possibly participate in the “*Malaysia league*” only after it paid “*all the outstanding FIFA cases*”. Additionally, the FAM clarified that the Old Club had not been engaged in any transfers since June 2023 and confirmed that the New Club was not its sporting successor.

48. On 18 September 2023, and in response to the Player’s request of 31 August 2023, FIFA forwarded to the latter the FAM’s submission of 1 September 2023.
49. On 24 October 2023, the Player informed FIFA of his disagreement with the FAM’s position of 1 September 2023 and requested the FIFA Disciplinary Committee to issue a decision declaring the New Club to be: (i) recognized as the sporting successor of the Old Club, (ii) liable for the debts incurred by the Old Club; and (iii) guilty of failing to comply with the DRC Decision.
50. On 26 October 2023, the Head of the Judicial Bodies of FIFA acknowledged receipt of the Player’s letter of 24 October 2023 without clarifying the specific actions he would take in response.
51. On 11 January 2024, the Player sent another letter to FIFA reiterating his request of 24 October 2023. More specifically, he called on FIFA “*to initiate meaningful disciplinary proceedings against [the New Club] (the sporting successor of the [Old Club]) and to issue a Decision determining [the New Club] being the sporting successor of [the Old Club]; and liable for the debts incurred by [the Old Club]*”.
52. On 15 January 2024, the Head of the Judicial Bodies of FIFA communicated the following to the Player (the “Appealed Decision”):

“We refer to the abovementioned matter as well as to the investigation conducted by FIFA in view of the communication dated 26 October 2023 from the creditor, Mr. Sony Norde. [...]

In this context, it appears that, on the basis of the investigations conducted by FIFA and the evidence at our disposal, [the New Club] cannot be considered the sporting successor of [the Old Club].

By way of consequence, please be informed that the ban from registering new players implemented on [the Old Club] shall remain in force.”

53. On 15 January 2024, the Player called for “*the FIFA Disciplinary Committee to issue the formal decision with grounds in response to the Player’s Request, dated 24.10.2023.*”
54. On 19 January 2024, the Head of the Judicial Bodies of FIFA notified the Player of the following:

“We refer to the abovementioned matter and acknowledge receipt of the latest communication [...] sent by the legal representative of the claimant, Mr Sony Norde (the Claimant), requesting “the formal decision with grounds in response to the Player’s request, dated 24.10.2023”.

In view of the foregoing, we kindly refer you to art. 21.7 of the FIFA Disciplinary Code, in accordance with which “FIFA will be competent to deal with any issue relating to the enforcement of such decisions [i.e. financial decisions issued by the Football Tribunal or FIFA imposing disciplinary measures], including but not

limited to the potential recognition of the sporting successor and the assessment of potential insolvency and/or bankruptcy proceedings”.

Consistently with the above, we kindly refer the Claimant to our previous communication dated 15 January 2024 (the content of which is self-explanatory), by means of which FIFA informed the parties that “[the New Club] cannot be considered the sporting successor of [the Old Club]”.

IV. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT

55. On 5 February 2024, the Player lodged his Statement of Appeal with the CAS against the Appealed Decision in accordance with Article R47 *et seq.* of the Code of Sports-related Arbitration (the “Code”).
56. On 12 February 2024, the CAS Court Office acknowledged receipt of the Player’s Statement of Appeal and of his payment of the CAS Court Office fee. It gave the Respondents five days to comment on the Player’s request to refer the present matter to a sole arbitrator. The Respondents were also required to state within two days whether they accepted the Player’s petition for a 30-day extension of his deadline to file his Appeal Brief.
57. On 14 February 2024, FIFA confirmed to the CAS Court Office that it agreed to the Player’s application for an extension of the deadline to file his Appeal Brief as well as to refer the matter to a sole arbitrator, provided that he/she was selected from the football list of CAS arbitrators.
58. The New Club did not respond to the letter of 12 February 2024 of the CAS Court Office.
59. On 20 February 2024, the CAS Court Office confirmed that the Player’s request for an extension of the time limit to file his Appeal Brief was granted.
60. On 15 March 2024, the Player requested a twenty-day extension of the deadline to file his Appeal Brief. The same day, the CAS Court Office invited the Respondents to comment on this request by 19 March 2024.
61. On 22 March 2024, the CAS Court Office informed the Parties that the Player’s application for an extension of the deadline to file his Appeal Brief was granted following FIFA’s express consent and the New Club’s silence on the matter.
62. On 8 April 2024, the Player filed his Appeal Brief in accordance with Article R51 of the Code.
63. On 9 April 2024, the CAS Court Office acknowledged receipt of the Player’s Appeal Brief and invited the Respondents to submit their Answer within 20 days.
64. On 9 April 2024, FIFA informed the CAS Court Office that it would not pay its share of the advance of costs and requested the time limit to file its Answer to be fixed once the

advance of costs had been fully paid by the Player, pursuant to Article R55 (3) of the Code.

65. The New Club did not file its Answer within the prescribed time limit.
66. On 1 May 2024, the CAS Court Office informed the Respondents that the Player had paid his share of the advance of costs in these arbitration proceedings and invited FIFA to file its Answer within twenty days.
67. On 8 May 2024 and following the Player's express consent, FIFA's petition for a twenty-day extension of its deadline to file its Answer was granted.
68. On 7 June 2024, FIFA filed its Answer in accordance with Article R55 of the Code.
69. On 10 June 2024, the CAS Court Office invited the Parties to state by 17 June 2024 whether their preference was for a hearing to be held in the present matter. Furthermore, it informed the Parties that the Deputy President of the CAS Appeals Arbitration Division had appointed Mr Patrick Grandjean, Attorney-at-law, Belmont-sur-Lausanne, Switzerland as Sole Arbitrator.
70. On 14 June 2024, FIFA confirmed to the CAS Court Office that it preferred for the matter to be decided solely on the basis of the Parties' written submissions, whereas, on 17 June 2024, the Player requested a hearing.
71. On 20 June 2024, a number of questions were put to the Parties on behalf of the Sole Arbitrator. While the New Club chose not to respond, both the Player and FIFA answered the Sole Arbitrator's questions during the extended deadline granted after express or tacit mutual agreement of the Parties.
72. On 5 August 2024, the CAS Court Office informed the Parties of the following:

“After having considered the First Respondent and Appellant's observations submitted on 9 and 26 July 2024 respectively, the Sole Arbitrator issues the following instructions:

 - *The First Respondent is invited to provide a copy of the complete FIFA DC file regarding the decision with Ref. FDD-14848 - Ref. FPSD-8529, within the next ten (10) days.*

Thereafter, and upon receipt of this file, the Appellant will be invited to complete his written submissions and to comment on FIFA's written response of 9 July 2024.

Upon receipt of the Appellant's written submissions, the Respondents will be granted a deadline to respond.

Finally, I inform the Parties that, unless exceptional reasons so require, the Sole Arbitrator does not intend to hold a hearing.”
73. On 19 August 2024, FIFA provided a copy of the complete FIFA DC file regarding the decision with Ref. FDD-14848 - Ref. FPSD-8529.

74. On 16 September 2024, within the extensions of the original deadline granted following the express or tacit agreement of the Respondents, the Player filed his Reply.
75. On 11 October 2024, within the extensions of the original deadline granted following the Player's agreement, FIFA filed its Rejoinder to the Player's Reply, while the New Club chose to remain silent.
76. On 21 October 2024, relying on Article R56 of the Code, FIFA informed the other Parties to these arbitration proceedings of the existence of a separate disciplinary case before the CAS (CAS 2023/A/9768), in which another sole arbitrator had issued an award on 15 October 2024, concluding that the New Club was not the sporting successor of the Old Club. FIFA submitted a copy of the said award.
77. On 22 October 2024, the CAS Court Office informed the Parties that the Sole Arbitrator had decided to render an Award based solely on the Parties' submissions.
78. On 23 October 2024 and on behalf of the Sole Arbitrator, the CAS Court Office informed the Player that his request to comment on the award CAS 2023/A/9768 was granted.
79. On 24 October and 30 October 2024 respectively, FIFA and the Player returned a duly signed copy of the Order of Procedure. The New Club failed to submit this document within the set deadline.
80. On 31 October 2024 and within the granted time limit, the Player submitted his comments on the award CAS 2023/A/9768.

V. SUBMISSIONS OF THE PARTIES

A. *The Appellant*

81. In his Appeal Brief, the Player submitted the following requests for relief:

“[...] the Player respectfully requests the honourable Sole Arbitrator of the Court of Arbitration for Sport:

- 1. to order the FIFA to produce a copy of the complete FIFA DC case file related to the Decision with Ref. Nr. FDD-14848 - Ref. no. FPSD-8529;*
- 2. to accept this Appeal Brief against the Decision; and*

Primarily:

- 3. to annul the Decision, pursuant to the provisions of Article 57 of CAS Code, and issue a new decision, replacing the Decision, in the following terms:*

“1. To determine Melaka FC being:

- (i) the sporting successor of Melaka United FC; and*
- (ii) liable for the debts incurred by Melaka United FC;*

2. To order Melaka FC to pay to the Player all the amounts due, in

accordance with the Decision of the FIFA Football Tribunal with Ref. Nr. FPSD-8529:

- (i) USD 100,000 net as outstanding remuneration plus interest p.a. as follows*
 - 5% interest p.a. over the amount USD 20,000 of as from 8 July 2022 until the date of effective payment;*
 - 5% interest p.a. over the amount USD 20,000 of as from 8 August 2022 until the date of effective payment;*
 - 5% interest p.a. over the amount USD 20,000 of as from 8 September 2022 until the date of effective payment;*
 - 5% interest p.a. over the amount USD 20,000 of as from 8 October 2022 until the date of effective payment;*
 - 5% interest p.a. over the amount USD 20,000 of as from 8 November 2022 until the date of effective payment;*
- (ii) USD 5,600 corresponding to flight tickets; and*
- (iii) USD 60,000 as compensation for breach of contract without just cause plus 5% interest p.a. as from 23 October 2022 until the date of effective payment*

Subsidiarily, only in case the primary request above was not granted:

- 4. to annul the Decision and to refer the case back to the FIFA Disciplinary Committee, ordering the latter to initiate meaningful disciplinary proceedings against Melaka FC and to issue a Decision, by means of which Melaka FC shall be determined:*
 - (i) the sporting successor of Melaka United FC; and*
 - (ii) liable for the debts incurred by Melaka United FC (as per the Player's Request, dated 26.10.2023);*

In any case:

- 5. to determine any other relief the Sole Arbitrator may deem appropriate;*
- 6. to condemn the Respondents to the payment of the whole CAS administration costs and arbitrators' fees; and*
- 7. to fix a sum to be paid by the Respondents, in order to contribute to the payment of the Appellants' legal fees and costs."*

82. The Player's submissions, in essence, may be summarized as follows:

- The letter sent to the Player by the Head of the Judicial Bodies of FIFA on 15 January 2024 constitutes a decision that may be appealed against before the CAS. However, despite repeated requests from the Player "*FIFA refused to initiate*

meaningful disciplinary proceedings against the [New Club] and did NOT issue any decision with grounds in this respect.”

- Contrary to FIFA’s conclusions, the New Club is the sporting successor of the Old Club. Since the Head of the Judicial Bodies of FIFA refused to provide a reasoned decision, the Player can only speculate that FIFA’s position was influenced by the FAM Report, which fails to reflect the true facts: some of the elements provided in the FAM Report are even contradicted by documents attached to it. *“In fact, the FAM behavior could not be considered anyhow different, but an unlawful attempt to assist its member association ([the MUSA], which is the sole shareholder of Melaka FC) to circumvent the FIFA regulations on the sporting succession, thus severely jeopardizing the rights of the Player to retrieve the overdue payables, rightly adjudicated by means of the Decision”*.
- The FAM Report is misleading when it states that the Old Club was established in the end of year 2020. As a matter of fact, the Old Club was founded in 1924. It was obliged to change its legal structure and undergo privatization because *“the FAM had decided that the State football association are no longer allowed to participate in professional Malaysia football league. All the football team that already participated in the league are obliged to be privatized and undergo the club licensing process for them to compete in the professional Malaysia football league.”*
- However, the change in the Old Club's legal status was merely a legal formality. Melaka United Football Club Sdn Bhd established on 10 August 2020 is the sporting successor of Melaka United, founded in 1924. Once it turned into a *“Sendirian Berhad company”*, the Old Club continued the same activities as before, took part in the same championships and was operated by the same entity, *i.e.* the MUSA. Before privatisation, the MUSA was the entity managing the Old Club and after privatisation, the MUSA was its sole shareholder.
- Contrary to what is stated in the FAM Report, the MUSA did not sell to Kenteam Medical Sdn Bhd all the shares of the Old Club following its privatisation. It kept a 30% stake and remained engaged in overseeing the Old Club's operations.
- The MUSA is the sole shareholder of the New Club, which was obviously created in an attempt to clean the balance of the Old Club and continue its sporting activities *via* the New Club.
- The concept of sporting succession was implemented precisely to avoid abuses such as that committed by the incorporation of the New Club, which was intended to escape the financial responsibilities of the Old Club towards its players, staff and other creditors. The New Club was set up by the MUSA with the sole aim of replacing the Old Club, which had failed to secure the licence to take part in the 2023 Malaysia Super League. *“Considering the conduct of [the MUSA], it is obvious that in the case at hand we are dealing with a clear example of abuse, as the former shareholder of [the Old Club] decided to create a new club [...] instead*

of paying the debts of the former. This is even more so, as newly created [New Club] started from Malaysian M3 League, i.e., the same division [the Old Club] would have been relegated anyway by the League if they had remained alive”.

- CAS case law also places greater importance on public perception when determining sporting succession. In the present case, the New Club availed itself of the Old Club’s sporting successes in a view to “*maintain the identity and image with the historical club of Melaka, therewith allowing it to be perceived by any third party as the continuity of the club, despite having reverted Melaka United Soccer Association to Melaka Football Association (“Persatuan Bolasepak Melaka” in Malay) and changing the name of its football club to Melaka FC, instead of previously used Melaka United FC, as it is confirmed in public by the President of Melaka United Soccer Association on 15 November 2023.*”
- “*Public perception did not change either, as Melaka United [the Old Club] was always considered the main team of the state of Melaka. Recent “rebranding” to Melaka FC [the New Club] did not change it either [...]. On the other hand, in case there was no continuity, there would simply have been no need for any “rebranding”*”.
- Furthermore, “*the sporting succession [...] shall be confirmed, as both [the Old Club and the New Club] share the following: (i) The shareholder [MUSA] is the same in both clubs; (ii) The headquarters, as both clubs are registered at the same address; (iii) The legal form of both clubs is the same; (iv) The same stadium, as both clubs play at the same stadium; (v) The category of competition concerned, as [the New Club] participates in the same competition where [the Old Club] would have ended up, following the relegation for the failure to pay the outstanding payments to their players; (vi) The colours of both clubs remain the same (with various combinations of the same colours); (vii) The logo remains similar, as the tree remains central object of the logos of both clubs; (viii) The name remains similar; (ix) Part of the players are the same, as [the New Club] signed part of the former players of [the Old Club]; and (x) The Creditor Sony Norde was brought to [the Old Club] under the management of Melaka Football Association*”. More precisely, the New Club signed an employment contract with six former players of the Old Club and hired seven members of its staff.
- “[F]ollowing the last match played on 15 October 2022 all activity was transferred to [the New Club]. There was no “feasible theoretical possibility” for [the Player] to recover the amounts adjudicated by means of the DRC Decision from [the Old Club], as the latter was *de facto non-operative*, after having been replaced by [the New Club]. Under such circumstances, the Player was left no other resort, but to file the request to enforce the DRC Decision against the sporting successor”.
- “*On the other hand, [the Player] could not have enforced the DRC Decision against the [Old Club] through FIFA either, as [the Old Club] (under the management of “Melaka United Football Club SDN. BHD.”) lost its affiliation to Malaysian FA (and accordingly the FIFA) after having been denied the license to play in*

Malaysian Super League / Malaysian M3 League in the end of the year 2022.” Moreover, the Player “could not have obtained the payment of his claim through the ordinary channels of debt collection after having filed the claim before the FIFA DRC, because the FIFA DRC Decision could be only enforced through the FIFA”.

- The Old Club disappeared after its last match played on 15 October 2022. *“It is true that Melaka United de jure is not under any insolvency/bankruptcy/liquidation proceedings in Malaysia. However, de facto it ceased to exist.”* The New Club and the Old Club have never co-existed, the former having replaced the latter. The fact that, according to information contained in the Transfer Matching System (“TMS”), the Old Club appears as an “active” club is merely an administrative formality of no relevance to the dispute.
- As the Old Club has *de facto* ceased to exist, it has no interest in taking part in these arbitration proceedings. Furthermore, the issue of sporting succession opposes the creditor to the potential successor, and consequently, there is no room for the principal debtor in similar proceedings, as nothing is sought from the principal debtor. Hence, the Old Club has no standing to be sued and there was no reason to include it as a party to these arbitration proceedings. In any event *“as a matter of procedural precaution, it shall be reminded that the [Player] filed a subsidiary request in the Appeal brief “to refer the case back to the FIFA and order the first instance body to initiate meaningful disciplinary proceedings against Melaka FC”, which in any scenario does not have any impact on hypothetical rights of the Original Debtor.”*
- The Sole Arbitrator is not bound by the decision and the conclusions reached in the award CAS 2023/A/9768, which has no res judicata effect on the Player. Based on the content of the award CAS 2023/A/9768, it is evident that its author did not have the same information about the public perception, the stadium used by the two clubs, their team colours, or their overlapping players, staff, and shareholders that is available in these proceedings.
- The New Club is the sporting successor of the Old Club and, in that capacity, is liable to pay to the Player the outstanding remuneration owed to him by the Old Club.

B. The Respondents

FIFA

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

“FIFA respectfully requests the Sole Arbitrator to issue an award on the merits:

- a) Rejecting the requests for relief sought by the [Player];*
- b) Confirming the Appealed Decision;*

- c) *Ordering the [Player] to bear the full costs of these arbitration proceedings;*
- d) *Ordering the [Player] to make a contribution to FIFA's legal costs".*

84. FIFA's submissions, in essence, may be summarized as follows:

- The letter sent to the Player by the Head of the Judicial Bodies of FIFA on 15 January 2024 constitutes a decision, which does not require a statement of reasons. As a matter of fact, and in accordance with the applicable regulations, the grounds of a decision can be requested, only when such decision has been taken by FIFA's judicial bodies, *i.e.*, either by the Disciplinary Committee or the Appeal Committee. Therefore, given that the Appealed Decision was not rendered by the Disciplinary Committee or by the Appeal Committee, there was no need for FIFA to provide the reasons for such decision. Furthermore, and according to the applicable regulations, the Head of the Judicial Bodies of FIFA was the competent body to issue the Appealed Decision. The Player's right to be heard was fully respected.
- The concept of sporting succession heavily relies upon public perception. In this vein, to decide whether a club is the sporting successor of another club the key criterion is the *"new club's intention to be seen by the general public as the same original club that ceased its activities (i.e., the market's perception). It is this intent to take advantage of the original club's goodwill that generates the obligation to, simultaneously, be liable for the debts that remained unpaid by the original club. The purpose sought by this legal principle is to ensure that any club that benefits from a pre-existing club also takes on the responsibility of offsetting the debts that remain unpaid vis-à-vis other football stakeholders"*.
- In this case, the New Club cannot be regarded as the sporting successor of the Old Club, as both lack sufficient shared elements to lead the public to perceive the New Club as the Old one. In particular, there is no indication that the New Club has sought to adopt the identity and legacy of the Old Club in order to take advantage of its history, fan base, or market position. As a matter of fact:
 - o The Old Club was created on 10 August 2020 whereas the New Club was created on 3 November 2022.
 - o The two clubs have different shareholders.
 - o The Old Club last played in the Malaysia First Division League in 2022 and its application of 15 November 2022 to join the Amateur Football League was rejected, whereas the New Club's application for the Amateur Football League was granted on 25 November 2022.
 - o The two clubs have different names, history, team colours, team logos, sponsors, websites, social media, staff and there is no overlap in titles or sporting achievements between them. However, they have the same legal form and share the same address as well as stadium. Their management includes two

of the same secretaries and four players previously registered with the Old Club were registered with the New Club, three from the youth team and one from the senior team.

- Contrary to the Player’s assertion, the New Club cannot be regarded as the “*continuity of the main football club of the state of Malaka*” as the two clubs coexisted and operated differently at the same time.
- “*On top of that, although it is not a decisive indicator, it is to be noted that the FAM has expressly stated that it does not regard [the New Club] as the sporting successor of [the Old Club]. Although not decisive as an individual element, FIFA finds that the FAM’s statement should be taken into consideration when analysing all the (numerous) elements that point in the direction that no sporting succession has occurred in the present matter*”.
- Bearing in mind that the Old Club has some legal interest with respect to the possible finding that it has a sporting successor or not, it should have been included as a party to these arbitration proceedings. “*Thus, any decision from CAS to modify the Appealed Decision (e.g., declaring that [the New Club] is the sporting successor of [the Old Club]) would clearly affect [the Old Club’s] right to a due process. Differently put, it would affect the club that has not been named as respondent by the Appellant and, therefore, did not have the chance to intervene and defend its case before CAS*”.
- In a decision issued on 15 October 2024 by the CAS (CAS 2023/A/9768), it has been confirmed that the New Club was not the sporting successor of the Old Club.

Melaka FC

85. Despite having been duly invited to do so, the New Club did not file any submissions or requests for relief in these arbitration proceedings.

VI. JURISDICTION

86. On 15 January 2024, the Head of the Judicial Bodies of FIFA notified the Player of the Appealed Decision, stating that the New Club was not the sporting successor of the Old Club and, therefore, was not liable to pay to the Player the outstanding remuneration owed to him by the Old Club.
87. Neither the Player nor FIFA disputes that the letter notified to the Player on 15 January 2024 is a final decision. The New Club has not taken position on this matter.
88. The applicable FIFA regulations, in particular the FIFA Statutes, do not provide any definition for the term “*decision*”. The possible characterisation of a letter as a decision was considered in several previous CAS cases (CAS 2017/A/5187; CAS 2015/A/4213;

CAS 2008/A/1633; CAS 2007/A/1251; CAS 2005/A/899; CAS 2004/A/748; CAS 2004/A/659).

89. The Sole Arbitrator endorses the definition of “*decision*” and the characteristic features of a “*decision*” stated in those CAS precedents:
- “[...] *the form of the communication has no relevance to determine whether there exists a decision or not. In particular, the fact that the communication is made in the form of a letter does not rule out the possibility that it constitute a decision subject to appeal*” (CAS 2015/A/4213; para. 49; CAS 2008/A/1633 para. 31; CAS 2007/A/1251 para. 30; CAS 2005/A/899 para. 63; CAS 2004/A/748 para. 90).
 - “*In principle, for a communication to be a decision, this communication must contain a ruling, whereby the body issuing the decision intends to affect the legal situation of the addressee of the decision or other parties*” (CAS 2008/A/1633 para. 31; CAS 2007/A/1251 para. 30; CAS 2005/A/899 para. 61; CAS 2004/A/748 para. 89).
 - “*A decision is thus a unilateral act, sent to one or more determined recipients and is intended to produce legal effects*” (CAS 2008/A/1633 para. 31; CAS 2004/A/748 para. 89; CAS 2004/A/659 para. 36).
 - “*an appealable decision of a sport association or federation is normally a communication of the association directed to a party and based on an 'animus decidendi', i.e. an intention of a body of the association to decide on a matter [...]. A simple information, which does not contain any 'ruling', cannot be considered a decision.*” (CAS 2015/A/4213 para. 49; CAS 2008/A/1633 para. 32).
90. In the case at hand, the Sole Arbitrator has no difficulty in finding that the Appealed Decision is a final decision as it undoubtedly contains a unilateral ruling intended to affect the legal situation of the addressee and as there are no other internal remedies.
91. The jurisdiction of the CAS, which is not disputed, derives from Article R47 of the Code and from Articles 57 *et seq.* of the applicable FIFA Statutes.
92. Article R47 (1) of the 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.”*
93. According to Article 57 (1) of the applicable FIFA Statutes, “*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*”.

94. It must be observed that the Player as well as FIFA relied on the above provisions in conferring jurisdiction to CAS, which is further confirmed by the Order of Procedure duly signed by them.
95. It follows that the CAS has jurisdiction to decide on the present dispute.

VII. ADMISSIBILITY

96. The appeal was filed within the deadline of 21 days set by Article 57 (1) of the applicable FIFA Statutes. It complied with all other requirements of Articles R48 and R49 of the Code, including the payment of the CAS Court Office fee.
97. It follows that the appeal is admissible.

VIII. APPLICABLE LAW

98. Article R58 of the Code provides as follows:

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

99. Article 56 (2) FIFA Statutes provides as follows:

“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.”

100. It is not in dispute between the Parties - and the Sole Arbitrator agrees - that the present dispute shall be resolved primarily according to the various regulations of FIFA and, additionally, Swiss law.
101. On 31 August 2023, the Player requested FIFA to open disciplinary proceedings against the New Club, which is accused of a potential failure to comply with the DRC Decision. Given that such an alleged failure was committed continuously prior to and after 1 February 2023, *i.e.* the entry into force of the 2023 Edition of the FIFA Disciplinary Code (“FDC”), this is the Edition of the FDC, which the Sole Arbitrator will rely on to adjudicate this case.

IX. EVIDENTIARY PROCEEDINGS

102. In his Appeal Brief as well as in subsequent submissions, the Player requested that FIFA be ordered “*to produce a copy of the complete FIFA DC case file related to the Decision with Ref. Nr. FDD-14848 - Ref. no. FPSD-8529*” (the “Complete FIFA DC Case”) as well as the holding of a hearing.

A. *The Complete FIFA DC Case*

103. On 5 August 2024 and on behalf of the Sole Arbitrator, FIFA was requested to provide the Complete FIFA DC Case, which it did on 19 August 2024.

104. On 16 September 2024, the Player expressed doubts as to the completeness of the documents submitted by FIFA. With reference to an email dated 1 June 2023, in which FIFA requested the FAM to impose a ban from registering new players at national level on “*Club Melaka FC*” for failing to comply with its financial obligations in accordance with the DRC Decision, the Player stated that the Complete FIFA DC Case did not provide any indication as to why the said ban was not applied on the New Club. As a matter of fact, and according to the Player, the New Club was able to register new players at national level, in violation of the transfer ban, without any consequences. The Player argues that the Complete FIFA DC Case contains no documents relating to “*any communication with Melaka FC, Melaka United FC and/or Malaysian Football Association (addressed to any of them) in relation to*” the transfer ban. According to the Player, “*For example, FIFA provided the FAM letter of 1 September 2023 [...] without disclosing its own letter to the FAM [...]. It remains unclear why in its letter of 1 September 2023, the FAM insisted on the transfer ban imposed on Melaka United FC, even though the transfer ban was imposed on Melaka FC [...].*” Finally, the Player claims that “*the analysis of the [Complete FIFA DC Case] suggests that the FIFA did not carry out any unbiased investigation on its own in relation to the links between Melaka FC and Melaka United FC (despite having been provided by the Player with straightforward evidence confirming the sporting succession having appeared between one and the other)*”.

105. On 11 October 2024, FIFA replied that the information contained in the Complete FIFA DC Case was exhaustive. FIFA further argued that the transfer ban allegedly imposed upon “*Club Melaka FC*” was unrelated to the issues that were the subject matter of the Complete FIFA DC Case and was irrelevant to the present arbitration proceedings. As a matter of fact, there has never been a transfer ban imposed on the New Club. FIFA conceded that its email of 1 June 2023 may suggest otherwise but explained that, in the said email, it “*referred to Melaka United as Melaka FC, based on information provided by [the Player], who indicated that Melaka United had been renamed “Melaka FC”. [...] Consequently, FIFA mentioned Melaka FC in its email [of 1 June 2023], while appropriately enforcing the registration ban on Melaka United Football Club through the TMS. Regardless of any alleged name change, since Melaka United’s name appeared in the TMS as “Melaka United Football Club”, the registration ban was consistently applied to this club, not Melaka FC*”.

106. FIFA supported its submissions with the Player's request of 16 May 2023 to ban "*Melaka United, now renamed Melaka FC*" from registering new players either nationally or internationally for failing to comply with the DRC Decision. Furthermore, FIFA also filed extracts from the TMS establishing that the ban had always been imposed on the Old Club and not the New one.
107. The chronology of events is as follows:
- On 9 March 2023, the DRC Decision was notified to the Player and the Old Club.
 - On 16 May 2023, the Player requested FIFA to impose the ban provided for under items 5 and 6 of the DRC Decision on "*Melaka United, now renamed Melaka FC*."
 - On 1 June 2023 and in compliance with the Player's request, FIFA instructed the FAM to impose the ban on "*the Club Melaka FC*".
 - According to TMS, the ban was imposed on the Old Club.
 - On 1 September 2023, the FAM confirmed to FIFA that "*the transfer ban against the club Melaka United is still active due to the failure to respect [the DRC Decision] and the club in season 2023 was prohibited from participating in the Malaysian Football League. Melaka United can only participate in the Malaysia league only after they pay all the outstanding FIFA cases. We also would like to highlight that based on the FIFA TMS system, there are no transfer activities from 1 June 2023 till this date for Melaka United FC [...]. The [DRC Decision] is against the Melaka United FC (Professional) as a respondent and not the Melaka FC (Amateur)*".
108. Based on the evidence in the file, the Sole Arbitrator concludes that the Player's request of 16 May 2023 merely seeks the imposition of a ban on the Old Club and does not constitute a formal complaint against the New Club, requesting FIFA to assess the facts and determine that the New Club is the sporting successor to the Old Club. With his request of 16 May 2023, the Player referred to the DRC Decision and asked a ban to be imposed on "*Melaka United, now renamed Melaka FC*." FIFA responded to this request by inviting the FAM to take the necessary action, which it did by imposing a ban on the Old Club. Given the sequence of events, the Sole Arbitrator is satisfied that the reference to Melaka FC alone in FIFA's email of 1 June 2023 was an oversight, partially attributable to the Player's assertion that the Old Club is now called Melaka FC.
109. Furthermore, the Sole Arbitrator has no ground to believe that some evidence was missing from the Complete FIFA DC Case. The Player argues that the supposed incompleteness is shown by the response of the FAM of 1 September 2023 to a FIFA request that is missing from the file. In the Sole Arbitrator's opinion, there is no reason to rule out that FIFA's request might have been made verbally. Finally, the Sole Arbitrator could not see what kind of missing evidence should have been in the Complete FIFA DC Case that would be decisive in the present proceedings or what reasons could have led FIFA to conceal elements from the other parties to the proceedings.

110. Based on the foregoing, the Sole Arbitrator is satisfied that, at the very least, no decisive document is missing from the Complete FIFA DC Case. As consequence, there is no need to elaborate further on the Player's arguments on this matter.

B. *The Holding of a hearing*

111. The Code does not grant the parties a right to a hearing (CAS 2019/A/6463 & CAS 2019/A/ 6464 para. 93). In accordance with Article R44.2 (8) of the Code, which applies to the Appeal Arbitration Procedure by virtue of the reference in Article R57, "*After consulting the parties, the Panel may, if it deems itself to be sufficiently well informed, decide not to hold a hearing.*" In other words, and after consulting with the parties and if he considers to be sufficiently well informed, the Sole Arbitrator has the discretion not to hold a hearing at all.

112. A decision not to hold a hearing does not constitute, as such, a violation of the parties' right to be heard. Such a right, as guaranteed by Article 29 (2) the Swiss federal Constitution ("Cst"), includes, in particular, the right for the concerned party to comment on relevant elements before a decision is made affecting his/her legal situation, to have access to the file, to present relevant evidence, to have his/her offers of relevant evidence considered, to participate in the administration of essential evidence, or at the very least, to comment on its result when it is likely to influence the decision to be made. However, Article 29 (2) Cst. does not grant the right to be heard orally, nor the right to have witnesses examined (Decision of the Swiss Federal Tribunal 1C_265/2024 of 20 September 2024 para. 4.1 and numerous references).

113. In the present case, on 14 June 2024, FIFA confirmed to the CAS Court Office that it preferred for the matter to be decided solely on the basis of the Parties' written submissions, whereas, on 17 June 2024, the Player requested a hearing.

114. In his Appeal Brief, the Player announced that he intended to call Mr Datuk Wira Justin Lin and Mr Datuk ABD Kadir Bin MD Idris as witnesses "*to testify in current proceedings on the circumstances having given birth to current dispute between the parties*". The Sole Arbitrator notes that the presence of these witnesses at a hearing seems unlikely as they do not appear to have any particular connection with the Player. Furthermore, their role in the "*current dispute between the parties*" is fully documented by the evidence in the file, the reliability of which has not been questioned by any of the Respondents.

115. In his submissions of 16 September 2024, the Player confirmed that he "*still maintains the request to hold the hearing in these proceedings and order the [New Club] to ensure the availability of its employees for their examination at the hearing. Their expected testimony shall confirm the continuity of the activity of the Original Debtor, despite having changed its corporate governance structure and undergone "rebranding"*". It should be noted that these witnesses were not called to testify in the Appeal Brief and are not identified. Furthermore, the New Club has remained silent throughout these arbitration proceedings. It seems unlikely that it will agree to grant the Player's request

and the eventual testimony of these witnesses would have minimal probative value, given their close ties with the New Club.

116. Finally, the Player's right to be heard was fully respected as he was in a position to file lengthy submissions through his Appeal Brief, to answer extensively to the questions put by the Sole Arbitrator on 20 June 2024, to comment on the Complete FIFA DC Case, to file a Reply and to make observations on the award CAS 2023/A/9768.
117. Considering the above, a hearing was unnecessary and would merely result in additional costs for the losing party.

X. THE MERITS

118. On 15 January 2024, the Head of the Judicial Bodies of FIFA notified the Player of the Appealed Decision, stating that the New Club was not the sporting successor of the Old Club and, therefore, was not liable to pay to the Player the outstanding remuneration owed to him by the Old Club. The amount claimed is USD 165,600, with an additional 5% annual interest until the date of actual payment. The amount due is not in dispute.
119. On several occasions, the Player complained that, despite his express requests, the Appealed Decision was not reasoned, which prevented him from understanding why, in FIFA's eyes, the New Club was not the successor to the Old one.
120. FIFA is of the view that, as the CAS ruling might affect the Old Club's legal rights by designating the New Club as its sporting successor, the Old Club needed to be included in these arbitration proceedings to argue its position, and without this participation, the appeal cannot stand.
121. The main question to be resolved by the Sole Arbitrator are:
 - A. Have any procedural rights of the Player been violated during the proceedings before the FIFA?
 - B. Should have the Old Club been included in these arbitration proceedings?
 - C. Is the New Club the sporting successor of the Old Club?

A. *Have any procedural rights of the Player been violated during the proceedings before the FIFA*

122. On several occasions, the Player complained that, despite his express requests, the Appealed Decision was not reasoned. The Player seems to claim that his right to be heard was infringed during the proceedings before FIFA, which - allegedly - did not adequately consider the objective and subjective factors regarding the sporting succession between the Old Club and the New Club.

123. Pursuant to Article R57 of the Code, the Sole Arbitrator is vested with the power to review the facts and the law of the matter at stake *de novo*. As such and in accordance with well-established CAS jurisprudence, any procedural flaws that may have occurred in the previous instance may be remedied before the CAS (cf. Mavromati/Reeb, The Code of the Court of Arbitration for Sport, Commentary Cases and Materials, Edition 2015, comment under Article R57, paras. 29-30, pp. 513-514 and CAS 2016/A/4704, CAS 2020/A/7567).
124. On this basis, the Sole Arbitrator can only conclude that the alleged violation of Player's right to be heard at the level of FIFA has been cured by these arbitration proceedings, in the course of which FIFA dealt extensively and in detail with the issue of sporting succession, with supporting documentation. The Player was granted the opportunity to a) respond to the questions posed by the Sole Arbitrator, b) comment on FIFA's answers to the same questions and c) make observations regarding an award recently issued (CAS 2023/A/9768), which confirmed that the New Club was not the sporting successor of the Old Club.
125. Given the above, the Sole Arbitrator determines that any potential infringement of the Player's procedural rights in the previous instance would be rectified within these arbitration proceedings.

B. *Should have the Old Club been included in these arbitration proceedings?*

126. FIFA is of the view that, as the CAS ruling might affect the Old Club's legal rights by designating the New Club as its sporting successor, the Old Club needed to be included in these arbitration proceedings to argue its position, and without this participation, the appeal cannot stand.
127. According to consistent case law of the Swiss Federal Tribunal, the standing to sue or be sued is a question of substantive law rather than a procedural issue and must be examined *ex officio* (Decision of the Swiss Tribunal Federal 4A_217/2017 of 4 August 2017 para. 3.4.1; ATF 130 III 550 para. 2; ATF 126 III 59 para. 1a). Standing to be sued refers to the party against whom an appellant must direct its claim in order to be successful. A party has standing to be sued only if it is personally obliged by the claim brought by an appellant. If the respondent's standing to be sued is denied, then the appeal, albeit admissible, must be dismissed (see, among others, TAS 2022/A/9315; CAS 2020/A/7144; CAS 2016/A/4602; CAS 2013/A/3047; CAS 2008/A/1639; CAS 2008/A/1583 & CAS 2008/A/1584).
128. In continuation of the above, it should be noted that the judging body must also examine *ex officio* the issue of mandatory joinder, regardless of the requests for relief submitted by the parties on this point. Mandatory joinder occurs when several persons collectively hold or are subject to a single right, so that each party to the legal relationship cannot exercise it alone or seek to change its content alone in court, nor can they be sued alone for these purposes. According to Article 70 (1) of the Swiss Civil Procedure Code ("CPC"), there is a mandatory joinder, when two or more persons (the "Joint Parties") are in a legal relationship that calls for one single decision with effect for all of them. In

a mandatory joinder, the Joint Parties must jointly appear as claimants or be sued as joint defendants. If these Joint Parties do not act together or do not appear jointly in the proceedings, this would lead to the dismissal of the claim. The judging authority may question the parties on this point, but it is not authorized to unilaterally include a missing joint party in the proceedings (Nicolas Jeandin, *Commentaire Romand, Swiss Code of Civil Procedure*, 2nd edition, Basel 2018, ad art. 70 CPC, N. 7 and N. 18 to 19 and references). Actions that create, modify, or eliminate a right must involve all Joint Parties to the legal relationship in the proceedings, to ensure that the procedure results in a single judgment with *res judicata* effect on all parties (Nicolas Jeandin, *op. cit.*, ad art. 70 N. 7 and references).

129. The question of mandatory joinder is only relevant if the Old Club is still in existence. Otherwise, the Old Club obviously cannot be a party to the proceedings. Several CAS precedents have established that the co-existence of both the Old Club and New Club does not, in itself, prevent the application of the sporting succession concept. As a matter of fact, it was determined that the drafters of the relevant regulations did not require the original club to cease existing as a prerequisite to establish sporting succession between two clubs. Instead, it was held that sporting succession may also occur when the elements that constitute the sporting identity of a football club are transferred to a new entity, while the former continues somehow to exist (CAS 2023/A/9809, para. 80).
130. In the present case and according to the FAM Report, the Old Club “*is not under any insolvency/bankruptcy/liquidation proceeding in Malaysia*”. Since then, however, it appears that, on 5 June 2024, some players filed a civil suit against the Old Club with the High Court of Melaka. According to the Player, a petition to open winding-up proceedings was about to be filed. Hence and at this point in time, it would appear that the Old Club is still in existence.
131. The question therefore arises as to whether the New Club and the Old Club are Joint Parties, when a complaint is filed before FIFA against the alleged successor New Club, for failure to comply with a financial decision taken against the Old Club and for the payment of which the New Club is liable, by virtue of the sporting succession concept. In other words, do both the Old Club and the New Club need to be summoned together in order for the claim against the New Club to be validly assessed by the judging authority?
132. The core of these arbitration proceedings is not a contractual dispute, but a disciplinary sanction based on association law. Article 21 FDC provides for disciplinary sanctions when a person fails to pay a sum of money he/she has been instructed to pay by a FIFA body. In particular, Article 21 (4) FDC provides that the sporting successor of a non-compliant party shall also be considered a non-compliant party and thus subject to the sanctions under this provision. Under these set of regulations, the New Club is not in a contractual relationship with the creditor but is sanctioned on a disciplinary level (Decision of the Swiss Federal Tribunal 4A_616/2021 of 1 April 2022, consid. 5.2.2). For the New Club to be considered the sporting successor of the Old Club and hence to be possibly sanctioned for the failure to comply with a financial decision imposed upon the Old Club, an assessment must

be made by FIFA. Prior to this assessment, there is no infringement committed by the New Club and no disciplinary sanction can be imposed upon it. In other words, successors simply are obliged to incur the debt accumulated by the clubs that they have succeeded to once only there has been an assessment by FIFA that the club is a sporting successor. To acknowledge a club as successor, FIFA has to be first asked to assess the facts. Then, based on the relevant facts before it, the competent FIFA body will make a determination to the effect that the New Club is the successor of the Old Club, or not. Until this assessment is made, there is no sporting succession and the New Club must be considered as an entity in its own right, separate from the Old Club.

133. Based on the above, it is clear that the procedure at the FIFA level is solely disciplinary in nature, and the only concerned party is the New Club, considered independently. If the disciplinary proceeding concludes that the New Club qualifies as a sporting successor under the FDC, it will be required to comply with the financial decision, failing which sanctions will be imposed in compliance with Article 21 FDC. Conversely, if the New Club is not deemed a sporting successor, the disciplinary proceedings will become moot. Hence, the Old Club and the New Club cannot be considered Joint Parties, and these arbitration proceedings did not require the Old Club's involvement to be valid.

C. *Is the New Club the sporting successor of the Old Club?*

1.- In general

134. If the New Club is considered to be the sporting successor of the Old Club, it may be required to assume the latter's financial obligations that have fallen due following a final and binding decision. This is the case even if the New Club was not a party to any agreement with the creditor and not named in the decision the creditor seeks to enforce (e.g., for unpaid salaries), like the case at stake.
135. The concept of sporting successor is the direct result of several CAS cases, which have been materialized for the first time in Article 15 (4) of the 2019 Edition of the FDC. The very same provision is included in the 2023 Edition of the FDC, in Article 21 (4), which reads as follows:

“The sporting successor of a non-compliant party shall also be considered a non-compliant party and thus subject to the obligations under this provision. Criteria to assess whether an entity is to be considered as the sporting successor of another entity are, among others, its headquarters, name, legal form, team colours, players, shareholders or stakeholders or ownership and the category of competition concerned.”

136. A similar provision was introduced in the Regulations on the Status and Transfer of Players (“RSTP”) for the first time in Article 24ter of their 2021 edition and in Article 25 (1) of their latest edition. It states the following:

“The sporting successor of a debtor shall be considered the debtor and be subject to any decision or confirmation letter issued by the Football Tribunal. The criteria

to assess whether an entity is the sporting successor of another entity are, among others, its headquarters, name, legal form, team colours, players, shareholders or stakeholders or ownership and the category of competition.”

137. These two provisions are very similar in content and their criteria for assessing whether an entity is to be considered as the sporting successor of another entity are not exhaustive (CAS 2020/A/6831 para. 107; CAS 2020/A/7543 para. 53; Carlos Schneider and Molly Strachan, The Court of Arbitration for Sport’s approach to the complexities of art. 15 of the FIFA Disciplinary Code, in CAS Bulletin 2022/02 p. 61).
138. CAS jurisprudence has held that *“the issue of the succession of two sporting clubs might be different than if one were to apply civil law regarding the succession of two separate legal entities”* (CAS 2020/A/7549 para. 85; CAS 2016/A/4550 & 4576, para. 134). Hence, the question is not whether the New Club is the legal successor of the Old Club, but whether it is the sporting successor within the meaning of Articles 21 (4) FDC and 25 (1) RSTP. In this regard, CAS case law has established the following:

“[A] club is a sporting entity identifiable by itself that, as a general rule, transcends the legal entities which operate it. Thus, the obligations acquired by any of the entities in charge of the club’s administration in relation with its activity must be respected. The identity of a club is constituted by elements such as its name, colours, fans, history, sporting achievements, shield, trophies, stadium, roster of players, historic figures, etc. that allow it to distinguish from all the other clubs. Hence, the prevalence of the continuity and permanence in time of the sporting institution in front of the entity that manages it has been recognised, even when dealing with the change of management companies completely different from themselves” (CAS 2013/A/3425, para. 139, as translated into English in CAS 2016/A/4550 & 4576, para. 135).

139. The rationale behind the implementation of the concept of sporting succession is namely the promotion of contractual stability, the protection of competitions and to *“avoid that a football club can essentially be ‘replaced’ in all its traits while managing to escape the fulfilment of the financial duties that were pending at the time of the succession”* (CAS 2020/A/7092, para. 38). However, fraudulent or *“shady practices”* by parties trying to avoid payments, do not constitute a *conditio sine qua non* in order to conclude that sporting succession occurred. In other words, sporting succession can exist even in the absence of such practices (CAS 2020/A/7290 para. 88; CAS 2020/A/7543 para. 96). The justification for the concept of sporting succession is based on the legal maxim *cuius commoda, eius et incommoda*, *“meaning that the one who seeks and obtains a benefit [i.e. using the Old Club’s name, logo, crest, history, etc.] must also accept the possible burdens which flow from that benefit [i.e. be held liable for the debts of the Old Club]”* (CAS 2020/A/7424, para. 126 and references). Or put differently, *“the Club should not be free to pick and choose which elements of sporting succession it wishes to adopt; it cannot select all the positive commercial attributes without also accepting that with that comes the responsibility to discharge any outstanding liabilities from the Old Club”* (CAS 2020/A/7481 para. 105).

140. In a significant number of CAS awards, the situation was dealt with by listing criteria to determine if sporting succession had occurred. In these cases, the mere appearance that the new club took over the administration of the old club and effectively replaced it in the eyes of the football-related and the general public is not sufficient. Were considered as decisive to demonstrate sporting succession, objective factors such as the transfer of the federative rights of the old club to allow the new club to continue in the same league, the acquisition of assets of the old club and some continuity of players (for instance, CAS 2020/A/7092; CAS 2020/A/7423). In other cases, much value was attached to “public perception”, which was considered as a very relevant criteria (CAS 2020/A/6884 para. 142; CAS 2020/A/7290 para. 91; CAS 2020/A/7481 para. 94; CAS 2020/A/7543 para. 112). In a recent decision, it was held that “*It seems reasonable though, to approach the issue from the perspective of the wider football market. It is the market perceptions, in other words, that matter most, when deciding on sporting succession*”, with great relevance given to the name and colours of the clubs concerned (CAS 2020/A/6831 paras. 121 and 126).

2.- Burden of proof

141. With respect to the burden of proof, Article 8 of the Swiss Civil Code (“CC”) states that “*Unless the law provides otherwise, the burden of proving the existence of an alleged fact shall rest on the person who derives rights from that fact*”. As a result, the Sole Arbitrator reaffirms the principle established by CAS jurisprudence that “*in CAS arbitration, any party wishing to prevail on a disputed issue must discharge its burden of proof, i.e. it must meet the onus to substantiate its allegations and to affirmatively prove the facts on which it relies with respect to that issue. In other words, the party which asserts facts to support its rights has the burden of establishing them. The Code sets forth an adversarial system of arbitral justice, rather than an inquisitorial one. Hence, if a party wishes to establish some facts and persuade the deciding body, it must actively substantiate its allegations with convincing evidence*” (CAS 2014/A/3546, para. 7.3 and references). In general, the burden of proof is satisfied whenever the judging body is convinced of the truthfulness of a factual allegation based on objective grounds. Absolute certainty is not required. It is sufficient if the judging authority has no serious doubt about the existence of the alleged facts or if any remaining doubt appears to be tenuous (Judgement of the Swiss Federal Tribunal 4A_248/2022 of 2 August 2022, consid. 4.1; SFT 130 III 321, consid. 3.3; CAS 2021/A/7673 – 7699 consid. 91).
142. The present case is characterized by the complete unresponsiveness of the New Club to all the notifications of the CAS Court Office.
143. The active participation of the New Club in these arbitration proceedings would not only have made it possible to ascertain its position with regard to the allegations made against it by the Player but also provided a fuller understanding of the context of its creation, which is a crucial aspect in resolving issues of sporting succession. The New Club’s refusal to participate in these proceedings suggests an intent to avoid situations requiring potentially unfavourable explanations. Consequently, the Sole Arbitrator interprets this stance as an implicit acknowledgment of the facts asserted by the Player, assuming these facts are backed by credible evidence.

3.- In the case at hand

144. Each situation must be analysed on a case-by-case basis in consideration of its own specificities and “*sometimes facts and circumstances can tip the balance in favour of one or the other part*” (CAS 2020/A/7549 para. 56). Also, the *de novo* power of review of the CAS means that previous decisions are not automatically binding; “*whilst taken into consideration, a Panel is free to make its own decision based on the facts before it*” (CAS 2020/A/7481 consid. 98).
145. Having said that, in the present case, the Sole Arbitrator has the benefit of a recent decision (CAS 2023/A/9768), issued on 15 October 2024, concerning a complaint by another professional player who contended that the New Club, as the sporting successor to the Old Club, should be liable for its debts. In CAS 2023/A/9768 (para. 130 and 131), the Sole Arbitrator considered that both clubs “*share elements but also have differences. Without weighing the importance of each element, it can be noted that the two clubs share the same address as well as stadium and both operate in the same legal form. On the other hand, the majority of elements show differences. Namely, this includes the name, team colours, players, category of competition, staff, history and sporting achievements, public information and perception, social media appearance, foundation year, the logo and sponsors. [...] Overall, the available evidence in the present proceedings indicates that the [New Club] cannot be considered the sporting successor of [the Old Club]*”.
146. In these arbitration proceedings, the Sole Arbitrator undertook the same analysis as in CAS 2023/A/9768, comparing for both clubs the criteria outlined in Article 21(4) FDC (headquarters, name, legal form, team colours, players, shareholders, stakeholders, ownership, management, category of competition concerned) as well as “*Stadium; (Technical) Staff; History and Sporting Achievements/Titles; Public Information and Perception; Social Media Appearance; Foundation Year; Logo; Sponsors*” , it being understood that this comparative analysis is the relevant legal test to establish whether succession has indeed occurred or not.

i. Headquarter and registered address

147. The Sole Arbitrator sees no reason to depart from the findings made by in CAS 2023/A/9768 (para. 69 ff):

“[...] According to the information provided by the [FAM], the [...] registered address as well as business address were used by both clubs [...].

In CAS 2020/A/7092 the Panel found that the headquarter [is] of minor importance.

[...] The Sole Arbitrator agrees with the Panel of the case 7092 on this point. Different headquarters do not exclude a sporting succession. Conversely, the use of the same facilities may indicate a sporting succession, as the new club profits from existing structures”.

ii. The stadium

148. It is undisputed that the Old Club and the New Club played in the same stadium, *i.e.* the Hang Jebat Stadium. The Player alleges that “*according to public information available there are at least three other stadiums where the [New Club] could have potentially chosen to pursue its activities*” and infers that “*considering the fact that the [New Club] chose the same stadium for the execution of its activity as the [Old Club] (despite having other options), weighs in favor of the sporting succession having appeared between these clubs*”.
149. In the FAM Report, it is explained that the Hang Jebat Stadium “*is the only stadium in Melaka that was available and approved for football matches by the league organizers. The stadium is also available for rent by the public for events or meetings*”. This was not rebutted by the Player.
150. Sole Arbitrator sees no reason to depart from the findings made by in CAS 2023/A/9768 (para. 76 ff):

“[...] *it has been established in previous CAS decisions, [that] the use of the same stadium is regularly a criterion of minor importance. The Sole Arbitrator confirms that this consideration is applicable to the present case. The number of suitable stadiums in a city is typically limited and therefore, the places available are shared by several clubs (CAS 2022/A/9044 par. 103, [...], CAS 2020/A/7029 par. 120; CAS 2020/A/7002 par. 134).*

[...] *In the case at hand, this assumption is further validated by the FAM stating that the Hang Jebat Stadium would be the only place in Melaka to suffice the criteria to host a league match. Adding the fact that the site is also rented out for other events, emphasises the lack of connection between the two clubs that could have potentially arisen from the use of the same stadium.*”

iii. The name of the club

151. The Player succinctly states that the “*name is similar.*”
152. With respect to this criterion, the Sole Arbitrator sees no reason to depart from the findings made by in CAS 2023/A/9768 (para. 78 ff):

“*Concerning the names, the Sole Arbitrator notes that the [New Club’s] official name is Melaka Football Club (in short “Melaka FC”). The full name of the [Player’s] previous employer was Melaka United Football Club.*

[...] *Firstly, the inclusion of the cities name “Melaka” in the name of local clubs is a common practice in football and sports in general. In view of this, it is not necessarily an indicator of a connection between two clubs (CAS 2022/A/9044 par. 103). In fact, there are countless sports teams whose names include the city where they are located alongside words like sports club or sport association. For*

instance, in football, the abbreviation for football club “FC” is used in many football clubs' names (CAS 2020/A/7002 par. 133). Similar to this, it is not uncommon in football to add the word “United” to a club's name, for instance to indicate the merge of two teams. Comparing in the present case, the only difference lies in the word “United”. However, this can neither be considered a crucial element to distinguish clubs nor to assume their connection.”

iv. The legal form

153. The Player, FIFA and the FAM agree that the Old Club and the New Club have the same legal form.
154. According to the FAM Report, “*Melaka United FC was established in the end of year 2020 after the FAM had decided that the State football association are no longer allowed to participate in professional Malaysia football league. All the football team that already participated in the league are obliged to be privatized and undergo the club licensing process for them to compete in the professional Malaysia football league*”.
155. According to the FAM Report, the Old Club was incorporated on 10 August 2020 and was then “*operated as a Sendirian Berhad company and [is] limited by shares*”.
156. With respect to this criterium, the Sole Arbitrator sees no reason to depart from the findings made by in CAS 2023/A/9768 (para. 82):

“[The Old Club] as well as the [New Club] both operated as a “Sendirian Berhad” company and were limited by shares. In this regard, the Sole Arbitrator notes that this is a common form of company in Malaysia. Operating as Sendirian Berhad like the majority of Malaysian private limited business entities do cannot establish a connection between the two clubs. Therefore, the legal form cannot be considered an important indicator for sporting succession in this case.”

v. Team Colours

157. According to the Player, “*the colours of both clubs remain the same (with various combinations of the same colours)*”. “*For example, current home colour of [the New Club] (Red) corresponds to previous away colour of [the Old Club] (Red)*”.
158. For home matches, it appears that the dominant colours of the jerseys and shorts of the Old Club were three different shades of green, while the dominant colour of the jerseys and shorts of the New Club is red. For home matches, neither team shares a similar colour.
159. For away matches, the jersey and shorts of the New Club are entirely white, whereas the jersey colour of the Old Club is red, as is that of the New Club for its home matches. However, the shorts of the Old Club are black, not red like those of the New Club. It must be observed that the jersey patterns of the teams are also different.

160. The Player further argues that the current away colour of the New Club is blue, which allegedly corresponds to the previous alternative away colour of the Old Club. This assertion does not correspond to the information provided by the FAM. Furthermore, the blue jerseys of both teams do not have the same pattern, the same shade of blue and the shorts appear to be black for the Old Club's team and white for the New Club's team.
161. With respect to the team colour criterion, the Sole Arbitrator arrives at the same conclusion as in CAS 2023/A/9768 (para. 86), specifically that reviewing photographs of players from the two clubs does not suggest they could have been part of the same team and that "*colours being a relevant element for the assessment, the evidence speaks against the [New Club] being the sporting successor of [the Old Club].*"

vi. Players

162. In the context of sporting succession, the presence of overlapping players between the two clubs is significant because it helps establish continuity. As a matter of fact, overlapping players strengthen the link between the two clubs, suggesting that the new club may be a continuation of the old one. Shared players help preserve the identity and core essence of the original club. Moreover, for fans and other stakeholders, seeing familiar players in the new club's lineup can create a sense of continuity, encouraging support and loyalty to the new entity.
163. According to the information provided by the FAM Report, "*only 4 players from [the Old Club] registered in year 2022 had transferred to the [New Club], that is currently participating in the Amateur Football League. It consists of 3 players from the youth team and 1 player from the senior team. Please find below the details of the said payers:*
- Muhammad Luqmanul Hakim (Youth Team)*
Aidil Putra Zulkefli (Youth Team)
Muhammad Iman Hakimi (Youth and Senior Team)
Syahrul Azwari Ibrehim (Senior Team)."
164. According to the Player, the New Club has recruited six former players from the Old Club. In support of this claim, the Player produced a Whatsapp publication from the New Club listing its squad for the year 2023. In this publication, the four players indicated in the FAM Report are named as well as two other player, Mr Muhammad Fahmie Hanapiah and Mr Amirul Hamer. There is no indication whether these two players were part of the Old Club's youth or senior team.
165. It should be noted that none of the aforementioned six players participated in the last match played by the Old Club on 15 October 2022.
166. It is also noteworthy that the list of players in the New Club's squad, as provided by the Player, comprises 24 individuals, six of whom are transfers from the Old Club, four from Terengganu FC II, three from Perak FC, two from Penang FC, and the remainder from various other clubs. In total, the New Club's squad includes players from 13 different clubs.

167. In view of the above, and in particular the very heterogeneous composition of the New Club's team, the overlapping players between the two clubs does not create a sense of continuity between the Old Club and the New Club.
168. Hence, in the case at hand, the criterion of overlapping players speaks against the New Club being considered as the sporting successor of the Old Club.

vii. Staff members

169. According to the information provided by the FAM Report, "*Based on the information provided, there are no officials/coaches/staff previously registered with the [Old Club] that are now registered with the [New Club].*"
170. However, and according to the documents attached to the FAM Report, Secretary Junainah Binti HJ. Ismail and Secretary Nadiah Binti Baharruddin appear to be two of the four members of the "Directors/officers" of both clubs.
171. According to the Player, "*the following staff members are also the same: [...] Secretary Junainah Binti HJ. Ismail; [...] Secretary Nadiah Binti Baharruddin; [...] Utility manager Ahmad Shukri Othman; [...] Finance manager Fitri Samsury; [...] Immigration advisor Emer; [...] Doctor Shankar; [...] Coach Asri*".
172. The Player has not provided any evidence to substantiate his claim, making it impossible to confirm the identities, existence, or specific roles of these staff members. This is especially the case for the immigration advisor, the doctor, and the coach, as only a single (last?) name is given for each.
173. Under these circumstances, the overlapping staff members between the two clubs cannot be considered an important indicator for sporting succession in this case.

viii. Logo

174. According to the Player, "[the] *logo remains similar, as the tree remains central object of the logos of both clubs*".
175. With respect to this criterium, the Sole Arbitrator sees no reason to depart from the findings made by in CAS 2023/A/9768 (para. 120 ff):

"120. The official logo of Melaka United is coloured in green and white. It contains a tree growing on a soccer ball in the centre of the circle.

121. In regard to the emblem of the [New Club, there are] three different logos.

122. The one that has been submitted by both Parties is shaped as a hexagon and coloured in several colours (blue, red, green, yellow, and grey). The centre of the hexagon depicts a tree growing on a soccer ball. A banderol is placed below containing 2020 as the year of foundation and the name "Melaka Football Club".

123. *Furthermore, the Appellant submitted a circular logo which is coloured in red and blue with a green tree in the middle. Below it is written “Established 2022” and the circle is framed by red banderols displaying “Melaka Football Club”.*
124. *[FIFA], in contrast, attached another logo which is coloured in blue and red. It displays a soccer ball in the middle and the text states “Melaka Football Club 2022”.*
125. *The Appellant argues that the logos of both clubs have similar elements in the sense that both contain a tree in the centre. According to the news snippet provided [...], the logos could refer to the Melaka tree, “[a] symbol that is the pride of the people of Melaka as it relates to the beginning of a great Melaka government a long time ago”. Taking the relation between the city and the symbolic meaning of the tree into account, the link exists due to Melaka's history. Therefore, a tree could be symbolically be chosen by every club of the city without creating an assumption of sporting succession. [...]*
127. *Summarising, the Sole Arbitrator does not recognise an indicator for sporting succession in these regards.”*

ix. Social media and sponsors

176. It is not disputed that the Old Club and the New Clubs have different sponsors, media channels and websites.

x. Shareholders/ownership and history

177. To assess the criteria of shareholders/ownership and history, the Sole Arbitrator accepts as true and accurate, the following documents:
- the statements made by Mr Abd Kadir Bin Md Idris on 27 September 2022 and by Mr Datuk Wira Justin Lim on 4 December 2022, which are still available on the Old Club's Facebook page, quoted extensively in para. 16 and 17, respectively, of this award;
 - the press article published on 25 September 2022 quoted extensively in para. 21 of this award;
 - the content of the transcription of the youtube video relating to the official conference held by the MUSA on 25 September 2022 and quoted extensively in para. 22 of this award;
 - the press article published on 15 November 2022 and quoted extensively in para. 30 of this award.
178. The Player submitted these documents to support his arguments, with their content primarily targeting the MUSA, which, at some point, was the sole shareholder of the Old

Club and subsequently became the sole shareholder of the New Club, which is a party to the current arbitration proceedings. The MUSA had the opportunity to challenge the reliability of this evidence presented by the Player, but chose not to, as it did not file any submissions with CAS. In these circumstances, the Sole Arbitrator interprets MUSA's silence as implicit agreement with the content of the submitted documents. Without a challenge from the MUSA, the Player had no reason or opportunity to deliver further evidence to support his position.

179. On the basis of the evidence in the file, it appears that until 10 August 2020, the Old Club was a state football team managed by the MUSA, competing in top Malaysian football tournaments like the Malaysia Super League, Malaysia Cup and Malaysia FA Cup.
180. Following FAM's directive that state football teams could no longer participate in professional leagues, all such teams were required to privatize and obtain club licensing. Hence, the Old Club was incorporated as a private entity, a "*Sendirian Berhad*" company, on 10 August 2020, with MUSA as its sole shareholder initially.
181. With regard to the specific case of the Player, the header of his first employment contract signed with the Old Club on 1 January 2020 features the logo, website and email address that FIFA associates with Melaka United. It is undisputed that the Player kept playing with the same club after its privatization. Furthermore, there is evidence on file that Melaka United has been operating for almost 100 years, in particular articles published in 2020 referring to its privatization after 96 years of existence.
182. Bearing in mind that it is uncontested, or at least no evidence to the contrary has been presented, that the Old Club's football team remained the same before and after privatization and that privatization did not impact the football activities or team composition of the Old Club, which continued in professional leagues, the Sole Arbitrator has no difficulty in finding that Melaka United FC is the sporting successor of Melaka United: the team was the same and so was the headquarters, the registered address, the stadium, the owner, the category of competition, the name (with the exception of FC), and the colours (green).
183. In other words, the Old Club's history goes back to 1924, the founding year of Melaka United.
184. The documents on record also indicate that the MUSA operated the Old Club prior to its privatization. Afterward, MUSA became the sole shareholder of the privatized Old Club before selling 70% of its shares to Kenteam Medical Sdn Bhd while retaining a 30% stake through a trustee. Despite committing to assume certain financial obligations of the Old Club, MUSA failed to fulfil these responsibilities.
185. As from September 2022, the chronology of events is as follows:
 - At that moment, the Old Club was owned by Kenteam Medical Sdn Bhd for 70% and by the MUSA for 30%. It was facing significant financial difficulties and was struggling with substantial salary arrears.

- On 25 September 2022, the MUSA, through its newly elected President, announced that it would assume control of the Old Club's management in collaboration with four private companies, which would collectively hold 60% of the club's shares, while the MUSA would retain the remaining 40%. It made the promise that *“Malacca football team will remain in action in the Super League next season and I promise to all and fan of the state of Malacca, and even if we miss the Malaysia Cup with the salary situation our team's condition is not very consistent, and I make sure next year we become 8th best team to qualify for the Malaysian Cup automatically and debt, we will definitely pay our outstanding debts before approaching 2023 Super League later.”*
- In October 2022 and due to unpaid player salaries, the MFL rejected the Old Club's application for a license to participate in the 2023 Malaysia Super League.
- On 2 November 2022, the MFL's decision to reject the Old Club's application for a license to participate in the 2023 Malaysia Super League became final.
- On 3 November 2022, the MUSA incorporated the New Club and became its sole shareholder.
- On 4 November 2022, the New Club filed an application to participate in the season 2023 of the M3 League, which was eventually granted.
- On 15 November 2022, the Old Club filed an application to participate in the season 2023 of the M3 League, which was eventually denied.
- On 15 November 2022, the following statements made by the MUSA President were reported by the press:
 - *“The [MUSA] will revert to being named the Melaka Football Association while the state football team will be known as Melaka FC under a rebranding exercise.”*
 - *“[...] the move would be the start of the association's efforts to empower and revive the state football team's fortunes after being eliminated from the highly competitive top-tier Super League next season”.*
 - *“Changing the association's name back to its original form, which has been in existence since 1924, is also a move to return Melaka football to its heyday, when it used to produce so many quality players, including national football legend Datuk Soh Chin Aun”.*
 - *“[...] the Melaka football team will also compete in next season's M3 League and they will be known as Melaka FC instead of Melaka United FC.”*
 - *“Indeed, branding is not important, but administration and management must be prioritised. I believe that if the administration is run smoothly,*

Insyallah, our target of getting Melaka back into the Super League in 2024 can be achieved”.

- *“Hang Jebat Stadium will continue to be Melaka FC's home venue and all supporters will be able to watch matches for free at the initial stage,” he said.”*
 - On 4 December 2022, the CEO of the Old Club publicly declared that Kenteam Medical Sdn Bhd had decided to sell its 70% stake in the Old Club, as it was disappointed with its collaboration with the MUSA.
 - On 5 April 2023, 70% of Old Club's shares were still held by Kenteam Medical Sdn Bhd.
186. The facts highlighted above clearly show that the MUSA played a leading role in the management of both the Old Club and the New Club. Similarly, it is clear from the statements of its President, that it was in the MUSA’s intention to honour the history of “Melaka Football” by reviving its former glory and to restore its position as a competitive force.
187. It is not speculative to infer from the timeline of events that the MUSA opted to establish the New Club rather than invest in the Old Club, which was burdened with debt and predominantly owned by Kenteam Medical Sdn Bhd, with whom relations were strained. Under these circumstances, and as the MUSA publicly acknowledged, if it intended to take control of the team’s management with the goal of “*bringing Melaka back to the Super League in 2024,*” it effectively had no choice but to abandon the Old Club. As a matter of fact, in November 2022, the Old Club's financial situation was incompatible with meeting the requirements for entry into the M3 League, a necessary step toward returning to the professional league.
188. In such a context, the question that arises is whether the New Club can be considered as the sporting successor of the Old Club.
189. According to the Player, the MUSA is the sole shareholder of the New Club, which was obviously created in an attempt to clean the balance of the Old Club and continue its sporting activities via the New Club. The Player contends that the concept of sporting succession was implemented precisely to avoid abuses such as that committed by the incorporation of the New Club, which was intended to escape the financial responsibilities of the Old Club towards its players, staff and other creditors.
190. The Sole Arbitrator shares the Player’s view that the facts of this case clearly reveal that, faced with the Old Club’s financial issues and limited prospects for recovery, the MUSA chose to disengage and abandon the Old Club to its fate, while establishing the New Club as an alternative. This conclusion is supported by the sequence of events: on 2 November 2022, the Old Club loses its ability to compete in the 2023 Malaysia Super League. The following day, the New Club is incorporated and almost immediately files an application

to enter the 2023 M3 League from which the Old Club is excluded until it resolves its financial liabilities.

191. Nevertheless, it is important to consider that, on 3 November 2022, when the MUSA founded the New Club, it lacked control over the Old Club, holding only 30% of its shares. In this context, the MUSA's decision to establish the New Club to secure sole ownership and full control does not, on its face, amount to an abuse as alleged by the Player. The MUSA's approach was certainly opportunistic and strategic, choosing to create a fresh entity (the New Club) to pursue its footballing ambitions rather than persisting with the Old Club, which was dominated by a majority shareholder with whom the MUSA no longer got along.

4.- Conclusion

192. It is recalled that, at the heart of the concept of sporting succession, is the New Club's intent to be perceived by the public as a continuation of the original club, inheriting its identity and market recognition. This deliberate effort to benefit from the original club's goodwill carries the corresponding duty to address the unpaid debts left behind in compliance with the principle *cuius commoda, eius et incommode*. The concept of sporting succession aims to ensure that any club benefiting from the legacy of a previous entity also inherits its financial responsibilities toward football stakeholders.
193. For the reasons exposed in CAS 2023/A/9768 as well as in the present award, the New Club has never acquired any of the Old Club's assets and there is no evidence to conclude that there is a sporting continuity between the two clubs, which is a fundamental criterion for sporting succession. As a matter of fact, there is no basis to conclude that the New Club continues or intends to continue the sporting activities of the Old Club. At the time when the Old Club's license was terminated in 2022, it participated in the Malaysia Super League, which is the highest division in the Malaysian Championship. The New Club was created from scratch in 2022 and it independently obtained a license to participate in the Malaysian amateur league, the M3 League. It is therefore undisputable that the New Club neither acquired the license nor any federative rights of the Old Club. It also did not adopt any of the Old Club's distinguishing traits, such as its name, colours, logo, sponsors, website or a substantial number of players or staff members with the intention to be perceived by the general public as the sporting successor of the Old Club or as to continue the Old Club's sporting activity.
194. Article 21 (4) FDC is designed to address situations where a new entity benefits selectively from the positive characteristics of the original debtor. It has not been demonstrated that such was the case in the present arbitration proceedings. In other words, there is not enough evidence to establish that the New Club was seeking to gain benefits associated with the Old Club, thereby triggering the consequences set forth in the principle of *cuius commoda, eius et incommoda*.
195. Based on the foregoing, the Sole Arbitrator finds that the New Club is not the sporting successor of the Old Club and, therefore, cannot be held liable to pay any amount to the Player. The Player's appeal is therefore dismissed, and the Appealed Decision is upheld.

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

XI. COSTS

197. (...).

ON THESE GROUNDS

The Court of Arbitration for Sport rules:

1. The appeal filed on 5 February 2024 by Mr Sony Norde against the decision rendered on 15 January 2024 by the Head of the Judicial Bodies of FIFA is dismissed.
2. The decision rendered on 15 January 2024 by the Head of the Judicial Bodies of FIFA is confirmed.
3. (...).
4. (...).
5. All other and further motions or prayers for relief are dismissed.

Seat of arbitration: Lausanne, Switzerland

Date: 28 January 2025

THE COURT OF ARBITRATION FOR SPORT

Patrick Grandjean
Sole Arbitrator