

CAS 2024/A/10414 Alejandro Gustavo Camaño Tolosa v. Fédération Internationale de Football Association (FIFA)

ARBITRAL AWARD

delivered by the

COURT OF ARBITRATION FOR SPORT

sitting in the following composition:

President: Mr Ken Lalo, Attorney-at-Law in Gan-Yoshiyya, Israel

Arbitrators: Mr Giulio Palermo, Attorney-at-law in Geneva, Switzerland

Mr José María Alonso Puig, Attorney-at-law in Madrid, Spain

in the arbitration between

Mr Alejandro Gustavo Camaño Tolosa, Las Rozas de Madrid, Spain

Represented by Mr Federico Venturi Ferriolo, Mrs Adele Sodano and Mr Lorenzo Vittorio Caprara, Attorneys-at-Law, Milan, Italy, Mr Juan De Dios Crespo Pérez, Attorney-at-Law, Valencia, Spain and Mr José Maria Relucio, Attorney-at-Law, Madrid, Spain

Appellant

and

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

Represented by Dr Jan Kleiner, Director of Football Regulatory at FIFA, and Mr Miguel Liétard Fernández-Palacios and Mr Roberto Nájera Reyes, Attorneys-at-Law, FIFA's Litigation Department, Miami, Florida, USA

Respondent

I. PARTIES

1. Mr Alejandro Gustavo Camaño Tolosa (the “Appellant”), born in 1959, is a sport agent based in Madrid, Spain.
2. The Fédération Internationale de Football Association (“FIFA” or the “Respondent”), the international governing body of football, is an association under art. 60 et seq. of the Swiss Civil Code (“SCC”) domiciled in Zürich, Switzerland.
3. The Appellant and the Respondent are jointly referred to as the “Parties”.

II. FACTUAL BACKGROUND

4. Below is a summary of certain key facts and allegations drawn from the Parties’ written submissions as well as the oral pleadings and evidence adduced at a virtual hearing on 24 September 2024. Additional facts and allegations may be set out, where relevant, in later sections of this award (the “Award”), in particular in connection with the Panel’s discussion of the merits of the case. The Panel has considered all the facts, allegations, legal arguments and evidence submitted by the Parties in the present proceedings. It nonetheless refers in this Award only to those submissions and evidence that it considers necessary to explain its reasoning and conclusions.
5. The Appellant is a FIFA pre-2015 licensed sport agent, also registered as football agent with the Italian and the Spanish Football Federations. The Appellant does not hold an agent license issued by the French Football Federation (“FFF”).
6. On 16 December 2022, the FIFA Council adopted the FIFA Football Agent Regulations (“FFAR”). The FFAR were published on 6 January 2023.
7. The FFAR, among others, re-introduced a licensing system, according to which only persons who hold a valid license issued by FIFA are authorized to provide “*Football Agent Services*”, as defined in the FFAR.
8. The FFAR provides various possibilities on how an individual can obtain a license to act as a football agent under the FFAR; namely: (i) the so-called “*exam path*”, granting a license to every person who passes an exam and pays the applicable license fee, with FIFA organizing two worldwide FIFA Football Agent Exams per annum; (ii) the so-called “*legacy path*”, converting old registrations under the registration regime that had been in place under the former 2015 FIFA Regulations on Working with Intermediaries into a new license under the FFAR, without having to pass an exam; and (iii) the so-called “*national law path*”, converting a national license from a country recognized by FIFA as having a national licensing regime, which is de facto equivalent to the FFAR licensing requirements, into a FIFA license.

9. Article 23 FFAR defines the “*legacy path*” and provides the requirements to obtain a FIFA license through this path, as follows:

“1. A person formerly licensed as an agent pursuant to the FIFA Players’ Agent Regulations (1991, 1995, 2001 or 2008 editions) is exempt from the requirement to pass the exam established by these Regulations, provided that:

- a) they submit an application for a licence pursuant to these Regulations up to and including 30 September 2023;*
- b) they provide proof that they were licensed as an agent pursuant to the FIFA Players’ Agent Regulations (1991, 1995, 2001 or 2008 editions);*
- c) upon application, they comply with the eligibility requirements under article 5 of these Regulations;*
- d) as part of their application, they provide proof that they were registered as an intermediary, or were the owner, director, or employee of a legal person registered as an intermediary at a member association between 1 April 2015 and the date of the approval of these Regulations, pursuant to the RWVI or equivalent national regulations; and*
- e) after being confirmed as exempt from the exam by the FIFA general secretariat, they comply with article 7 of these Regulations.*

2. If a former licensed agent meets the relevant conditions, they shall be issued a licence in accordance with article 8 of these Regulations. (...)”

10. License applications must be submitted to FIFA via the FIFA Agent Platform (<https://agents.fifa.com/home>), which is a digital platform managing all license applications. All license applicants must register and create a profile on this platform, in order to then be able to submit a license application.
11. On 6 February 2023, the Appellant successfully registered himself as an agent in Italy, registering both before the Italian Football Federation (“FIGC”) and before the Italian National Olympic Committee (“CONI”) based on his FIFA pre-2015 license. The Appellant successfully renewed his registration before both FIGC and CONI in November and December 2023.
12. On 27 March 2023, the Appellant attempted to register on the FIFA Agent Platform and to create his digital profile. However, because of an illegible identification document, the registration could not be completed.
13. The Appellant immediately received the following automated message:

“FIFA Agent Platform

REGISTRATION FAILED

We regret to inform you that your account registration request has failed during the last step of checking your identification. All of your submitted information is now deleted.

Please register again through the link below and try using a different personal document in better lighting conditions.”

Here the details of an access link were provided.

14. On 2 October 2023, the Appellant again attempted to create an account on the FIFA Agent Platform. This time, he was successful.
15. On 18 October 2023, the Appellant attempted to use the “*national law path*” under Article 24 FFAR. Since the “*national law path*” is not open for holders of a license issued by the Spanish or Italian Football Federations, but is open for FFF licence holders, the Appellant marked the relevant field of an FFF license holder but attached his national agent license of Spain.
16. The Appellant received a reply in the system in Spanish which, freely translated into English, reads:

“You can only apply through National Law Path if you have a license to operate as a football agent issued in France in accordance with national law. If you do not meet this requirement and wish to continue with an application, select ‘Exam Path’.”

17. On 1 November 2023 and after receiving the FFF’s confirmation that the Appellant does not hold an agent license issued by the FFF, FIFA sent an email to the Appellant (“FIFA’s 1 November 2023 Letter”), rejecting his “*national law path*” license application, stating as follows:

“Dear Sir or Madam

Thank you for your application.

It seems that you have not submitted documentation which is relevant and/or sufficient for your licence application.

The reason for rejection of your application for the National Law Path with the French Football Federation is the following:

‘Ne détient pas de licence d’agent sportif F.F.F. conformément à l’article L222-7 du code du sport.’ In case of questions, please reach out to the French Football Federation directly.

We thank you for your attention to the above.

(...)”

18. On 20 November 2023, the legal representative of the Appellant contacted FIFA via the Agents Department mailbox (AgentsDepartment@fifa.org), re-submitting a copy of the Appellant's passport and stating the following:

"I write on behalf of Mr. Alejandro Gustavo Camaño, FIFA pre 2015 licensed Agent (see RFEF license attached hereto), who has incurred in technical problems while accessing the FIFA Agent Platform to apply to his FIFA license. In particular, the video did not recognize Mr. Camano's passport during the application procedure. In this regard, I am attaching together with the pre 2015 FIFA Licences, the passport of Mr. Camano to confirm his eligibility and complete his FIFA Agent's license application."

19. FIFA enquired internally whether indeed, the Appellant had faced any technical difficulties and received the following internal report of the FIFA IT services:

"Hi Victor,

I can confirm the only time Mr. Alejandro Gustavo Camaño appears in ID recognition system, is on 2023-10-02 19:25:06. From what I can see, there are NO other registration attempts. If a user fails an ID check the system will inform us, for example the following:

ID not readable (Not readable document: Bad quality)

Status: NOT_READABLE

Reject Reason: NOT_READABLE_DOCUMENT

Reject Reason Details: BAD_QUALITY

I hope this helps."

20. On 17 January 2024, FIFA sent an email to the legal representative of the Appellant ("FIFA's 17 January 2024 Letter"), as follows:

"Dear Sir,

Thank you for your e-mail, we acknowledge receipt of your query.

Firstly, we would like to inform you that the IT team has confirmed that the only time Mr. Alejandro Gustavo Camaño appears in ID recognition system, is on 2023-10-02 19:25:06. There are no other registration attempts.

Furthermore, we would like to remind you that the legacy application window closed last 30 September 2023 (and it was opened 9 January 2023), as indicated in our enclosure 2, in this regard we would like to stress that candidates, in general, are responsible for their application to become a FIFA football agent.

*In light of the above mentioned, you would apply for 3rd FIFA Football Agent Exam, please be kindly informed that the Exam licensing path application window for the 3rd FIFA Football Agent Exam is **open** (see below). You will find relevant*

information in our dedicated website [here](#) (for example, [how to become a football agent](#) and in our [FAQ](#)).

3rd FIFA Football Agent Exam (22 May 2024)	
Application window opens	9 January 2024 (afternoon CET/Zurich)
Application window closes	31 March 2024 (23:59 CET/Zurich)

Moreover, please be kindly aware that the fully implementation of the new FIFA football agent regulations was last 1 October 2023, therefore, any intermediary providing football agent services around the world have to become a FIFA football agent from that date onwards. In addition, please find relevant information [here](#) [link](#) and in the online conference ‘Understanding the new FIFA Football Agent Regulations’ in which the Agents Department explains in detail the main principles of the new framework.

We advise you to regularly follow the relevant updates on www.fifa.com.

We thank you for taking note of the above.” (emphasis in original)

21. On 31 January 2024, the legal representative of the Appellant contacted FIFA by phone. The call was not immediately answered, but the FIFA Agents Department reached out to the Appellant, on the next day, enquiring how FIFA could be of assistance.
22. On 5 February 2024, the legal representative of the Appellant sent the following message to FIFA:

“Dear Victor,

Many thanks for reaching out. I follow up my previous correspondence, attached hereto for your convenience.

In a nutshell, I am writing on behalf of FIFA pre 2015 Agent Mr Alejandro Camaño. Mr Camaño is a very renowned and esteemed agent, albeit not very familiar with digital procedures as he is class of 1959. Mr Camaño attempted to register himself uploading his Passport during spring 2023 through his collaborators and the undersigned through the FIFA Agent Platform, specifically between April and May, with the last recorded attempt through our law firm on the June 10th, 2023.

In your reply (see attached) you kindly informed that “the IT team has confirmed that the only time Mr. Alejandro Gustavo Camaño appears in ID recognition system, is on 2023-10-02 19:25:06. There are no other registration attempts”. However, I shall stress that this is not true, as I have been trying many times to upload Mr Camaño’s Passport and there has also been an exchange of correspondence at the end of March 2023 from notifications@agents.fifa.org (also attached). In the latter, FIFA stated that the Passport was not enlightened

enough and thus decided to reject the application and reset and delete the entire file.

Therefore, the FIFA Agent Platform did not recognize Mr Camaño's Passport during all and numerous attempts we made. To this extent, we tried to contact the Agent Department but at the time it was impossible to get in contact out of the FIFA Agent Platform, nor was there in place any possibility to submit claims.

In light of all the above, it shall be taken into account that Mr Camaño attempted many times and in good faith to complete the application within the prescribed terms, holding all the requirements to be awarded with the FIFA Agent License. Therefore, a technical issue of the FIFA Agent Platform cannot jeopardize Mr Camaño's career requiring him to undergo the FIFA Agent Exam as a non-previous FIFA Agent.

I therefore respectfully request you take into consideration the above and confirm Mr Camaño's eligibility and allow him to complete his FIFA Agent's license application. I look forward to hearing from you.

Many thanks in advance.

Best,

Federico”

23. FIFA again enquired internally whether there was any record of these mentioned additional registration attempts, and received from the FIFA IT support team the following information:

“Our team are investigating further the attempts of Mr Alejandro Camaño to register for an account on the FIFA Agent Platform.

*However, I can confirm this was **not a technical error**, but an automated process by a 3rd party supplier for ID verification. Further, the service records “failed” attempts and I can see no records for Mr Alejandro Camaño, other than that already stated “2023-10-02 19:25:06”.*

To add to this, during the last registration period, users were able to contact via support@agents.fifa.org should they have experienced issues with the platform, no attempts to do so were made. This information was visible and displayed on the platform homepage.

*Again, I would like to stress, this is an automated verification process beyond our control and is **not a technical error**. If the verification process fails, the user should try again or try using an alternative document to complete the process.”*
(emphasis in original)

24. On 20 February 2024, the FIFA Agents Department sent an email to the Appellant’s legal representative (“FIFA’s 20 February 2024 Letter”), stating as follows:

“Dear Sir,

Thank you for your e-mail, we acknowledge receipt of your query.

We would like to stress again that the legacy path window was closed 30 September 2023. In this regard, we would like to highlight once more that the legacy path opened 9th January 2023 and closed 30 September 2023 (cf. Enclosure 2, Timeline).

Moreover, after thoroughly reviewing your application, including the information that you provided, we confirmed that on October 2023, Mr Camaño Tolosa completed the registration process through the FIFA Agent Platform and applied for the National law path: Fédération Française de Football, however his application was rejected because he did not submitted documentation which was relevant and/or sufficient for his licence application (i.e. ‘Ne détient pas de licence d’agent sportif F.F.F. conformément à l’article L 222-7 du code du sport.’). In this regard, considering the documents and information currently at our disposal, your licence application has therefore been rejected in the Platform.

Furthermore, we would like to point out that when applicants attempt several times to complete the ID verification and this generates an error message. Applicants should contact the Support Team and they would have been able to inform them accordingly. Indeed, during the last registration period, users were able to contact via support@agents.fifa.org, and, for example, if the verification process fails, the user should try again or try using an alternative document to complete the process.

*Lastly, we would like to remind you that the Exam licensing path application window for the 3rd FIFA Football Agent Exam is **currently open**.*

Please be aware that to obtain a licence to act as a Football Agent, you must apply via the FIFA Agent Platform.

We thank you for taking note of the above.

*Yours sincerely,
Victor” (emphasis in original)*

III. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT

25. On 12 March 2024, the Appellant filed with the Court of Arbitration for Sport (the “CAS”) an appeal against the Respondent with respect to FIFA’s 20 February 2024 Letter and submitted a Statement of Appeal pursuant to Articles R47 and R48 of the

CAS Code of Sports-related Arbitration (2023 edition) (the “CAS Code”). The Appellant nominated Mr Giulio Palermo, as arbitrator.

26. On 3 April 2024, the Respondent nominated Mr José María Alonso Puig as arbitrator.
27. On 11 April 2024, within the extended time limit as notified in CAS Court Office letter of 19 March 2024, the Appellant filed his Appeal Brief in accordance with Article R51 of the CAS Code.
28. On 13 May 2024, the CAS Court Office informed the Parties that, pursuant to Article R54 of the CAS Code, and on behalf of the Director General of the CAS, the Panel appointed to decide the present procedure had been constituted as follows:

President: Mr Ken Lalo, Attorney-at-Law in Gan-Yoshiyya, Israel
Arbitrators: Mr Giulio Palermo, Attorney-at-Law in Geneva, Switzerland
Mr José María Alonso Puig, Attorney-at-Law in Madrid, Spain
29. On 13 June 2024, the Respondent filed its Answer in accordance with Article R55 of the CAS Code, within the extended time limit provided by the CAS Court Office letter of 15 May 2024, including a request for the Panel to bifurcate these proceedings and to issue a (preliminary) Award declaring the Appeal inadmissible.
30. On 18 June 2024, in response to the CAS Court Office letter, the Respondent advised that it preferred the Panel to issue an award based solely on the Parties’ written submissions, without the need to hold a case management conference. The Respondent explained that it considered “*a hearing unnecessary since (i) the matter at hand is inadmissible (as comprehensively developed in our Answer), (ii) it does not present exceptional complexity, (iii) the parties have clearly explained their positions in their relevant submissions and (iv) there are no witnesses/experts to be heard.*”
31. On 18 June 2024, in response to the CAS Court Office letter, the Appellant advised that it preferred an in-person hearing to be held in this case for reasons including among others “*the delicacy and importance of the interests at stake, which pertain to the Appellant’s right to perform his activity within the EU territory*” and as “*the matter at hand encompasses several elements of complexity [...]*”. The Appellant further indicated that he did not consider a case management conference necessary.
32. On 3 July 2024, the Appellant filed his comments on the Respondent’s request for bifurcation and the issue of admissibility in accordance with the Panel’s invitation contained in the CAS Court Office letter of 24 June 2024.
33. On 10 July 2024, the CAS Court Office informed the Parties that, pursuant to Article R57 of the CAS Code, the Panel had decided to hold an online hearing in this case.
34. On 29 July 2024, the CAS Court Office informed the Parties that they had been called to appear at a virtual hearing on 24 September 2024.

35. On 5 August 2024, the CAS Court Office issued an order of procedure (the “Order of Procedure”) in the present matter and requested the Parties to return a completed and signed copy thereof, which the Respondent did on 7 August 2024 and the Appellant on 8 August 2024. In the signed copy of the Order of Procedure returned by the Respondent it was indicated that “*FIFA does not dispute that in principle, CAS has jurisdiction to hear appeals against final decisions of FIFA. However, this is without prejudice to FIFA’s objection to the admissibility of this appeal.*”
36. On 17 September 2024, the CAS Court Office advised of a final hearing schedule issued by the Panel, following an exchange with the Parties.
37. On 23 September 2024, the Appellant provided the Appellant’s Bundle, which included copies of briefs, attachments and case law provided or cited by the Appellant.
38. Also on 23 September 2024, the Appellant submitted certain communication sent by FIFA on 23 September 2024 relating to communication channels with FIFA and ways to address “*technical assistance and guidance on the FIFA Agent Platform (FAP)*”, requesting its admission to the file as a new exhibit.
39. On 24 September 2024 and before the hearing, the CAS Court Office acknowledged receipt of the Appellant’s two letters of 23 September 2024, and advised that “[*t*]he Appellant’s request to introduce new evidence will be discussed at the outset of the hearing.”
40. On 24 September 2024, a hearing was held in the present matter by videoconference. In addition to the members of the Panel and Ms Delphine Deschenaux-Rochat, CAS Counsel, the following persons attended the hearing:
- For the Appellant: Mr Juan de Dios Crespo Perez, Counsel
Mr Federico Venturi Ferriolo, Counsel
Mr Jose Maria Relucio, Counsel
Mr Lorenzo Vittorio Caprara, Counsel
Ms Felicitas Leonore Weber, Interpreter
Mr Alejandro Gustavo Camaño Tolosa, the Appellant
- For Respondent: Dr Jan Kleiner, Director of Football Regulatory, FIFA, Counsel
Mr Roberto Najera Reyes, Senior Legal Counsel, FIFA, Counsel
41. At the outset of the hearing, the Parties declared that they had no objections as to the constitution of the Panel.
42. At the hearing, the Parties were given full opportunity to present their case, submit their arguments and answer the questions from the Panel.
43. At the end of the hearing, the Parties confirmed that they were satisfied with the procedure throughout the hearing, and that their right to be heard had been fully respected.

IV. THE PARTIES' SUBMISSIONS AND REQUESTS FOR RELIEF

44. The aim of this section of the Award is to provide a summary of the Parties' main arguments rather than a comprehensive list thereof. Additional elements of the Parties' claims may be discussed in subsequent sections of the Award. As stated above, the Panel reiterates that in deciding upon the Parties' claims it has carefully considered all the submissions made and all the evidence adduced by the Parties, whether or not expressly referred to in this section of the Award or in the discussion that follows.

A. On the Issue of Admissibility

a. The Respondent

45. The Respondent's submissions on the issue of admissibility, in essence, may be summarized as follows:

- FIFA's 20 February 2024 Letter is not a "*decision*". It is merely a communication which reiterates points that had all been notified, decided and communicated previously by FIFA to the Appellant.
- The information that the "*legacy path*" window, which was opened on 9 January 2023, closed on 30 September 2023 had already been provided to the Appellant by FIFA's 17 January 2024 Letter. To the extent that FIFA's 17 January 2024 Letter might have qualified as a decision, it was not legally challenged and thus became final and binding.
- FIFA's 20 February 2024 Letter also informed the Appellant again that his "*national law path*" application had been rejected, because the Appellant did not hold a valid FFF licence. This information had already been provided in FIFA's 1 November 2023 Letter. To the extent that the notification in FIFA's 1 November 2023 Letter might have qualified as a decision, it was not legally challenged and thus became final and binding.
- FIFA's 20 February 2024 Letter cannot be a "*decision*" in the meaning of Article R47 of the CAS Code. FIFA's 20 February 2024 Letter does not have any "*animus decidendi*", simply because all its elements have been decided or notified already long before.
- FIFA's 20 February 2024 Letter also did not affect the legal position of the Appellant. If ever a FIFA notification had such effect, it would only have been FIFA's 1 November 2023 Letter in regard to the "*national law path*" or FIFA's 17 January 2024 Letter in regard to the "*legacy path*".
- The Appellant never legally challenged the notifications of either FIFA's 1 November 2023 Letter or FIFA's 17 January 2024 Letter. Therefore, any legal effect that either would deploy is final and binding.
- The Appellant cannot simply repeat earlier arguments, to obtain from FIFA a reiteration of FIFA's position, and to thereby artificially prolong a deadline to

appeal, or artificially create a new deadline to appeal (see, for example, CAS 2021/A/8322, at para. 91).

- In conclusion, FIFA requested the Panel to bifurcate the proceedings and to issue a preliminary Award declaring the appeal inadmissible, or, in the alternative and without bifurcating the proceedings, to issue an Award declaring this appeal inadmissible (see the full prayers for relief below at para. 51).

b. Appellant

46. The Appellant's submissions on the issue of admissibility, in essence, may be summarized as follows:

- FIFA's 20 February 2024 Letter unduly jeopardizes the Appellant's right to have his pre-2015 FIFA agents' license recognized by the Respondent, stating that the Appellant should take the "*exam path*", regardless of him already holding the requirements in light of his former license and his several substantiated attempts to register and apply for license conversion on the FIFA Agent Platform.
- FIFA's 20 February 2024 Letter constitutes a decision issued by FIFA and the Appellant has exhausted the legal remedies available to him prior to filing the appeal, in accordance with the Statutes and regulations of FIFA.
- The applicable FIFA Statutes and regulations do not provide any definition for the term "*decision*".
- A letter may be characterised and constitute a decision. "*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*" (see CAS 2008/A/1633 para. 31; CAS 2007/A/1251 para. 30; CAS 2005/A/899 para. 63; CAS 2004/A/748 para. 90; CAS 2004/A/659).
- CAS has defined a decision as "*a unilateral act, sent to one or more determined recipients and is intended to produce legal effects*" (see CAS 2008/A/1633 para. 31; CAS 2004/A/748 para. 89; CAS 2004/A/659 para. 36).
- The term "*decision*" must be interpreted in a broad manner so as not to restrain the relief available to the persons affected by it (the Appellant referred to Despina Mavromati and Matthieu Reeb: The Code of the Court of Arbitration for Sport: Commentary, Cases and Materials, as well as CAS 2005/A/899; CAS 2004/A/748; CAS 2004/A/659 and CAS 2008/A/1583 &1584).
- CAS jurisprudence has underlined that letters addressed from a federation to a club/athlete can qualify as "*appealable decisions*" if they affect the legal situation of their addressee(s) (see CAS 2007/A/1293).
- Moreover, "*a communication is qualified as a decision if it contains a ruling intending to affect the legal state of the addressee of the decision or other parties*" (see CAS 2012/A/2750, CAS 2005/A/899).

- *“The decisive criterion is the objective effect of a decision on its addressee and not the subjective intent of the authority that renders the decision”* (see CAS 2022/A/8865 & CAS 2022/A/8866 & CAS 2022/A/8868).
- CAS has underlined that the term *“decision”* *“must be interpreted in a broad manner so as not to restrain the relief available to any affected persons. Under Swiss law, a decision is a common declaration of will resulting from multiple unidirectional declarations of individual members to determine the association’s will. Overall, the principal criterion for the qualification of a communication as a decision is its binding character and the “animus decidendi”, namely the intention of a sports body to decide binding on a specific subject, thus affecting the addressee(s) of the decision”* (see CAS 2020/A/7590 & CAS 2020/A/7591).
- FIFA’s 1 November 2023 Letter, stating that the Appellant had *“not submitted documentation which is relevant and/or sufficient for your [the Agent] license application”*, cannot be interpreted as a *“decision”* by FIFA, considering the total lack of *“animus decidendi”*. Such communication did not contain any ruling and it did not affect the legal state of the Appellant, as its aim was merely to inform the Appellant that his attempt of accessing the FIFA Agent Platform through the *“national path”* was incomplete and should be reverted to the FFF. FIFA limited itself to note that the documentation was not sufficient, without expressing any evaluation on the status of the Appellant or any consequences thereof.
- FIFA’s 17 January 2024 Letter also did not contain any ruling or *“animus decidendi”*. It merely related to the Appellant’s registration attempts on the FIFA Agent Platform and the application for the recognition of the Appellant’s pre-2015 agent license. It is not *“directing and/or producing any legal effect on its addressee”*, the Appellant.
- Had FIFA’s 1 November 2023 Letter or FIFA’s 17 January 2024 Letter been viewed as *“decisions”*, it would have forced anyone receiving a communication from FIFA to immediately file an appeal with CAS to avoid incurring a time bar. The Appellant made good faith attempts to receive a clear and precise view of his status in order to avoid any possible misunderstanding, before deciding to file an appeal before CAS, with all its associated costs and time expenditure both for the Appellant and for FIFA.
- On the other hand, FIFA’s 20 February 2024 Letter is a *“decision”* as it unduly jeopardizes the Appellant’s right to recognize his pre-2015 agent’s license. Only with this e-mail FIFA for the first time officially informed the Appellant that his *“license application has been rejected”* and that he should take the *“exam path”*.
- FIFA’s 20 February 2024 Letter is a decision which has been appealed within the time limit pursuant to Article R47 of the CAS Code and Article 57 of the FIFA Statutes and is admissible.

B. On the Merits

a. The Appellant

47. The Appellant's submissions on the merits, in essence, may be summarized as follows:

- The Appellant is an experienced, renowned and esteemed Spanish and FIFA licensed agent since 8 May 2002. He is also licensed in Italy. He provided agency services since the 1990's. He has successfully completed many important transactions and has executed hundreds of representation agreements over the years. He teaches other agents. He has always complied with all relevant regulations, with the utmost professionalism and without ever receiving any allegation, fine or sanction from any competent authority.
- The Appellant is not very familiar with digital processes. Additionally, the Appellant may find it cumbersome to pass an agent exam since digital familiarity and familiarity with current terminology may be required. Some 50% of those taking the exams have failed.
- On 27 March 2023, later during April and May 2023 and finally on 10 June 2023, the Appellant attempted to register himself through the FIFA Agent Platform, but experienced problems that precluded the successful completion of the procedure. The FIFA Agent Platform did not recognize the Appellant's passport and the process could not be completed. Contacting the Agent Department through the FIFA Agent Platform was not possible and there was no possibility to submit claims.
- Thus, the Appellant made efforts to timely complete the "*legacy path*" registration, but this was precluded due to technical issues.
- This should not jeopardize the Appellant's career and he should not be required to undergo the FIFA Agent Exam available for non-pre-2015 FIFA agents.
- FIFA's rejection of the Agent's application process for the "*legacy path*" is ungrounded, and carries significant prejudice to the Appellant's right to freely exercise his profession. It is also contrary to the principles and regulations of international sports law, as well as to EU law and Swiss civil law.
- The fact that the Appellant has been granted the right to register for two years in a row in Italy is in itself a proof of the existence of the requirements for the Appellant to be granted an agent's license. The Italian registration system is the most restrictive at a global level and the Italian FIGC Football Agents Regulations are hierarchically superior to the FFAR pursuant to Article 1, Section 1, of the FIGC Football Agents Regulations.
- Since their publication the FFAR have been vigorously challenged and have been the subject of several disputes brought before national Courts, CAS and the European Court of Justice. Underlying these objections was the alleged incompatibility of certain FFAR with national laws, national associations' regulations and EU Law including EU Competition Law.

- On 30 December 2023, FIFA suspended on a global basis the implementation of parts of the FFAR. Although these do not include Article 23 of the FFAR which related to the “*legacy path*”, they highlight how the entire regulatory framework of the FFAR has already been challenged for not complying with the objectives and the protection of certain rights guaranteed by the European Union.
- The right to registration held by the Appellant is linked to the fulfilment of professional requirements he achieved pursuant to the previous regulations and such requirements have never been mentioned nor can they be considered as temporary in nature, in particular as they relate to labour law and the ability of agents to operate in their profession or restrict them from doing so.
- Passing the examination under FFAR grants an unlimited duration to operate as an agent. If the Appellant’s previous license is not recognised and reinstated through the “*legacy path*”, it would lead to the paradoxical result of considering the pre-2015 agents’ licenses – who are the most experienced agents currently on the market – as “*less strong*” than those obtained by agents who pass the new examination.
- It would be irrational and discriminatory to reckon that the license held by pre-2015 licensed agents is granted for a definite or temporary period.
- Under Swiss Law, players’ agents who exercise their activity on a regular basis are considered to be active in a profession of liaising between and arranging for contacts between employers and persons seeking employment with a view to concluding labour contracts and are subject to the Federal Act on Service of Labour and Leads of Services.
- Therefore, the professional nature of the activity is undisputed and the requirements achieved by the Appellant years ago when he became an agent, cannot be unduly and unjustifiably limited in time under a new regulation which cannot de facto prevent those who have already met the requirements from engaging in a profession due to a mere formality.
- Requiring an agent to send his application for the new FIFA license before a certain date without any specific reason to have such deadline seems to be an excessive and unjustified formalism. This is “*excessive formalism*” which can give rise to a possible challenge under Article 190 of the Swiss Federal Code on Private International Law 119 (U. Haas, CAS Bulletin 2/2011, The “Time Limit for Appeal” in Arbitration Proceedings before the Court of Arbitration for Sport). On the limited scope of excessive formalism in CAS proceedings, see the note of Despina Mavromati to 4A_416/2020, Judgment of 4 November 2020, A. v. B and the note of Despina Mavromati to 4A_324/2021, judgment of 3 August 2021.
- According to the Swiss Federal Tribunal “*excessive formalism*” exists where there are rigorous formalities without any objective reason, where formal requirements are applied with exaggerated severity (CAS 2014/A/3703).
- Furthermore, under Swiss jurisprudence, “*excessive formalism is considered to be excessive when the strict application of the rules is not justified by an interest worthy*

of protection and unsustainably complicates the realization of substantive law (4A_666/2020)” (CAS 2021/A/8075).

- FIFA’s decision prohibiting a professional agent, licensed by FIFA, who has been exercising such profession for more than 22 years, meeting all the requirements provided by Spanish and Italian associations and under Italian law without any objective reason, but relying only on an excessively formal consideration of an arbitrary deadline, especially at a moment in which the FFAR are already the object of several challenges which ultimately led to their partial suspension, must be disallowed and set aside.
- Providing a wider or periodic window to register as pre-2015 licensed agent, as well as enabling pre-2015 licensed agents to register annually through the “*legacy path*”, would in no way conflict with any interest of FIFA or the sporting movement, nor is there any objective reason to prohibit an already licensed agent from freely deciding whether or not to exercise his activity in any given year.
- FIFA failed to comply with the objectives set forth in Article 1, Section 2, of the FFAR. Preventing a professional football agent with 22 years of experience in the field of sporting agency from performing his activities is clearly at odds both with the objective of raising and setting minimum professional standards and that of ensuring the quality of the services provided by football agents to clients.
- FIFA’s decision would also entail a detrimental effect on contractual stability of the representation agreements entered into by the Appellant, given the fact that his clients would suddenly find themselves without a trusted person with a valid FIFA license.
- FIFA’s decision based on Article 23 of the FFAR also constitutes a violation of the rules of EU competition law. The FFAR adopted by FIFA is a decision by an association of undertakings and, as such, falls within the scope of Article 101 of the Treaty on the Functioning of the European Union (“TFEU”).
- Article 23 FFAR cannot qualify for an exemption under Article 101(3) TFEU. The registration period provided for pre-2015 agents under Article 23 FFAR lacks any objective justification and does not pursue a legitimate objective recognised by EU law and the case law of the EU Court of Justice. Thus, it necessarily affects competition under Article 101 TFEU.
- In addition, Article 23 FFAR and FIFA’s 20 February 2024 Letter, issued on its basis, constitute also a violation of the principle of legal certainty.
- Article 23 FFAR and FIFA’s 20 February 2024 Letter, issued on its basis, also give rise to a discrimination in violation of Article 102 TFEU. FIFA holds a (collective) dominant position in the market for football agent services pursuant to the case law of the EU Court of Justice. Specifically, the unjustifiable barrier to access placed upon pre-2015 agents by Article 23 FFAR creates a discrimination vis-a-vis post-2015 agents that do not need to re-register within the period provided for by Article 23 FFAR.

- Furthermore, Article 23 FFAR impedes access to the market to any pre-2015 football agent who, for whatever reason, decided not to register before 30 September 2023, but might be interested in going through the process only for future years.
 - FIFA's 20 February 2024 Letter also constitute a violation of personal rights within the meaning of Article 28 of the SCC, and more specifically of the right to development and economic fulfilment of employees subject to FFAR, without an overriding private or public interest.
 - As of today, in the official documents made available by FIFA on its official website Article 23 of the FFAR still refers to the possibility for pre-2015 licensed agents to be exempted from the exam. Nevertheless, the FFAR still include a reference to the 30 September 2023 term.
 - This leads to the controversial outcome of having a provision that recognises that pre-2015 licensed agents are exempted from taking the new exam but de facto they do not have a window to exercise this right.
 - There is lack of clarity in the FFAR regulations and FIFA's website and publications in which the "*legacy path*" is still presented despite the alleged 30 September 2023 deadline which has already expired. FIFA's website as on 15 January 2024 still indicated that some individuals are exempt from an examination to be given an agent license.
 - FIFA's own publication of 23 September 2024 providing contact methods in relation to the FIFA Agent Platform evidences the lack of clarity in that area and an admission of FIFA's failures to have a workable and easy system to contact FIFA.
 - Additionally, football agents, reading FIFA's website, could have been led to legitimately rely on national regulations believing in good faith that having a national license and complying with the regulations of their national association may be deemed sufficient by FIFA, when now FIFA is of the position that this is not the case.
 - For each of the reasons detailed by the Appellant, FIFA's 20 February 2024 Letter should be set aside and the Appellant recognised as a FIFA licensed agent based on his pre-2015 license.
 - A fair, reasonable and practical decision would be to open an additional window for the "*legacy path*".
48. The Appellant, Mr Alejandro Gustavo Camaño Tolosa, testified in some detail regarding his football career as a player, his experience as an agent since the 1990's, his significant deals and clients worldwide, his respect of all relevant rules and regulations and his ethical behavior. He stated that he was shocked of the closure of the "*legacy path*" as a result of technical difficulties and an arbitrary deadline. The Appellant further stated that:
- After his failure to register in March 2023, he tried a few more times to do so, prior to succeeding on 2 October 2023.

- He was not “made for” taking the exam with all the young agents. For him what counts is his experience and knowledge. An exam necessitates also technological knowledge and being familiar with new technical terminology.
- He could not explain to clients and third parties why he needs to take an exam.
- For him to be without a license is impossible.
- He feels responsible to his clients, players and clubs, and cannot be without a license.
- He is trustworthy and ethical and has always followed the rules.

49. In his Appeal Brief, the Appellant requested the following relief:

“112. For the reasons to be developed in its Appeal Brief, Agent respectfully requests that CAS issues an arbitral award by which:

- I. CAS 2024/A/10414 Alejandro Gustavo Camaño Tolosa v. Fédération Internationale de Football Association (FIFA) the Decision is set aside;*
- II. FIFA shall consider the Agent to be recognized as a FIFA Licensed football Agent;*
- III. FIFA shall provide for the opening of new registration periods to allow FIFA pre-2015 licensed football Agents to be recognized as FIFA Licensed football Agents.*

113. CAS renders a decision that FIFA shall be ordered to bear the costs in relation to the present arbitration proceedings and to contribute to the legal fees incurred by Mr Alejandro Gustavo Camaño Tolosa in an amount to be set by the Panel.”

b. The Respondent

50. The Respondent’s submissions on the merits, in essence, may be summarized as follows:

- The Appellant describes certain “*controversies*” about the FFAR and related legal cases before national state courts, but many of these have been rejected and, in any event, have no relevancy to the present proceedings.
- CAS 2023/O/9370 is a detailed and comprehensive Award which fully confirmed the legality of the FFAR, both under European law, Swiss law, Italian law and other national legislations.
- None of the elements that are relevant for the present matter, e.g., the “*exam path*”, the “*legacy path*”, the “*national law path*”, or the licensing requirements as such, have ever been disputed before any national court.
- The internal IT analysis of FIFA has revealed that there were no further registration attempts carried out by the Appellant beyond the one of 27 March 2023 and until

his registration on 2 October 2023. No proof of such additional registration attempts has been provided.

- The Appellant made no efforts to resolve the situation between his registration attempt on 27 March 2023 and the “*legacy path*” deadline of 30 September 2023. The Appellant remained inactive for such a long time “*that it clearly comes down to the negligent behaviour of the Appellant that applicable deadlines were missed*”. It is inconceivable that the deadline of 30 September 2023 should now simply be reinstated only for the benefit of the Appellant.
- The Appellant had ample ways and opportunities to complete his registration and the “*legacy path*” process in time including contacting FIFA, getting support and more, none which have been done. More than 2200 applicants have successfully done so. FIFA’s email of 23 September 2024 regarding communication channels with FIFA does not evidence any historical issues or difficulties. In connection with the move of its departments to Miami, Florida, FIFA merely consolidated numerous email addresses to one common address, highlighting communication channels following the physical move.
- The Appellant understood that he has failed to meet the “*legacy path*” deadline and has thus tried to apply the “*national law path*”. When he saw that such path is not applicable to him, he then returned to the “*legacy path*” and alleged technical problems with using the platform and completing the registration and application of the “*legacy path*” application process.
- The fact of being registered, or not, as agent under the regulatory regimes of FIGC and CONI has no bearing on whether someone can obtain a licence under the FFAR or not.
- In any event, FIFA correctly applied its own regulatory requirements for an agent to be licensed under the “*legacy path*”.
- The Appellant failed to meet the registration time limit clearly established under Article 23 para. 1 of the FFAR.
- Establishment of a simple deadline in FIFA regulations cannot be considered as being excessively formalistic, as the same would have to apply for any other regulatory deadline (see for example a deadline to file a Statement of Appeal to CAS discussed in CAS 2017/A/5368 at para. 44; see also CAS 2023/A/9501 paras. 121-129).
- From a legal perspective, the existence of deadlines is an indispensable tool to properly apply regulatory frameworks and requirements and are not an expression of excessive formalism.
- Some 7000 individuals became agents to date under FFAR, through the “*exam path*”, the “*legacy path*” and the “*national law path*”. Of those, more than 2200 individuals have successfully completed the “*legacy path*”, and they have all successfully respected the deadline of 30 September 2023. The Appellant should not be treated any differently.

- The regulatory framework of Article 23 FFAR does not breach Article 101 TFEU. If a party alleges that any rule of the FFAR constitutes a restriction of competition “*by effect*”, it carries the respective burden to prove such anti-competitive effects (see CAS 2023/O/9370, at para. 252). The Appellant has not presented the required elements demonstrating any anti-competitive effects (see, CAS 2016/A/4492, at para. 74).
- CAS 2023/O/9370 clearly confirmed that FIFA enjoys a margin of discretion in its steps to regulate the activity of football agents. FIFA’s conduct in this regard is appropriate and proportionate to achieve the intended objectives.
- The regulatory steps taken by FIFA, which are at issue in this case (i.e., the creation of the “*legacy path*”, the existence of a regulatory deadline, the creation of the “*national law path*” and the existence of the FIFA Football Agent Exam) clearly meet this test: (i) the existence of a licensing system pursues the legitimate objective to raise professional and ethical standards within the agent industry; (ii) the creation of the legacy path is a tool that is beneficial for agents and market participants; (iii) the existence of a regulatory deadline by which such “*legacy path*” applications must be submitted pursues the legitimate objective of ensuring legal certainty; and (iv) the creation of the “*national law path*” is a further tool to facilitate market access to those agents who hold a license under a comparably strict national licensing system.
- There is no breach of Article 101 TFEU. The Appellant fails to demonstrate any anti-competitive effect, already on a factual basis. From a legal perspective, any hypothetical anti-competitive effect is, in any event, justified.
- Any argument that FIFA violated a dominant market position by establishing the “*legacy path*” and the corresponding regulatory framework based on Article 102 TFEU must fail as a matter of fact and law.
- The Appellant who carries the burden of proof fails to present the most basic factual elements of an alleged violation of Article 102 TFEU and does not explain which exact “market” would be relevant in the present matter, why FIFA would hold a “dominant” position on this market, what the relevant “product market” is, or the relevant geographical scope of this market.
- It is hard to see how the establishment of a simple deadline (i.e., the deadline of 30 September 2023) could be considered as “*abusive of a dominant position*”.
- To the contrary, the creation of the “*legacy path*” facilitates entry into the market because it exempts previously licensed agents from having to take the FIFA Football Agent Exam. All that these agents had to do was to respect the deadline of 30 September 2023. The Appellant’s failure to meet the deadline cannot be an argument to declare this same deadline illegal.
- The Appellant does not explain how the regulatory regime of Article 23 FFAR would violate any of his personality rights under Article 28 of the SCC. The legality

of the FFAR in this regard has already been established in CAS 2023/O/9370, at paras. 469 & 471.

- For any and all of these reasons the appeal is to be denied and dismissed.

51. In its Answer, the Respondent requested the following relief:

- I. Primarily, FIFA requests the Tribunal to bifurcate these proceedings and to issue a Preliminary Award declaring this Appeal inadmissible;*
- II. In the alternative, FIFA requests the Tribunal to issue an Award declaring this Appeal inadmissible;*
- III. In the further alternative, FIFA requests the Tribunal to issue an Award rejecting any relief sought by the Appellant;*
- IV. In any event, FIFA requests the Tribunal to order the Appellant to bear the full costs of this arbitration and to pay a contribution to FIFA's legal costs."*

V. JURISDICTION

52. Article R47 of the CAS Code provides, *inter alia*, 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."

53. Pursuant to Article 57 of the FIFA Statutes:

- "1. 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.*
- 2. Recourse may only be made to CAS after all other internal channels have been exhausted."*

54. According to Article 57 of the FIFA Statutes, CAS is competent to hear and adjudicate appeals against final decisions passed by FIFA's legal bodies, which should be lodged with CAS within 21 days of receipt of the decision in question.

55. FIFA does not dispute that CAS has jurisdiction to hear appeals against final decisions of FIFA. However, as also clarified in FIFA's comment to the signed Order of Procedure returned by FIFA on 7 August 2024, *"this is without prejudice to FIFA's objection to the admissibility of this appeal"*.

56. FIFA's 20 February 2024 Letter issued by FIFA is not subject to any further legal remedy within FIFA and none is argued by the Parties. It is, therefore, final in the sense of Article 57 para. 1 of the FIFA Statutes and thus, can be subject to an appeal before

CAS, subject to the question of whether it constitutes a “*decision*” and to the timeliness and thus admissibility of the appeal.

57. The Parties have agreed to the jurisdiction of CAS in these proceedings, including by the execution of the Order of Procedure.
58. Therefore, CAS has jurisdiction to hear this appeal on the basis of CAS Code R47 and Article 57 of the FIFA Statutes. The admissibility issue shall be dealt with separately.

VI. PROCEDURAL ISSUES

59. The Panel shall examine in this section some preliminary issues of a procedural nature presented by the Parties.

A. Appellant’s Request to Submit Further Documents

60. On 23 September 2024, the Appellant submitted: (i) the Appellant’s Bundle; and (ii) FIFA’s communication sent on 23 September 2024 relating to communication channels with FIFA and ways to address “*technical assistance and guidance on the FIFA Agent Platform (FAP)*”.
61. These matters were considered at the outset of the hearing.
62. FIFA did not object to such submissions, but indicated the lack of relevancy of its email of 23 September 2024.
63. The Panel allowed the Appellant’s Bundle, noting that it is admitted on the assumption that it contains briefs, submissions, evidence and cases already submitted or cited and provided merely for ease of reference.
64. The Panel also allowed into evidence FIFA’s communication sent on 23 September 2024 relating to communication channels with FIFA in regard to the FIFA Agent Platform (FAP), noting that it was not earlier available as it was dated on 23 September 2024 and also noting its relation to this dispute. The Parties were invited to address its content and relevancy at the hearing.

B. Respondent’s Request to Bifurcate the Proceedings

65. FIFA requested to bifurcate the proceedings and to render a Preliminary Award declaring this appeal inadmissible, referring, for example, to CAS 2019/A/6294, at para. 64; TAS 2022/A/9178, at paras. 50 et seq.; TAS 2022/A/8907, at paras. 45 et seq.
66. FIFA argued that this appeal is hopeless from a legal perspective since it is inadmissible as it applies to FIFA’s 20 February 2024 Letter which is not a “*decision*”. FIFA, therefore, requested that the proceedings be bifurcated to deal with the issue of admissibility first and separately from the rest of the proceedings.

67. FIFA referred to the needed procedural economy in support of its position, indicating that it clearly warrants that this procedure is brought to a closure as soon as possible and without the need for any of the Parties or the CAS to incur any further costs (see, for example, CAS 2018/A/5933).
68. The Appellant argued against bifurcation, considering his position that this appeal is dealing with a FIFA decision which is ungrounded and prejudicial to the Appellant's right to freely exercise his profession and being contrary to the principles and regulations of international sports law, as well as to EU law and Swiss civil law.
69. The Appellant argued that the admissibility challenged by the Respondent is firmly linked to the merits of the case and the context in which FIFA's 20 February 2024 Letter was issued, which should be duly investigated by the Panel. The Appellant suggested that in this case it would be completely unreasonable to analyze the timeliness and the formality of the appeal without taking into consideration the type of decision issued by FIFA. The Appellant also suggested that dealing with all issues at once will not unnecessarily enlengthen these proceedings.
70. The CAS Code only deals with the question of whether or not a Panel can bifurcate the proceedings in order to decide the preliminary question of its jurisdiction. Thus, Article R55, paras. 4 & 5 of the CAS Code (similar language appears in regard to ordinary proceedings in Article R39, paras. 4 & 5 of the CAS Code):
- “The Panel shall rule on its own jurisdiction. It shall rule on its jurisdiction irrespective of any legal action already pending before a State court or another arbitral tribunal relating to the same object between the same parties, unless substantive grounds require a suspension of the proceedings.*
- When an objection to CAS jurisdiction is raised, the CAS Court Office or the Panel, if already constituted, shall invite the parties to file written submissions on the matter of CAS jurisdiction. The Panel may rule on its jurisdiction either in a preliminary decision or in an award on the merits.”*
71. The CAS Code does not contain any provision on whether or not a Panel may bifurcate the proceedings in order to decide on other preliminary issues.
72. Therefore, the question whether or not to bifurcate the proceedings in order to decide on a preliminary issue is, in principle, governed by Article 182 of the Swiss Private International Law Act (“PILA”).
73. The Panel is entitled, according to Article 182 (2) PILA, to apply the provisions and principles, either directly or by reference, of a law or rules of arbitration it deems fit.
74. The Panel in CAS 2023/O/10000 was inspired by Article 125 lit. a of the Swiss Code of Civil Procedure (“CCP”), according to which a court may “[i]n order to simplify the proceedings... limit the proceedings to individual issues or prayers for relief”. The Panel in that decision indicated that the power of the court is directly connected to Article 237 CCP according to which a court “may issue an interim decision” (KuKo-ZPO/WEBER,

3rd ed. 2021, Article 125 no. 3; see CAS 2019/A/6294, paras 63 et seq. and the references mentioned).

75. The Panel in CAS 2019/A/6294 at para. 63 indicated that “[w]hen exercising its discretion according to Article 125 lit. a CCP, a court will take into account whether limiting the procedure to certain preliminary questions allows for a (substantial) saving of time or costs (CPC-HALDY, 2011, Article 125 no. 5)”.
76. CAS jurisprudence thus confirms that it is possible to bifurcate proceedings for the issue of admissibility, and not only jurisdiction (see, CAS 2018/A/5933 para. 37; CAS 2019/A/6298 paras. 71 & 72; CAS 2021/A/8444 para. 78; CAS 2022/A/9243 para. 46; both of these last two cases citing “*obvious reasons of procedural economy*” as the reason to bifurcate the proceedings).
77. In this case all written submissions on the merits have already been filed shortly after the constitution of the Panel and prior to the Parties’ submissions on the issue of bifurcation. The Parties have thus already addressed in detail all issues relating to these proceedings in the Appeal Brief, the Answer and other filings. Holding a hearing addressing all issues at once will thus not be drastically shorter and more efficient than having a hearing only on the issue of admissibility. The Panel notes that no witnesses were presented, except for the Appellant himself.
78. The Panel also notes that even when lack of jurisdiction is argued, pursuant to Article R55, para 5 of the CAS Code, “[t]he Panel may rule on its jurisdiction either in a preliminary decision or in an award on the merits” and bifurcation of the proceedings is not mandated and can be decided by the Panel.
79. Therefore, in the unique circumstances of this case, procedural efficiency better supported holding one hearing in which to review all issues rather than risking numerous hearing and additional delays.
80. Therefore, the Panel decided not to bifurcate the proceedings and has dealt with all issues, including the issue of admissibility and the merits of the case at the same hearing.

VII. APPLICABLE LAW

81. Article R58 of the CAS Code provides as follows:

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

82. Article 56 of the FIFA Statutes provides as follows:

- “1. FIFA recognises the independent Court of Arbitration for Sport (CAS) with headquarters in Lausanne (Switzerland) to resolve disputes between FIFA, member associations, confederations, leagues, clubs, players, officials, football agents and match agents.*
- 2. 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.”*

83. The appeal is directed against FIFA’s 20 February 2024 Letter, which was issued under the FIFA Statutes and Regulations and in particular the FFAR. This is not disputed by the Parties.

84. Accordingly, consistent with Article R58 of the CAS Code, the Panel concludes that the FIFA Statutes and Regulations apply to the present proceedings and, in particular, the FFAR.

85. Since FIFA is domiciled in Switzerland, Swiss law applies subsidiarily under Article R58 of the CAS Code.

VIII. ADMISSIBILITY

86. Article R49 of the CAS Code provides as follows:

“In the absence of a time limit set in the statutes or regulations of the federation, association or sports-related body concerned, or in a previous agreement, the time limit for appeal shall be twenty-one days from the receipt of the decision appealed against. The Division President shall not initiate a procedure if the statement of appeal is, on its face, late and shall so notify the person who filed the document. When a procedure is initiated, a party may request the Division President or the President of the Panel, if a Panel has been already constituted, to terminate it if the statement of appeal is late. The Division President or the President of the Panel renders her/his decision after considering any submission made by the other parties. [...]”

87. Pursuant to Article 57 of the FIFA Statutes, an appeal to CAS should *“be lodged with CAS within 21 days of receipt of the decision in question.”*

88. The Statement of Appeal was filed on 12 March 2023, within the deadline of 21 days of FIFA’s 20 February 2024 Letter set by Article 57 of the FIFA Statutes, but outside of the 21-day periods of both FIFA’s 1 November 2023 Letter and FIFA’s 17 January 2024 Letter.

89. For clarity, it is noted that the Appeal Brief was filed in accordance with Article R51 of the CAS Code and that the appeal complied with all other requirements of Article R48

of the CAS Code, including the payment of the CAS Court Office fee. Similarly, the Answer was timely filed.

90. The question of admissibility of this appeal is closely connected to the characterization of any or all of FIFA's 20 February 2024 Letter, FIFA's 1 November 2023 Letter and FIFA's 17 January 2024 Letter as "*decisions*".
91. The Appellant argues that FIFA's 20 February 2024 Letter has a legal effect on him and is thus a decision which may be challenged on appeal before CAS. FIFA, on the other hand, argues that FIFA's 20 February 2024 Letter is not a "*decision*" but merely a communication which reiterates points that had all been notified, decided and communicated previously to the Appellant by FIFA, in FIFA's 1 November 2023 Letter and FIFA's 17 January 2024 Letter.
92. Stated differently, if all matters legally affecting the Appellant have already been decided and communicated by FIFA to the Appellant in FIFA's 1 November 2023 Letter and FIFA's 17 January 2024 Letter, then the appeal is untimely as it was filed well beyond the 21-day deadline per Article 57 of the FIFA Statutes from the respective dates of these letters which preceded FIFA's 20 February 2024 Letter. If, on the other hand, FIFA's 20 February 2024 Letter decides and communicates for the first time all or some of the matters legally affecting the Appellant, and if all other needed elements rendering such communication a decision do exist, then the appeal filed on 12 March 2024 within 21 days of FIFA's 20 February 2024 Letter is admissible.
93. Pursuant to Article R47 of the CAS Code and to Article 57 of the FIFA Statutes appeals are possible only against "*decisions*". However, FIFA's Statutes and any other FIFA applicable regulations do not provide a definition of the term "*decision*".
94. CAS jurisprudence is clear that the form of the communication has no relevance to determine whether there exists a decision or not.
95. In CAS 2015/A/4162 it was held at para. 49 as follows:

"The Panel, firstly, refers to the CAS case-law (CAS 2005/A/899, confirmed in CAS 2007/A/1251) according to which "the form of the communication has no relevance ... [for the determination] 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 constitutes a decision subject to appeal".
96. In this decision at para. 50 the panel indicated that "[w]hether or not a letter qualifies as a "*decision*" depends on its contents. This is undisputed in CAS jurisprudence." (see also, CAS 2015/A/4162 para. 53; CAS 2008/A/1633 para. 31; CAS 2007/A/1251 para. 4; CAS 2005/A/899 para. 14; CAS 2004/A/748 para. 90).
97. In CAS 2007/A/1251 at para. 11, it was stated that "*by inviting Aris FC to turn to a different authority, FIFA was making it clear that it deemed there was no other recourse for Aris FC within FIFA, i.e. that its decision on lack of jurisdiction was final*". Similarly, in the present proceedings, FIFA's 17 January 2024 Letter invited the

Appellant to turn to the “*exam path*”, thereby making it clear that the “*legacy path*” had expired and cannot be reopened.

98. The term “*decision*” must be interpreted in a broad manner so as not to restrain the relief available to the persons affected by it (see, CAS 2020/A/7590 & 7591 para. 71; CAS 2005/A/899 paras. 12 and 14; CAS 2004/A/748 paras. 13 to 18).

99. CAS 2015/A/4162 went on to conclude at para. 52 as follows:

“The decisive criteria, thus, is whether or not the act in question impacts upon the legal situation of the Appellant. If that is the case (independent of what the intentions of the relevant sports organisation were), there must be access to justice for the person concerned.”

100. CAS 2015/A/4203 at paras. 67 and 68 stated:

“67. At the same time, CAS panels have interpreted and attempted to define the term “decision” within the meaning of Article R47 of the Code on numerous occasions, as follows: - “A decision is thus a unilateral act, sent to one or more recipients and is intended to produce legal effects” (CAS 2004/A/659 para 36; CAS 2004/A/748, para 89); - “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. However, there can also be a decision where the body issues a ruling as to the admissibility or inadmissibility or a request, without addressing the merits of such request” (CAS 2008/A/1705, para 5.2.1; CAS 2005/A/899, para 61; CAS 2004/A/748, para 89).

68. Additionally, legal doctrine provides that 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” (BERNASCONI M., When is a „decision” an appealable decision?, in: RIGOZZI/BERNASCONI (eds.), The Proceedings before the CAS, Bern 2007, p. 273).”

101. CAS 2014/A/3744 & 3766 stated at para 191:

“Therefore, according to CAS jurisprudence, a decision is a communication of a federation, association or sports-related body that is not just of a mere informative nature but also contains, in substance, an actual ruling or resolution which affects in a binding manner the legal situation of the addressee. In other words, it is a communication that contains an animus decidendi, i.e. by its objective content (and irrespective of its form), it conveys to the addressee(s) the will of the sports body to decide on a matter.”

102. In CAS 2018/A/5746 at para. 139, the panel considered it important that FIFA’s “*conclusion is the result of a legal analysis and rejects Trabzonspor’s appeal for procedural reasons*”. Likewise, in the present case, a legal analysis was involved in FIFA’s 1 November 2023 Letter which indicated that the lack of the required FFF license did not allow the Appellant to proceed pursuant to the “*national law path*”. Similarly, FIFA’s 17 January 2024 Letter, which referenced lack of a valid registration attempt, in effect rejected the “*legacy path*” application on grounds of process and the lapse of the time limit for the “*legacy path*” application.
103. In CAS 2021/A/8322 at para. 86, the Sole Arbitrator considered it “*telling that FIFA, in its letters dated 23 July and 25 August 2021, consistently referred to its letter dated 4 May 2021 and did not give the Player any reason to believe that it was going to change its position*”. The same reasoning can be applied in the present proceedings as FIFA’s 20 February 2024 Letter did not indicate any ability or willingness of FIFA to reconsider its prior positions, which have been clarified in FIFA’s 1 November 2023 Letter in regard to the “*national law path*” and in FIFA’s 17 January 2024 Letter in regard to the “*legacy path*”.
104. The Panel agrees that communications made in the form of a letter may constitute a decision when they contain a ruling, whereby the body issuing the decision intends to affect or objectively affects the legal situation of the addressee or other parties. It is, therefore, an act of a body intended to produce or producing a legal effect upon the recipient or other bodies. 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 the matter. This differs from mere information which does not contain a ruling and may thus not be considered a decision (see, CAS 2004/A/748 para. 14; CAS 2005/A/899 para. 14; CAS 2008/A/1633 paras. 10 & 11; CAS 2012/A/2750 paras. 94 & 95; CAS 2015/A/4213 48 & 49; CAS 2018/A/5661 paras. 87-102; CAS 2018/A/5746 para. 135; CAS 2020/A/6912 para. 124; CAS 2021/A/8322 , para. 85-93; CAS 2022/A/9243 paras. 48 & 49).
105. The Panel needs to conclude whether FIFA’s 20 February 2024 Letter is a “*decision*” or a mere confirmation of decisions taken earlier and communicated in FIFA’s 1 November 2023 Letter and FIFA’s 17 January 2024 Letter.
106. FIFA’s 1 November 2023 Letter indicated, *inter alia*, that:
- “It seems that you have not submitted documentation which is relevant and/or sufficient for your licence application.*
- The reason for rejection of your application for the National Law Path with the French Football Federation is the following:*
- ‘Ne détient pas de licence d’agent sportif F.F.F. conformément à l’article L222-7 du code du sport.’ In case of questions, please reach out to the French Football Federation directly.”*

107. Therefore, FIFA’s 1 November 2023 Letter clearly communicated to the Appellant the “*rejection of your application for the National Law Path*” as well as the reasons thereof, being the non-submittal of sufficient or relevant documentation and not having the relevant license issued by the FFF.
108. In regard to the “*national law path*”, FIFA’s 20 February 2024 Letter does not make another ruling and does not even provide any clearer, more specific or more detailed determination or explanation. FIFA’s 20 February 2024 Letter merely reconfirms in this regard that “*however his application was rejected because he did not submitted documentation which was relevant and/or sufficient for his licence application (i.e. ‘Ne détient pas de licence d’agent sportif F.F.F. conformément à l’article L 222-7 du code du sport.’)*.” FIFA thus reconfirmed the rejection of the “*national law path*” application, providing the same reasons for the rejection taken earlier. Unlike CAS 2010/A/2315 at paras. 12-14, in this case there was no new evidence for FIFA to re-engage or re-visit its earlier decision embodied in FIFA’s 1 November 2023 Letter. FIFA has just double-checked what it had already done and provided information, reiterating its previously conveyed decision.
109. Therefore, if FIFA’s 20 February 2024 Letter constitutes an appealable “*decision*” in regard to the “*national law path*” license application as argued by the Appellant, then so does FIFA’s 1 November 2023 Letter as it has the same operational language in this regard. As such, it is FIFA’s 1 November 2023 Letter which had to be appealed in regard to the rejection of the “*national law path*” license application. The appeal filed in this case on 12 March 2024 was: (i) not filed against the appropriate original notification of FIFA’s decision in this regard contained in FIFA’s 1 November 2023 Letter; and (ii) filed well beyond the 21-day deadline as it applies to FIFA’s 1 November 2023 Letter. Therefore, the appeal in regard to the rejection of the “*national law path*” license application is inadmissible.
110. FIFA’s 17 January 2024 Letter states, *inter alia*, that:
- “Furthermore, we would like to remind you that the legacy application window closed last 30 September 2023 (and it was opened 9 January 2023), as indicated in our enclosure 2, in this regard we would like to stress that candidates, in general, are responsible for their application to become a FIFA football agent.”*
111. Therefore, FIFA’s 17 January 2024 Letter clearly communicated to the Appellant that “*the legacy application window closed last 30 September 2023*” and therefore any application filed beyond that timeframe is untimely and shall not be entertained.
112. In regard to the “*legacy path*”, FIFA’s 20 February 2024 Letter does not make another ruling and does not even provide any clearer, more specific or more detailed determination or explanation. FIFA’s 20 February 2024 Letter merely repeats in this regard that “[w]e would like to stress again that the legacy path window was closed 30 September 2023. In this regard, we would like to highlight once more that the legacy path opened 9th January 2023 and closed 30 September 2023”.

113. In regard to missing the application deadline for the “*legacy path*”, both FIFA’s 17 January 2024 Letter and FIFA’s 20 February 2024 Letter are informative and do not use words such as “*rejection*”, “*dismissal*” or “*failure*”. However, both are abundantly clear, since if an application window is closed it means that the application has failed. In any event, the similarity in the relevant language is such that if FIFA’s 17 January 2024 Letter is not a “*decision*” than neither is FIFA’s 20 February 2024 Letter.
114. Furthermore, there is no other document indicating the failure of the “*legacy path*” application and FIFA’s 20 February 2024 Letter merely repeats and informs again regarding a matter already addressed in full in FIFA’s 17 January 2024 Letter. FIFA even highlights this fact as it uses in FIFA’s 20 February 2024 Letter the words “[w]e would like to stress again”.
115. Therefore, if FIFA’s 20 February 2024 Letter constitutes an appealable “*decision*” in regard to the “*legacy path*” license application as argued by the Appellant, then so does FIFA’s 17 January 2024 Letter as it has the same operational language in this regard. As such, it is FIFA’s 17 January 2024 Letter which had to be appealed in regard to the rejection of the “*legacy path*” license application. The appeal filed in this case on 12 March 2024 was: (i) not filed in regard to the appropriate original notification of FIFA’s decision in this regard contained in FIFA’s 17 January 2024 Letter; and (ii) filed beyond any 21 days deadline as it applies to FIFA’s 17 January 2024 Letter. Therefore, the appeal in regard to the rejection of the “*legacy path*” license application is inadmissible.
116. The Appellant was bound by FIFA’s 1 November 2023 Letter in regard to the “*national law path*” application and by FIFA’s 17 January 2024 Letter in regard to the “*legacy path*” application and, accordingly, in case the Appellant disagreed with such decisions of FIFA or considered that such decisions constitute a substantive denial of justice, he should have filed an appeal with CAS against FIFA’s 1 November 2023 Letter and FIFA’s 17 January 2024 Letter within the respective applicable time-limits of 21 days from each letter.
117. It is not appropriate to artificially extend the applicable 21-day time-limit in which to file an appeal by repeating questions to FIFA, asking for more information or requesting reconsideration of FIFA’s position and to then seek to challenge one of FIFA’s confirmations of its original statements or decision (see CAS 2021/A/8322, para. 91; similarly, requests for reconsideration do not “*restart the clock*” and do not extend the time limit for an appeal, see CAS 2021/A/8444 para. 97). While there is no evidence that the Appellant was artificially trying to extend the 21-day deadline to appeal the previous FIFA decisions, the Panel is of the view that if it were to admit this appeal, it may be opening the door for future appellants to artificially extend deadlines.
118. The Panel does not consider that FIFA’s 20 February 2024 Letter and additional explanations provided to the Appellant should open the door to an appeal when all substantive wording in regard to missing the deadline for the “*legacy path*” only repeat information already provided in FIFA’s 17 January 2024 Letter.
119. It is also important to emphasise that if the Appellant were to be granted the right to appeal FIFA’s 20 February 2024 Letter, this could set a damaging precedent by

permitting the extension of deadlines at the discretion of appellants. The public interest concern of having a regulated procedure with time limits in which to appeal decisions is more than sufficient to justify the prevalence of the public interest over the Appellant's private interest in this particular case. The Panel must balance, on the one hand, the private interest of appellants in limiting the expenditure of time and costs in appealing decisions rather than seeking further clarifications, explanations or perhaps reconsideration of matters, and, on the other hand, the public interest in ensuring a clear regulated system and not allowing appellants to extend appeal deadlines by requesting further clarifications on decisions already rendered. In this balance, the Panel considers that the public interest must, in principle, prevail over the private interest, as the public interest in preventing the circumvention of mandatory deadlines (which have been repeatedly deemed not excessively formalistic by the Swiss Federal Tribunal, see 4A_254/2023, consid. 5.3; 4A_54/2019, consid. 4.2.2; 4A_238/2018, consid. 5.5; 4A_690/2016, consid. 4.2) outweighs the private interest in limiting expenditure of time and costs in appealing, perhaps even prematurely in some cases. This is certainly the case here, as, for the reasons previously explained, the Panel considers that FIFA's 1 November 2023 Letter and FIFA's 17 January 2024 Letter should objectively have been interpreted as decisions. Therefore, the risk of the Appellant filing a premature appeal was not concrete and in any event such alleged risk cannot be invoked to extend the mandatory deadlines to file an appeal before CAS.

120. Since FIFA's 20 February 2024 Letter is not a "*decision*" as its operative parts relating to the rejection of both the "*national law path*" and the "*legacy path*" merely repeat such decisions or information provided earlier, since the Appellant failed to appeal the original notifications in regard to such matters and since this appeal was filed well beyond the expiration of the respective 21-day deadlines in regard to FIFA's 1 November 2023 Letter and FIFA's 17 January 2024 Letter, this appeal is inadmissible.
121. In conclusion, the appeal is not admissible in all respects. For this reason, it has to be dismissed without an examination of its merits.

IX. MERITS

122. In light of the Panel's decision finding that the appeal is not admissible, there is no further discussion of other arguments and claims made by the Appellant.

X. COSTS

(...).

ON THESE GROUNDS

The Court of Arbitration for Sport rules that:

1. The appeal filed on 12 March 2024 by Mr Alejandro Gustavo Camaño Tolosa against a letter issued by The Fédération Internationale de Football Association (FIFA) on 20 February 2024 is inadmissible.
2. (...).
3. (...).
4. All other and further motions or prayers for relief are dismissed.

Seat of arbitration: Lausanne, Switzerland

Date: 22 January 2025

THE COURT OF ARBITRATION FOR SPORT

Ken Lalo
President of the Panel

Giulio Palermo
Arbitrator

José María Alonso Puig
Arbitrator