Arbitration CAS 2021/A/8543 Paris Saint-Germain Football v. Futbol Club Barcelona, award of 12 April 2023

Panel: Mr Manfred Nan (The Netherlands), President; Mr Mark Hovell (United Kingdom); Mr András Gurovits (Switzerland)

Football
Transfer
Notion of transfer within the meaning of article 21 of the FIFA RSTP
Solidarity mechanism and so-called "buy-out clauses"
De novo curing effect of CAS appeals
Buy-out clause amounts

1. **While the concept of solidarity contribution is governed by Article 21 and Annex 5 of the FIFA Regulations on the Status and Transfer of Players (RSTP), the notion of transfer is not defined in the FIFA RSTP. When determining what constitutes a transfer for the purpose of solidarity mechanism, the relevant elements are (i) the consent of the club of origin to the early termination of its contract with the player, (ii) the willingness and consent of the club of destiny to acquire the player's rights, (iii) the consent of the player to move from one club to the other, and (iv) the price or value of the transaction.**

2. **The question of whether the solidarity mechanism should apply to so-called "buy-out clauses" is extensively discussed in the FIFA Commentary (2021 edition), which provides that *"it would not appear justified to exclude such compensation from the solidarity mechanism. Indeed, not applying the solidarity mechanism to buy-out clauses would give clubs an easy way to torpedo efforts to foster solidarity within the football community. […]The DRC has consistently concluded that the solidarity contribution is due whenever a player moves between two clubs after triggering their buy-out clause".***

3. **Any potential default in the proceedings before the instance issuing the appealed decision, is cured in the appeal arbitration proceedings by CAS panels' *de novo* authority to review the facts and the law, in accordance with Article R57 CAS Code.**

4. **For a buy-out clause to be properly exercised, the agreed sum must be paid unconditionally, with no deductions of any kind. It must be regarded as implied in the regulations of the Spanish *Real Decreto* that the amount of indemnification to be paid to the old club in case of a player's unilateral termination of a contract under the *Real Decreto* is a "net" amount to be paid without any deduction.**

I. PARTIES

1. *Paris Saint-Germain Football* (the "Appellant" or "PSG") is a football club with its registered office in Paris, France. PSG is registered with the French Football Federation (*Fédération Française de Football* – "FFF"), which in turn is affiliated to the *Fédération Internationale de Football Association* ("FIFA").

2. *Futbol Club Barcelona* (the "Respondent" or "FC Barcelona") is a football club with its registered office in Barcelona, Spain. FC Barcelona is registered with the Royal Spanish Football Federation (*Real Federación Española de Fútbol* – "RFEF"), which in turn is also affiliated to FIFA.

3. FC Barcelona and PSG are hereinafter jointly referred to as the "Parties".

II. INTRODUCTION

4. These appeal arbitration proceedings concern the payment of solidarity contribution with respect to the […] professional football player X. (the "Player"). Against payment of an amount of EUR 222,000,000 to FC Barcelona, the Player exercised an exit right contained in the Player's employment contract with FC Barcelona (the "Employment Contract") and he was subsequently registered with PSG.

5. Following a claim filed by FC Barcelona, the FIFA Dispute Resolution Chamber (the "FIFA DRC") ruled (the "Appealed Decision") that this registration constituted a transfer in the sense of the FIFA Regulations on the Status and Transfer of Players (the "FIFA RSTP"), triggering the duty to pay solidarity contribution. The FIFA DRC further ruled that the amount of EUR 222,000,000 excluded solidarity contribution and that PSG was therefore required to pay an additional amount of EUR 2,215,326.32 to FC Barcelona.

6. PSG is challenging the Appealed Decision before the Court of Arbitration for Sport ("CAS"), arguing that no solidarity contribution is payable and, subsidiarily, that the solidarity contribution was already included in the sum of EUR 222,000,000, whereas FC Barcelona seeks a confirmation of the Appealed Decision.

III. FACTUAL BACKGROUND

7. Below is a summary of the main relevant facts and allegations based on the Parties' written and oral submissions. Additional facts and allegations may be set out, where relevant, in connection with the legal discussion that follows. Although the Panel has considered all the facts, allegations, legal arguments and evidence submitted by the Parties in the present proceedings, it refers in this arbitral award only to the submissions and evidence it considers necessary to explain its reasoning.

A. Background Facts

8. On 3 June 2013, the Player and FC Barcelona concluded a first employment contract, valid from 29 July 2013 until 30 June 2018.

9. On 1 July 2016, the Player and FC Barcelona concluded the Employment Contract, extending their employment relationship until 30 June 2021. Clause 8 of the Employment Contract refers to the Spanish Royal Decree *Real Decreto 1006/1985*, which regulates the special labour relationship of professional athletes in Spain (the "Royal Decree"), and provides as follows (in a translation provided by FC Barcelona that was explicitly accepted by PSG):

"8. Extinction of the [Employment Contract]

The extinction of the present [Employment Contract] will take effect by expiration of the duration convened. It may also be extinguished early by any cause foreseen in the applicable legislation at each moment and based on the causes foreseen in the present [Employment Contract].

The consequences of the extinction of the [Employment Contract], depending on the cause, will be the following:

A) Upon expiry of the agreed term: the PLAYER can freely decide his professional options, being able to sign a contract with another sports entity in accordance with article 18.3 of the FIFA REGULATIONS on the Status and Transfer of Players.

B) By mutual agreement between the Parties: Both parties can, at any time, agree on the early termination and its consequences.

C) By unilateral decision of the PLAYER to provide his services to another Club, Federation or sports entity.

International federative rules, as well as the communitarian and international usages and customs, prohibit that during the term of a contract, a player can terminate his contract, without just cause or sporting just cause, in order to provide his services to another club, Federation or sports entity in the temporal terms contained in its regulatory rules, such as the FIFA Regulations on the Status and Transfer of Players.

However, the [Royal Decree], in its article 16, gives the parties the right to agree to a compensation in case the PLAYER decides to unilaterally terminate the [Employment Contract], without just cause or sporting just cause. FIFA admits the application of the aforementioned [Royal Decree] given that it is a public order provision that cannot be superseded by private law regulations.

As a consequence, the PLAYER can terminate the present [Employment Contract] without being subject to any period of stability or compulsory term ("protected period" / "free period" in FIFA terminology), or eventual sanctions related to such terms, as long as the PLAYER indemnifies [FC Barcelona] in the amount and terms that are hereinafter established by mutual agreement of the parties.

This compensatory clause shall apply in any event of early termination without just cause (and, therefore, are excluded from its application, cases of corporate withdrawal, mutual agreement, just cause and sporting

just cause, in accordance with the provisions of the FIFA REGULATIONS on the Status and transfer of Players) before the natural termination of the [Employment Contract], including the appropriate disciplinary dismissal, and provided that the agreement with another Club is reached before the final expiry of his contract, had the [Employment Contract] been in force. For the purposes of calculating the sporting just cause in accordance with the provisions of the FIFA Regulations, in no case shall be taken into account for the computation of the matches played, those in which he could not be fielded due to injury, for personal reasons at the request of the player or because he is fulfilling his obligations with the national team.

By mutual agreement, the parties establish that, in case of this cause for termination, the compensation that the PLAYER, in accordance with art. 16 of the [Royal Decree] *shall pay in cash on the date of termination to* [FC Barcelona] *amounts to the sum of TWO HUNDRED MILLION EUROS (200.000.000.-€), until 30 June 2017, TWO HUNDRED TWENTY-TWO MILLION EUROS (222.000.000.-€), as from 1 July 2017 until 30 June 2018 and TWO HUNDRED FIFTY MILLION EUROS (250.000.000.-€) – if applicable – as from 1 July 2018 until the expiration, plus taxes, if any.*

The PLAYER cannot terminate the present [Employment Contract], nor does [FC Barcelona] authorize the transfer of his federative license, nor can the PLAYER be contracted by a club or sports entity of any level, if the compensatory payment agreed herein plus taxes, if any, has not been paid in full beforehand.

D) By decision of the PLAYER, to abandon his job as a professional athlete. If the PLAYER decides to stop being a professional athlete during the term of the [Employment Contract], he shall give at least two months' prior notice to the end of the current season.

In this case, he is not obliged to pay the compensation mentioned in the previous paragraph, but he shall compensate the CLUB with the reimbursement of the non-amortized costs of the CLUB according with objective criteria (proportional part of the transfer fee, and any other part that has been incurred in connection with the signing of the PLAYER, only counting the period of the first contract signed by the parties for the seasons 2013/14 to 2017/2018, except for what was received by the latter as salary)".

10. Article 16 of the Royal Decree provides as follows in a free translation provided by PSG that remained undisputed by FC Barcelona:

"Effects of the termination of the contract by the will of the athlete:

1. The termination of the contract by the will of the athlete, without fault of the club, shall entitle the club to a compensation which, in the absence of an agreement, shall be established by the labour jurisdiction […]".

11. On 3 August 2017, PSG deposited a bank cheque for EUR 222,000,000 at FC Barcelona's offices. The Player and FC Barcelona also signed a document entitled *"Acta De Entrega Del Importe Correspondiente A La Indemnización Por Rescisión Unilateral De Contrato"*, which can be freely translated as *"Certificate of Delivery of the Amount Corresponding to the Compensation for Unilateral*

Termination of the Contract" (the "Certificate"), which was uploaded in the FIFA Transfer Matching System ("FIFA TMS") by PSG. The Certificate provides, *inter alia*, as follows:

"THIRD. - ITC

In accordance with the stipulations of Clause 8 of the [Employment Contract], [FC Barcelona] will authorize the transfer of the Player's Federative License to PSG, provided that the issuing bank has cashed the cheque for the amount of 222.000.000 Euros (TWO HUNDRED TWENTY MILLION EUROS) and that the said amount is available in [FC Barcelona's] bank account" (free translation).

12. On the same date, 3 August 2017, the Player entered into an employment contract with PSG.

13. On 4 August 2017, FC Barcelona deposited the above-mentioned cheque for EUR 222,000,000 with its bank.

14. On 10 August 2017, the amount of EUR 222,000,000 was credited to FC Barcelona's bank account.

15. On 11 August 2017, the Player was registered with PSG.

16. According to PSG, on an unspecified date, it paid to the Brazilian football club Santos FC, a former club of the Player, an amount of EUR 8,599,018.82. No evidence is presented of such payment. While FC Barcelona does not contest that PSG transferred an amount of approximately EUR 9,000,000 to Santos FC, it does not accept PSG's contention that it paid the exact amount of EUR 8,599,018.82.

B. Proceedings before the FIFA DRC

17. On 2 September 2019, FC Barcelona filed a claim against PSG before the FIFA DRC, requesting payment of solidarity contribution in the amount of EUR 2,336,842.11, plus 5% interest *per annum* as from 11 September 2017 until the date of effective payment.

18. On 23 October 2019, PSG objected to FC Barcelona's claim and requested that it be dismissed.

19. On 6 May 2021, the FIFA DRC rendered a decision, the operative part of which was later modified.

20. On 16 December 2021, FIFA informed the Parties that an oversight occurred with respect to points 2 and 6 of the operative part of the decision. The modified operative part of the Appealed Decision provides as follows:

"1. The claim of [FC Barcelona] is partially accepted.

2. [PSG] shall pay to [FC Barcelona], within 30 days as from the date of notification of this decision, EUR 2,215,326.32 as solidarity contribution, plus 5% interest per annum as from 11 September 2017 until the date of effective payment.

3. Any further claims of [FC Barcelona] are rejected.

4. [FC Barcelona] shall immediately inform [PSG] of the bank account to which [PSG] must pay the due amount (including all applicable interest).

5. [PSG] shall provide evidence of full payment to [..]@fifa.org. If applicable, the evidence shall be translated into an official FIFA language (English, French, German, Spanish).

6. In the event that the aforementioned sum plus interest due to [FC Barcelona] in accordance with the above-mentioned number 2. is not paid within the stated time limit, the present matter shall be submitted, upon request, to FIFA's Disciplinary Committee for consideration and a formal decision.

7. The final costs of the proceedings in the amount of CHF 25,000 are to be paid as follows:

a. The amount of CHF 23,000 shall be paid by [PSG].

b. The amount of CHF 2,000 shall be paid by [FC Barcelona]. Considering that [FC Barcelona] already paid the amount of CHF 5,000 as advance of costs, no additional amount shall be paid by [FC Barcelona] as procedural costs. Should [FC Barcelona] not request the grounds of the decision, the advance of costs paid by [FC Barcelona] will be reimbursed.

c. The above costs shall be paid to FIFA with reference to case no. TMS 4698 (cf. note relating to the payment of the procedural costs below)" (emphasis omitted by the Panel).

21. Together with the aforementioned letter correcting the operative part of the Appealed Decision, FIFA provided the Parties with the grounds of the corrected operative part, providing, *inter alia*, as follows:

- With respect to PSG's argument that the claim was time-barred because it was only completed on 23 September 2019, the FIFA DRC held that *"[t]he claim was lodged on 2 September 2019, within the time limit of two years. As confirmed by the well-established jurisprudence of CAS, the fact that documentary evidence may have been submitted only later does not impact the interruption of prescription.*

- *In this context, in accordance with the aforementioned jurisprudence, the Chamber held that the claim was lodged within the two-year time limit, and therefore is admissible".*

- Furthermore, *"[t]he Chamber considered the question whether the execution of the buy-out clause pursuant to article 16 of the [Royal Decree] is a "transfer" for the purposes of the RSTP and therefore triggers the payment of solidarity contribution.*

- *In accordance with the well-established jurisprudence of the DRC and CAS, the move of a player is considered a "transfer" for the purposes of the RSTP if the following 4 requirements are met:*

  - *the club of origin gave its consent to the early termination of its contract with the player;*

  - *the club of destiny is willing to acquire the player's rights and gives its consent to it;*

- *the player agreed to move from one club to the other; and*
- *the price or the value of the transaction was set.*

- *[PSG] submitted that, in view of the particular nature of the [Royal Decree], it cannot be established that [FC Barcelona] consented to the move of the player to [PSG], failing the first requirement.*
- *It was observed that, on 3 August 2017, [FC Barcelona] signed [the Certificate], which states:*

  "In accordance with the stipulations of Clause 8 of the [Employment Contract], [FC Barcelona] will authorize the transfer of the [Player's ITC] to [PSG], provided that the issuing bank has cashed the cheque for the amount of 222.000.000 Euros [..] and that the said amount is available [in FC Barcelona's bank account]".
- *Taking into consideration all of the facts of the case, particularly that both parties acknowledged that the EUR 222,000,000 payment was successfully made, the Chamber held that [FC Barcelona] gave its consent to the unilateral termination of the contract by the player.*
- *It noted that all four elements of a "transfer" were met: […].*
- *Consequently, in accordance with the well-established jurisprudence of the DRC, the Chamber held that the activation of clause 8 of the [Employment Contract] by the player, bearing in mind that the transfer compensation was voluntarily borne by [PSG], is a "transfer" for the purposes of the RSTP.*
- *As such, the move of the player from [FC Barcelona] to [PSG] squarely falls within the meaning of article 21 of the RSTP and article 1 of Annexe 5 of the RSTP, which stipulate that "if a professional moves during the course of a contract, 5% of any compensation, not including training compensation paid to his former club, shall be deducted from the total amount of this compensation […]".*
- *As a result, the Chamber found that [PSG] should pay solidarity contribution to [FC Barcelona] in connection with the move of the player".*
- As to the question whether the compensation received by FC Barcelona was a net amount or a gross amount, the FIFA DRC, *"[r]eferring to its well-established jurisprudence, […] emphasised that in accordance with the provisions of article 21 of the RSTP and Annexe 5 of the RSTP, the solidarity mechanism is applicable to any compensation paid by the new club on the basis of a buy-out clause contained in the employment contract of a player with his former club.*
- *The Chamber referred to the jurisprudence of the DRC and CAS, which holds that the wording of the RSTP does not prohibit that the amount specified in a transfer agreement represents only 95% of the transfer value, as long as the solidarity contribution is still deducted from the gross transfer value and distributed in compliance with the RSTP. The DRC considered that the same applies, by analogy, to any amount specified in a buy-out clause.*
- *In this respect, keeping in mind the jurisprudence of CAS in this regard, the members of the DRC pointed out that it was undisputed during the proceedings that the player and [FC Barcelona] had expressly*

agreed that the amount payable to [FC Barcelona] in order for the player to be able to terminate the [Employment Contract] with reference to the rules of the [Royal Decree] was EUR 222,000,000. Furthermore, the Chamber found it undisputed that this termination could only be effected if the full amount of EUR 222,000,000 was paid by the player (and/or [PSG]) without any deduction. As a result, the Chamber highlighted that only payment of EUR 222,000,000 would trigger the buy-out clause and that the payment of EUR 222,000,000 minus 5% for solidarity contribution would not have resulted in the early termination of the [Employment Contract].

- *As such, the Chamber held that the transfer compensation of EUR 222,000,000 was indeed to be considered a net amount, representing 95% of the transfer compensation paid by [PSG] in connection with the move of the player from [FC Barcelona] to [PSG].*

- *Hence, 5% shall be added over the net amount of the buy-out fee, i.e. EUR 222,000,000, to obtain said fee inclusive of solidarity contribution.*

- *The Chamber found that the gross value of the transfer compensation was therefore EUR 233,684.211, with the amount for solidarity contribution comprising EUR 11,684,211".*

- Furthermore, *"[t]he Chamber held that there was no regulatory basis to consider the concept of the early completion of the player's training when deciding whether solidarity contribution was payable. As such, this request of [PSG] was rejected".*

- In addition, *"[t]he Chamber noted that Annexe 5 to the RSTP does not foresee the possibility to reduce the amount due to be paid by a new club as solidarity contribution for any reason. As such, also this request of [PSG] was rejected".*

- As to the amount of solidarity contribution to be paid by PSG to FC Barcelona, the FIFA DRC considered *"[i]t is undisputed that the player was registered with [FC Barcelona] from 8 August 2013 until 30 June 2015. As such, [FC Barcelona] is entitled to receive 18.96% of the total solidarity contribution, calculated on a pro rata basis as follows:*

  - *for 327 days of the season of the player's 22nd birthday (2013/2014). [FC Barcelona] is entitled to receive 8.96% of the due solidarity contribution of EUR 11,684,211; and*

  - *for 365 days of the season of the player's 23rd birthday (2014/2015). [FC Barcelona] is entitled to receive 10.00% of the due solidarity contribution of EUR 11,684,211.*

- *In view of the above, the Chamber held that [FC Barcelona] is entitled to receive solidarity contribution in the amount of EUR 2,215,326.32 (18.96% of the 5% solidarity contribution due over the total amount of EUR 233,684.211).*

- *Taking into account the request of [FC Barcelona] and the constant jurisprudence of the DRC, the Chamber ordered [PSG] to pay 5% interest p.a. as of the 31st day of the registration of the player with [PSG], i.e. as from 11 September 2017, until the date of effective payment".*

IV. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT

22. On 21 December 2021, PSG filed a Statement of Appeal with CAS in accordance with Articles R47 and R48 of the 2021 edition of the CAS Code of Sports-related Arbitration (the "CAS Code"), challenging the Appealed Decision. In its Statement of Appeal, PSG nominated Mr Mark Andrew Hovell, Solicitor in Manchester, United Kingdom, as arbitrator.

23. On 3 January 2022, FC Barcelona nominated Dr András Gurovits, Attorney-at-Law in Zurich, Switzerland, as arbitrator.

24. Also on 3 January 2022, FIFA informed the CAS Court Office that it renounced its right to request its possible intervention in the proceedings pursuant to Articles R52.2 and R41.3 CAS Code.

25. On 17 January 2022, PSG filed its Appeal Brief in accordance with Article R51 CAS Code.

26. On 17 February 2022, FC Barcelona filed its Answer in accordance with Article R55 CAS Code. In its Answer, FC Barcelona requested the Panel to order PSG to produce the following documentation:

> *"A copy of the document/s (whatever its form is/are) entered into between PSG and Santos containing the calculation basis and the payment terms pursuant to which PSG paid Santos +/- EUR 9,000,000, as reported by Santos' president".*

27. On 21 February 2021, the CAS Court Office informed the Parties that the President of the CAS Appeals Arbitration Division, pursuant to Article R54 CAS Code, had decided that the Panel appointed to decide the case was constituted as follows:

President:	Mr Manfred Nan, Attorney-at-Law in Arnhem, the Netherlands;
Arbitrators:	Mr Mark Andrew Hovell, Solicitor in Manchester, United Kingdom; Dr András Gurovits, Attorney-at-Law in Zurich, Switzerland.

28. On 28 February 2022, both Parties informed the CAS Court Office that they considered it necessary to hold a hearing in these proceedings.

29. On 7 March 2022, the CAS Court Office informed the Parties that Mr Dennis Koolaard, Attorney-at-Law in Arnhem, the Netherlands, had been appointed as *Ad hoc* Clerk.

30. On 14 March 2022, the CAS Court Office invited PSG to submit its comments with respect to FC Barcelona's request for production of documents.

31. On 17 March and 24 March 2022 respectively, PSG and FC Barcelona returned duly signed copies of the Order of Procedure to the CAS Court Office that was provided to them on 17 March 2022.

32. On 28 March 2022, PSG informed the CAS Court Office that *"[n]o document exists that contains the calculation basis or the payment terms pursuant to which PSG paid Santos"*. However, PSG indicated that, *"as regards the reported payment and in order to resolve [FC Barcelona's] disclosure request, we can confirm that PSG paid Santos EUR 8,599,018.82"*.

33. On 5 April 2022, upon being invited by the CAS Court Office to indicate whether its document production request was satisfied, FC Barcelona indicated that it did not consider its request for disclosure to be satisfied and requested the Panel to draw adverse inference from PSG's failure to produce the relevant documentation.

34. On 8 April 2022, the CAS Court Office informed the Parties as follows:

"On behalf of the Panel, who has taken good note of [FC Barcelona's] comments, I inform the Parties that they shall have further opportunity to discuss the issue at the hearing and the Panel will then consider the Parties' rival positions in this regard in the final Award.

However, the Panel wishes to indicate that, on a prima facie basis, it finds that [FC Barcelona] established that such documents are likely to exist.

Accordingly, insofar as applicable, in the sense of Article 9(6) of the 2020 IBA Rules on the Taking of Evidence in International Arbitration, [PSG] is hereby ordered to produce the documents requested by [FC Barcelona] ("A copy of the document/s (whatever its form is/are) entered into between PSG and Santos containing the calculation basis and the payment terms pursuant to which PSG paid Santos [EUR 8,599,018.82]") and/or explain why such documents do not exist despite a payment of EUR 8,599,018.82 being made.

Such documents and/or explanation shall be filed by 15 April 2022.

Subject to further submissions at the hearing, the Panel explicitly reserves the possibility to potentially draw adverse inferences from a failure of [PSG] to produce the documents requested" (emphasis omitted by the Panel).

35. On 19 April 2022, PSG reiterated that no documents exist that contain the calculation basis or the payment terms pursuant to which it paid Santos FC. In addition, PSG provided the following explanation:

"As to the explanation for the non-existence of such documents:

a. [PSG] can confirm that it made the relevant payment to Santos as a solidarity payment (as stated [in the Appeal Brief).

b. As with all such instances, the calculations would have been performed using a standard solidarity contribution spreadsheet. The 'answer' produced by the spreadsheet was then noted and utilised. A '[X.] version' of the spreadsheet was not saved, it not being [PSG's] practice to save a new version of the spreadsheet in relation to every transfer.

c. [PSG] can confirm that no particular payment terms were agreed with Santos. Instead, a bank transfer was made by [PSG] to Santos for the sum in question.

[PSG] respectfully notes that the decision of its representatives (in 2017) to make a payment to Santos as a solidarity payment is not determinative of (and, in fact, has no impact on) the question of whether [FC Barcelona] is entitled to a solidarity payment from [PSG]. [PSG] shall expand on the above at the hearing".

36. On 1 June 2022, a hearing was held in Lausanne, Switzerland. At the outset of the hearing, both Parties confirmed that they had no objection to the constitution and composition of the Panel.

37. In addition to the members of the Panel, Mr Giovanni Maria Fares, CAS Counsel, and Mr Dennis Koolaard, *Ad hoc* Clerk, the following persons attended the hearing:

a) For the Appellant:

1) Mr William Sternheimer, Counsel;

2) Mr Tom Seamer, Counsel;

3) Ms Imen Larabi, Counsel.

b) For the Respondent:

1) Mr Pere Lluís Mellado, Legal Director of FC Barcelona;

2) Mr Lucas Ferrer, Counsel;

3) Mr Luis Torres, Counsel.

38. No witnesses or experts were heard.

39. PSG and FC Barcelona were given full opportunity to present their cases, submit their arguments and answer the questions posed by the members of the Panel.

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

41. The Panel confirms that it carefully heard and took into account in its decision all of the submissions, evidence and arguments presented by PSG and FC Barcelona, even if they have not been specifically summarised or referred to in the present arbitral award.

V. SUBMISSIONS OF THE PARTIES AND REQUESTS FOR RELIEF

A. The Appellant

42. PSG's submissions, in essence, may be summarised as follows:

- Article 21 FIFA RSTP and Article 1 of Annex 5 FIFA RSTP make clear that a transfer is a necessary pre-condition before any claim for solidarity can be made. Furthermore,

the FIFA Commentary on the Regulations on the Status and Transfer of Players (the "FIFA Commentary") (2006 edition) specifies that in order to qualify as a "transfer" for the purposes of solidarity contribution, it must be the case that *"the player and the club mutually agree[d] to terminate the employment contract before its expiry date"*. This was correctly underlined in the Appealed Decision, but the FIFA DRC unfortunately erroneously considered that FC Barcelona consented to the early termination of the Employment Contract. Therefore, the Panel must – as a preliminary matter – determine whether a transfer within the meaning of Article 21 FIFA RSTP took place. If not, no solidarity contribution can be claimed.

- It is important to properly assess the legal nature of clause 8 of the Employment Contract. Clauses like clause 8 are generally characterised either as buy-out clauses or liquidated damages clauses. From a legal standpoint, those clauses are fundamentally different. While buy-out clauses grant one of the parties the right to terminate a contract, liquidated damages clauses simply foresee the amount of compensation that a party to a contract would receive in case its counterpart decides to unilaterally terminate the contract without just cause and against their will. The wording of the relevant clause is essential in order to establish whether it is a buy-out or a liquidated damages clause.

- From an analysis of clause 8, it is clear that it is to be characterised as a liquidated damages clause. In particular: (i) clause 8 identifies itself as a *"cláusula indemnizatoria"*, i.e. a compensation clause; (ii) it explicitly states that the amount provided is a compensation – namely damages – to be paid by the Player in case he decides to unilaterally terminate the contract without just cause pursuant to the FIFA RSTP; and (iii) it provides that it will become enforceable in case of an early termination of the Employment Contract without just cause.

- CAS has consistently catalogued clauses with similar wording as liquidated damages clauses. Consequently, it is clear that clause 8 of the Employment Contract is a liquidated damages clause which cannot generate solidarity payments. Indeed, the jurisprudence of the FIFA DRC and CAS dictates that compensation arising from a unilateral termination of a contract is not subject to the solidarity mechanism as its execution cannot be homologated to a transfer.

- Unfortunately, instead of assessing and replying to PSG's arguments in this regard, the FIFA DRC decided to solely base an alleged existence of consent by FC Barcelona on the Certificate.

- Clauses inserted in a contract pursuant to Article 16 of the Royal Decree are – just like the ones inserted further to Article 17 FIFA RSTP – liquidated damages clauses foreseeing the amount of compensation due to a club in case a player unilaterally terminates the contract. It follows that the exercise of clauses inserted in a contract pursuant to the Royal Decree also entail that there is no consent from the club of origin and, therefore, no transfer in the sense of the FIFA RSTP. Several Spanish Court

decisions have interpreted similar clauses in employment contracts as a unilateral termination by the player and not as a transfer.

- An objective third party would reasonably understand that clause 8, in view of its specific wording, is a liquidated damages clause. In any event, since it is beyond doubt that FC Barcelona drafted the Employment Contract, any ambiguity therein must be construed against it.

- The Certificate was not submitted by either of the Parties during the proceedings before the FIFA DRC, but it was a document uploaded on FIFA TMS by PSG as a *"proof of player's last contract end date and reason for termination"*, which is a mandatory document that must be uploaded on FIFA TMS by the new club in the context of acquiring a new player. While being disappointed that the FIFA DRC did not allow the Parties to comment on the Certificate, it is a private deed signed between a representative of the Player and the CEO of FC Barcelona, of which the main purpose was to underline the amount of compensation to be paid by the Player as a consequence of his unilateral termination of the Employment Contract. It can in no way be considered as consent from FC Barcelona to a transfer. The Certificate was made as a *fait accompli* once the Player had decided to leave FC Barcelona and enforce clause 8. FC Barcelona had to tolerate the early termination of the Employment Contract by the Player.

- In any event, the complete inaction of FC Barcelona before filing a claim with the FIFA DRC is a material factor to be considered by CAS in the determination of this matter. It can only reasonably be inferred that this inaction reflected FC Barcelona's own understanding that it was not entitled to any additional or separate payments. The claim was only filed when it was clear that the Player was not going to return to FC Barcelona at the end of the summer 2019 transfer window.

- If, contrary to PSG's position, CAS considers that there was a transfer within the meaning of the FIFA RSTP, the following alternative arguments apply.

FC Barcelona's conduct and its decision to lodge a claim amount to a violation of PSG's legitimate expectations

- In the two-year period between the Player's registration with PSG and the filing of the claim, FC Barcelona at no point ever indicated to PSG that it considered itself entitled to any additional payments in relation to the Player. FC Barcelona's conduct and its decision to lodge a claim amounts to a violation of PSG's legitimate expectations, so that FC Barcelona was barred from making any claim.

Any solidarity contribution was included in the payment of EUR 222,000,000

- The literal meaning of the Employment Contract leaves no doubt as to the intention of the parties to the Employment Contract. The compensation foreseen in clause 8 was net

only of taxes, namely, a charge by the government on the income of an individual, corporation or trust or the value of a state or gift.

- FC Barcelona's argument before the FIFA DRC that the phrase *"plus taxes, if any"* was intended to include FIFA's solidarity contribution is not supported by the clear wording of the clause, or any other evidence. As provided in CAS jurisprudence, had FC Barcelona intended, when drafting and including clause 8 to the Employment Contract for solidarity contribution to be paid on top and therefore that the amount of EUR 222,000,000 was net of any solidarity contribution, it should have expressly indicated so in the Employment Contract.

- PSG's payment to Santos FC for its contribution to the training of the Player does not contradict its position. Santos FC and FC Barcelona were not in the same position. FC Barcelona received EUR 222,000,000, which must be deemed to have included any solidarity contribution. Santos FC – on the other hand – was excluded from this payment.

FC Barcelona is not entitled to receive solidarity contribution as, by the time it registered the Player in 2013, he had already completed his training and education

- FC Barcelona is not entitled to receive solidarity contribution as, by the time it registered the Player in 2013, the latter had already completed his training and education.

- This reasoning is primarily applicable to training compensation, but, by analogy, the same principle should apply to solidarity contribution, as the FIFA DRC has sometimes done. Indeed, it could not have been the intention of the legislator to grant solidarity contribution to a club which has not participated in the training and education of a player. There can hardly be a clearer case where a player has completed his training before turning 23 years old than with respect to the Player.

FC Barcelona's conduct and its decision to lodge a claim amounts to an abuse of rights

- Solidarity contribution should have as its objective – always and without exception – to compensate a club for the costs incurred by it in the education and training of a young player. However, it is evident that FC Barcelona did not seek to be compensated for the education and training provided to the Player, as the Player had already completed his training and education. FC Barcelona is merely trying to unjustly enrich itself at the expense of PSG.

The correct calculation of the amount of solidarity contribution

- If the Panel determines that FC Barcelona was indeed entitled to receive solidarity contribution, *quod non*, the FIFA DRC wrongly based the Appealed Decision on the alleged gross-up of the amount of EUR 222,000,000, i.e. EUR 233,684,211. As has been explained above, such reasoning cannot be followed as clause 8 does not explicitly mention that the amount is net of solidarity contribution.

- As such, if any solidarity contribution is due to FC Barcelona it should be calculated on the amount actually paid, i.e. EUR 222,000,000. The Player was registered with FC Barcelona during the seasons of his 22nd and 23rd birthdays. Therefore, FC Barcelona would be hypothetically entitled to 18.96% of the 5% of that amount, amounting to EUR 2,104,560.

- Notwithstanding the above, the Panel is respectfully requested to further reduce that amount considering that, as it was argued above, it is beyond doubt that the training and education that FC Barcelona gave to the Player was – if any – marginal.

43. On this basis, PSG submits the following prayers for relief in its Appeal Brief:

"The Appellant respectfully requests the Panel to:

(a) Set aside the Decision; and

(b) Declare that the Respondent is not entitled to receive solidarity contribution from the Appellant;

Alternatively

(c) Considerably reduce the amount to be received by the Respondent as solidarity contribution on the basis of the training and education it actually gave to the Player (if any);

In any case

(d) Order the Respondent to:

(i) reimburse the Appellant's legal costs and other expenses pertaining to this appeal; and

(ii) bear any and all costs pertaining to the arbitration".

B. The Respondent

44. FC Barcelona's Answer, in essence, may be summarised as follows:

- It is undisputed between the Parties that, in order for FC Barcelona to be entitled to its share of solidarity contribution, the incorporation of the Player from FC Barcelona to PSG shall be embodied within the concept of "transfer" within the meaning of Article 21 FIFA RSTP and Article 1 of Annex 5 FIFA RSTP.

- PSG concludes that the Player's registration with it does not fall within the criteria to be considered as a "transfer" within the meaning of the provisions of the FIFA RSTP. The only way PSG has found to do that is by mischaracterizing clause 8(c) of the Employment Contract and pretending that such clause is there only to regulate the consequences of a breach of contract. The case law cited by PSG has very little to do with the case at stake, since all of the precedents deal with breaches of contract by a player or by a club, which is different. CAS jurisprudence has already established that

the categorization of the release clause is simply irrelevant and the only relevant discussion is whether the right exercised by the Player to terminate the Employment Contract early has had as a consequence a *"move / transfer"* in the sense of the FIFA RSTP.

- It is widely accepted by FIFA and CAS jurisprudence that a "transfer" of a player can also occur outside the scheme of a contract between the old and the new club. The regulations and jurisprudence propose a wider interpretation to cover every kind of move by a player, both in a contractual and non-contractual framework. PSG and the Player relied on clause 8(c) to avoid the risk of potential sporting consequences that would follow a termination of the Employment Contract without just cause, in accordance with Article 17 FIFA RSTP.

- PSG voluntarily made the unconditional and complete payment of a predetermined sum agreed in the Employment Contract by FC Barcelona and the Player in order for the latter to exercise his right to unilaterally terminate the Employment Contract early without further consequences; and FC Barcelona limited itself to releasing the Player without opposition when such sum was effectively paid, in line with the commitment reached with the Player beforehand. Therefore, PSG executed a buy-out clause. In other words, clause 8(c) conferred to the Player an option to freely terminate the Employment Contract before its term, in exchange for the payment of a predetermined amount. The Player did not breach the Employment Contract.

- In interpreting the concept of a "transfer" in the sense of the FIFA RSTP, also the *ratio legis* is to be taken into account, which is the solidarity between football clubs.

- While PSG relies on the FIFA Commentary (2006 edition), the FIFA Commentary (2021 edition) provides that *"[i]n its jurisprudence, the DRC has consistently concluded that the solidarity contribution is due whenever a player moves between two clubs after triggering their buy-out clause"*. This consistent application of the rules should be taken into account in interpreting the FIFA RSTP.

FC Barcelona's consent

- While PSG alleges that the consent of FC Barcelona to the early termination of its Employment Contract with the Player is missing, all elements required for a transfer are present. While PSG omits the jurisprudence which has an almost identical factual background to the present case – for obvious reasons –, instead it chooses to rely on the rather isolated and singular case CAS 2016/A/4585, but this case is clearly distinguishable from the present.

- FC Barcelona's consent existed as from the very moment it accepted to include clause 8(c) in the Employment Contract. From that moment, FC Barcelona was undoubtedly consenting to and admitting that the Player could leave the club to join another club upon FC Barcelona's receipt of a payment amounting to EUR 222,000,000 between 1 July 2017 until 30 June 2018. This view is confirmed in the FIFA Commentary (2021 edition): *"by including a buy-out clause in its employment contract with the player, the club had effectively given its*

consent in advance to release the player from his contractual obligations in return for the payment of the specified amount".

- Furthermore, FC Barcelona confirmed its consent to transfer the Player retrospectively in Article 3 of the Certificate. Far from being a mandatory document, this Certificate was a discretional and dispensable document signed by FC Barcelona and the Player to further confirm FC Barcelona's willingness to be bound by the Employment Contract and to release the Player if the conditions of the release clause were met.

- FC Barcelona reconfirmed its consent once the amount of EUR 222,000,000 was effectively credited in the bank account and it immediately transferred the ITC of the Player without any objection whatsoever. If FC Barcelona had not consented, not only would it have objected to the issuance of the Player's ITC, but it also would have filed a claim for breach of contract against PSG and the Player, requesting the imposition of sporting sanctions.

PSG's violation of the principle of venire contra factum proprium

- PSG's own acts and conduct show that it considered the registration of the Player as a transfer within the meaning of the FIFA RSTP. The French tax authorities considered that the Player's move must be treated as a transfer. Surely PSG did not hesitate to rely upon such qualification of the Player's incorporation with PSG as a transfer, since lacking such a qualification, PSG's payment of EUR 222,000,000 on behalf of the Player would have been a benefit in kind for the Player, subject to income tax and social security payments for the Player. PSG actively chose not to dispute the qualification of the Player's registration as a transfer against the French tax authority.

- In addition, PSG voluntarily paid Santos FC an amount of approximately EUR 9,000,000 in concept of solidarity contribution.

- PSG's vague explanations as to the concept of the payment to Santos FC are not only excuses to hide that PSG had already considered the Player's registration as a transfer, but they are actual confirmations that the payment to Santos FC is directly connected to FIFA's solidarity mechanism. This behaviour is simply unacceptable and is a direct violation of the principle of *venire contra factum proprium* recognized by Swiss law and CAS jurisprudence.

FC Barcelona's conduct

- As to PSG's first alternative argument, FC Barcelona has at no point in time renounced or waived its rights to receive or claim solidarity contribution. According to established jurisprudence, such waiver should be clear, unambiguous and explicit. There was no such waiver and silence can by no means be a waiver. As unmistakably established in Article 25(5) FIFA RSTP, FC Barcelona had a period of two years to claim solidarity

contribution. Within said time-period, it was entirely up to FC Barcelona to choose, at its sole discretion, when it would lodge its claim against PSG.

The solidarity contribution is not included in the amount referred to under clause 8(c) of the Employment Contract

- Both the FIFA DRC and CAS have systematically confirmed that, when it comes to applying the solidarity mechanism *vis-à-vis* buy-out clauses, the solidarity contribution should be paid by the player's new club on top of the amount stipulated in the buy-out clause; thus, such amount represents 95% of the transfer value, i.e. the net transfer value.

- For a buy-out clause to be properly exercised, the agreed sum shall be paid unconditionally and without deductions of any kind. The logic behind that reasoning is that only the payment of the predetermined amount in the relevant clause would trigger the termination of the player's employment, i.e. the payment of such amount minus the 5% of solidarity contribution would not result in a valid and lawful early termination of the player's employment contract.

- It shall be recalled that PSG, again as a clear indication of its interpretation of the transfer, has already paid Santos FC its share of solidarity contribution in an amount of approximately EUR 9,000,000. If one follows the line of reasoning whereby the amount stipulated in clause 8(c) represents 100% of the transfer value, it would – incongruously – mean that PSG, either (i) should have deducted the solidarity contribution corresponding to the training clubs of the Player and should have paid EUR 210,318,126 (EUR 222.000.000 minus 5% of the solidarity contribution), or (ii) should have sought the reimbursement from FC Barcelona for the solidarity contribution paid to Santos FC. This is also confirmed in the FIFA Commentary (2021 edition) (*"it would therefore run counter to the essence of such a clause if the amount due to be paid by the new club as a solidarity contribution were deducted from the amount stipulated in the buy-out clause"*) and CAS jurisprudence.

FC Barcelona's entitlement to its share of solidarity contribution

- The right to receive the full amount agreed as compensation for terminating the Employment Contract early under the Royal Decree and the right to receive solidarity contribution under the FIFA RSTP for contributing to the development of the Player, are two different and separate rights with which FC Barcelona was vested in this transaction, and thus FC Barcelona shall receive both the compensation of EUR 222,000,000 (which it already received) and the solidarity payment.

PSG confuses the solidarity mechanism with training compensation

- The solidarity mechanism's aim is *"to foster a level of solidarity between the members of the football community"*, whereas the training compensation's purpose is *"to reimburse the investment made by clubs in training and developing young players"*. This is, *inter alia*, why training compensation is paid only once, and solidarity is payable in connection with every international transfer.

- Unlike the provision on training compensation which foresees the possibility to argue that a player terminated his training before the season of his 21st birthday, the provisions on solidarity contribution do not foresee the possibility to reduce the percentage of solidarity contribution in case a player terminated his training before a certain age.

There is no abuse of rights

- PSG states that FC Barcelona should not be compensated for the education and training provided to the Player, since he had already completed his education and training. The solidarity mechanism, as clearly regulated by the FIFA RSTP and developed in the FIFA Commentary (2021 edition), does not foresee any exception or limitation, neither in terms of age, or number of transfers, nor whether the player might have completed his training or not.

- FC Barcelona is merely seeking to exercise its rights as unambiguously provided for in the FIFA RSTP, it is difficult to understand how the execution of such rules could amount to an abuse of rights, let alone to a manifest abuse of rights in accordance with Article 2 of the Swiss Civil Code (the "SCC").

The correct calculation of the solidarity contribution

- Finally, PSG disputes the calculation in the Appealed Decision and submits that it should not be made on top of the amount stipulated in clause 8(c) of the Employment Contract, but instead on the amount actually paid, i.e. EUR 222,000,000.

- It has been clearly, repeatedly, and unmistakably established by FIFA DRC and CAS jurisprudence that the amount foreseen in clause 8(c) is net of solidarity contribution, thus representing 95% of the transfer value of the Player.

- Finally, concerning PSG's request to reduce the amount of solidarity contribution as FC Barcelona's contribution to the training and education of the Player was allegedly marginal, this argument must be rejected, as PSG again tries to mistakenly apply "by analogy" provisions solely foreseen for training compensation.

45. On this basis, FC Barcelona submits the following prayers for relief in its Answer:

"In light of the foregoing, Futbol Club Barcelona respectfully requests that the Court of Arbitration for Sport to:

a. Dismiss the appeal filed by Paris Saint-Germain Football against the decision of the FIFA Dispute Resolution Chamber with ref. no. TMS 4698 of 6 May 2021 in its entirety and confirm such decision;

b. In any case, order Paris Saint-Germain Football to pay Futbol Club Barcelona a contribution for the legal costs incurred in the amount of CHF 20,000 and to pay the entire costs of the present CAS appeal proceedings".

IV. JURISDICTION

46. Article R47 CAS Code provides the following:

"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".

47. The jurisdiction of CAS, which is not disputed, derives from Article 57(1) FIFA Statutes (May 2021 edition), as it determines that *"[a]ppeals 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"*, and Article R47 CAS Code. The jurisdiction of CAS is not contested and is further confirmed by the Order of Procedure duly signed by the Parties.

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

VII. ADMISSIBILITY

49. The grounds of the Appealed Decision were communicated to the Parties on 16 December 2021. PSG filed its Statement of Appeal with CAS on 21 December 2021, i.e. within the time limit of 21 days set by Article 57(1) FIFA Statutes. The Statement of Appeal further complied with the other conditions set forth in Article R48 CAS Code, including the payment of the CAS Court Office fee.

50. The admissibility of the appeal is not disputed by FC Barcelona.

51. It follows that the appeal is admissible.

VIII. APPLICABLE LAW

52. Article R58 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".

53. Article 56(2) FIFA Statutes provides the following:

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

54. PSG maintains that the matter is governed by the FIFA RSTP (2016 edition).

55. FC Barcelona maintains that both the FIFA RSTP (2016 edition) and Swiss law are applicable.

56. The Panel finds that, pursuant to Articles R58 CAS Code and 56(2) FIFA Statutes, the regulations of FIFA are primarily applicable, in particular the FIFA RSTP (2016 edition) and, additionally, should the need arise to fill a possible gap in the various rules of FIFA, Swiss law.

IX. MERITS

A. The Main Issues

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

i. Does the Player's move from FC Barcelona to PSG qualify as a "transfer" in the sense of Article 21 and Annex 5 FIFA RSTP?

ii. If so, are there other arguments to conclude that no solidarity contribution is due?

iii. What are the consequences thereof?

i. Does the Player's move from FC Barcelona to PSG qualify as a "transfer" in the sense of Article 21 and Annex 5 FIFA RSTP?

58. Whereas FC Barcelona maintains that the Player's move from FC Barcelona to PSG following the execution of clause 8(c) of the Employment Contract amounts to a transfer in the sense of Article 21 and Annex 5 FIFA RSTP, PSG submits that it does not.

59. The Panel notes that a "transfer" is not a defined term in the FIFA RSTP and that the concept of "solidarity contribution" is governed by Article 21 and Annex 5 FIFA RSTP.

60. Article 21 FIFA RSTP provides as follows:

"If a professional is transferred before the expiry of his contract, any club that has contributed to his education and training shall receive a proportion of the compensation paid to his former club (solidarity contribution). The provisions concerning solidarity contributions are set out in Annexe 5 of these regulations".

61. Article 1 of Annex 5 FIFA RSTP provides as follows:

"If a professional moves during the course of a contract, 5% of any compensation, not including training compensation paid to his former club, shall be deducted from the total amount of this compensation and distributed by the new club as a solidarity contribution to the club(s) involved in his training and education over the years.

This solidarity contribution reflects the number of years (calculated pro rata if less than one year) he was registered with the relevant club(s) between the seasons of his 12th and 23rd birthdays […]*".*

62. The Panel observes that while Article 21 FIFA RSTP refers to a "transfer", Article 1 of Annex 5 FIFA RSTP refers to a "move".

63. The Panel agrees with CAS jurisprudence determining that there is no fundamental difference between the two terms and finds that the scope of the term "transfer" is certainly not wider than the term "move":

"The Panel notes (as already underlined in CAS 2010/A/2098) that in the world of professional football a "transfer" of a Player means in general terms a change of "registration" of a player or – to put it in another way – for a professional player it means a "change of employer". A Player, registered to play for a club, becomes eligible to play for a different club, or, when employed with a club, becomes an employee of another club. The FIFA rules, and chiefly the Regulations on the Status and Transfer of Players, in all their editions, are based on such a concept. In that regard, therefore, a "transfer" can be equated to a "movement" in the registration/employment relation" (CAS 2019/A/6525, para. 71 of the abstract published on the CAS website).

64. The Parties agree that the constituent elements of a "transfer" have been set forth in a CAS award that both consider to be authoritative:

"In the Panel's view, the elements identifying a transfer of a player between clubs for the purposes of the solidarity mechanism are (i) the consent of the club of origin to the early termination of its contract with the player, (ii) the willingness and consent of the club of destiny to acquire the player's rights, (iii) the consent of the player to move from one club to the other, and (iv) the price or value of the transaction" (CAS 2011/A/2356, para 74 of the abstract published on the CAS website).

65. The same criteria were also applied by the FIFA DRC in the Appealed Decision.

66. The debate between the Parties focusses on the first of the four constituent elements, i.e. whether or not FC Barcelona consented to the Player's move to PSG. Whereas PSG maintains that this was not the case, FC Barcelona maintains that it did.

67. Both Parties refer in their submissions to the FIFA Commentary (both the 2005 and the 2021 edition) in substantiating their cases.

68. The Panel notes that the question of whether the solidarity mechanism should apply to so-called "buy-out clauses" is extensively discussed in the FIFA Commentary (2021 edition):

"An interesting question is whether the solidarity mechanism should apply to so-called "buy-out" clauses. If a player's employment contract contains a clause according to which they are free to leave the club at any time in return for paying the club a predetermined amount of money, and if they choose to exercise this right, should solidarity payments be deducted from the sum paid by the player to buy out their contact?

The standard argument against applying the solidarity contribution to buy-out clauses is that a player buying themselves out of their contract is not being transferred internationally within the meaning of the provisions

governing the solidarity mechanism. Those making this argument often take the view that any compensation should be paid not by the club, but by the player exercising the clause.

On the other hand, it could also be argued that if a player leaves a club while still under contract, this implies that their buy-out clause will have to be met anyway for them to register with their new club. Moreover, in the majority of cases (though by no means always) it is actually the player's new club, and not the player, that pays the relevant sum to the former club on the player's behalf. Consequently, it would not appear justified to exclude such compensation from the solidarity mechanism. Indeed, not applying the solidarity mechanism to buy-out clauses would give clubs an easy way to torpedo efforts to foster solidarity within the football community.

In the eyes of the DRC, the second argument is the correct one. It would certainly appear to reflect the intention behind the provisions of the Regulations, and to safeguard the important principle underlying the solidarity mechanism. In its jurisprudence, the DRC has consistently concluded that the solidarity contribution is due whenever a player moves between two clubs after triggering their buy-out clause. Specifically, the sum stipulated in the buy-out clause is considered as an offer by the releasing club to release the player for transfer in return for the payment of the amount concerned. If the player or another club accepts this offer by unconditionally paying the amount stipulated and the player then transfers between clubs, this payment effectively constitutes a transfer fee, and solidarity payments should be deducted from the transfer compensation paid" (FIFA Commentary (2021 edition), p. 336).

a) Is clause 8(c) of the Employment Contract a "buy-out clause" or a "liquidated damages clause"?

69. However, before ruling on this question, the Panel is required to assess whether clause 8(c) of the Employment Contract is a so-called "buy-out clause" in the first place, because this is disputed by PSG. Indeed, PSG maintains that clause 8(c) of the Employment Contract is a so-called "liquidated damages clause" as opposed to a "buy-out clause". As to the difference, PSG maintains that *"[w]hile buy-out clauses grant one of the parties the right to terminate a contract, liquidated damages clauses simply foresee the amount of compensation that a party to a contract would receive in case its counterpart decides to unilaterally terminate the contract without just cause and against their will"*.

70. In interpreting clause 8(c) of the Employment Contract, the Panel is guided by Article 18 of the Swiss Code of Obligations (the "SCO"), which provides as follows:

"When assessing the form and terms of a contract, the true and common intention of the parties must be ascertained without dwelling on any inexact expressions or designations they may have used either in error or by way of disguising the true nature of the agreement".

71. The first paragraph of clause 8 provides that *"[The Employment Contract]* ***may*** *also be extinguished early by any cause foreseen in the applicable legislation at each moment and based on the causes foreseen in the present [Employment Contract]"* (emphasis added by the Panel). In this respect, the Panel considers the reference to *"may"* important, as *"may"* suggests that the Player has a right or option to terminate the Employment Contract early under the conditions set forth in clause 8(c).

72. The Panel finds that this conclusion is further supported by the references to *"right"*, *"can"* and the *"mutual agreement of the parties"* in clause 8(c):

*"[T]he [Royal Decree], in its article 16, gives the parties the **right** to agree to a compensation in case the PLAYER decides to unilaterally terminate the [Employment Contract], without just cause or sporting just cause". (emphasis added by the Panel)*

*"[T]he PLAYER **can** terminate the present [Employment Contract] without being subject to any period of stability or compulsory term ("protected period" / "free period" in FIFA terminology), or eventual sanctions related to such terms, as long as the PLAYER indemnifies [FC Barcelona] in the amount and terms that are hereinafter established by **mutual agreement of the parties**"* (emphasis added by the Panel).

73. The Panel finds that these references support the proposition that clause 8(c) provided the Player with a right or discretion to terminate the Employment Contract early as long as he would comply with the requirement of paying the buy-out fee of EUR 222,000,000, rather than determining in advance the consequences of a breach of contract by the Player.

74. The Panel finds that the self-qualification of clause 8(c) as a *"cláusula indemnizatoria"* (translated as *"compensatory clause"*) cannot be automatically assimilated to the payment of compensation for breach of contract or damages, as opposed to a mutually agreed compensation for the early termination of the Employment Contract akin to the payment of a transfer fee, noting that, legally speaking, a transfer fee is an amount of compensation paid for which a club is prepared to terminate an employment contact with a player early by mutual agreement.

75. The Panel finds that the majority of the CAS jurisprudence relied upon by PSG in terms of qualifying clause 8(c) as a liquidated damages clause is not relevant, because the jurisprudence cited (CAS 2017/A/5056, CAS 2016/A/4826, CAS 2016/A/4605, CAS 2016/A/4550 and CAS 2015/A/3999-4000) concerns employment-related disputes that do not concern the application of the solidarity mechanism. Indeed, the Panel finds that it cannot be excluded that a clause like clause 8(c) may have a certain relevance in quantifying FC Barcelona's damages in case the Player had breached the Employment Contract through other means than based on clause 8(c). However, the Panel finds that in the context of a dispute concerning the solidarity mechanism, clause 8(c) is to be qualified as a "buy-out clause".

76. PSG's reference to CAS 2013/A/3411 is more relevant, in particular the following statement:

"Article 8.1 refers to 'damages' caused by the Player's 'cancellation of the Contract': the expression 'damages' is inconsistent with a 'buy-out clause', since any payment to be made by the Player would not be 'damages', but the consideration for the exercise of a contractual right" (CAS 2013/A/3411, para. 86(ii) of the abstract published on the CAS website).

77. However, the Panel finds that the situation in CAS 2013/A/3411 is to be distinguished from the situation in the matter at hand, because clause 8(c) of the Employment Contract does not refer to damages or *"daños"*, but to compensation.

78. Also PSG's reference to CAS 2016/A/4585 bears a certain relevance. The relevant contractual clause in such matter provided as follows:

"Article X: Termination by the Club or the Player

3. If the Player terminates the Contract and such termination is not due to a just cause or mutual agreement between the Parties concerned or the Player breaches the Contract and such breach leads to termination or the right to terminate the Contract, then the Club shall be entitled to receive from the Player a compensation for an amount equal to 20 million Euros" (CAS 2016/A/4585, para. 73).

79. The panel in CAS 2016/A/4585 reasoned as follows:

"[…] Under Swiss law, in order to constitute a valid offer, there must be specified content according to which the offeror declares to be willing to be bound by contract subject to the acceptance of the addressee. Here, the clause appears prima facie to impose a penalty on the Player for non-consensual termination or breach, regardless of the circumstances that may or may not exist concerning another club's interest in hiring him.

In order to consider article X.3 as granting consent to a transaction for EUR 20,000,000, there must be some other indication that Al-Sadd was willing to part with the Player for this amount. Otherwise, this clause appears to constitute a contractual penalty aimed at ensuring the Player's obligations under and for the term of the contract. […]

In addition, it also appears that Al-Sadd, from its letter to Lazio dated 3 May 2009, in which it expresses its dismay at the departure of the Player and its intent to pursue inter alia additional financial compensation before FIFA, that it did not intend for its consent to such a "transfer" to be given in advance. […]

This Panel therefore finds, with the benefit of the presence of the parties before it in these proceedings, that element (i) of the test in CAS 2011/A/2356, namely the consent of the club of origin, is not met" (CAS 2016/A/4585, paras. 75, 76, 78 and 80).

80. The Panel finds that the main difference between the situation in CAS 2016/A/4585 and the matter at hand lies in the fact that clause 8(c) of the Employment Contract provides that FC Barcelona was required to release the Player's International Transfer Certificate (the "ITC") in case the buy-out fee of EUR 222,000,000 would be paid and that no sporting sanctions could be imposed on the Player. The Panel finds that, different from the situation in CAS 2016/A/4585, this indeed constitutes an offer. The relevant clause in CAS 2016/A/4585 also refers to a breach, which is not a term used in clause 8(c) of the Employment Contract. Finally, the conduct of FC Barcelona after the execution of clause 8(c) demonstrates its consent, or at least its non-objection, which was not the case in CAS 2016/A/4585.

81. PSG also relied on CAS 2015/A/4188 and maintained that the CAS panel in such case held, in an *obiter dictum*, that had it been included in the scope of the appeal whether the move of the player between the clubs concerned constituted a transfer, which it did not consider to be the case, it would have concluded that the execution of a clause pursuant to the Royal Decree did not constitute a transfer within the meaning of the FIFA RSTP.

82. The reality however is that the CAS panel in CAS 2015/A/4188 looked at the position of the former club (i.e. a position similar to that of Santos FC in the matter at hand) and determined that solidarity contribution had to be paid, because there had been a transfer. The *obiter dictum* concerned the transferring club's (i.e. a position similar to that of FC Barcelona in the matter at hand) failure to claim solidarity contribution. While there is certainly an element in CAS 2015/A/4188 that is in favour of PSG's case, the Panel is not convinced that this should result in a conclusion that the Player was not transferred between FC Barcelona and PSG, not least because the CAS panel in CAS 2015/A/4188 made such interpretation only in an *obiter dictum* in a factual scenario that can clearly be distinguished from the situation in the matter at hand.

83. The Panel finds that, by consenting to eliminate the possibility of sporting sanctions being imposed on the Player in case of invoking clause 8(c), FC Barcelona emphasised the consensual nature of clause 8(c). Had the Parties intended for clause 8(c) to be a liquidated damages clause, the elimination of the possibility of imposing sporting sanctions would have been illogical, as it would remove an important deterrent for the Player to terminate the Employment Contract early.

84. The Panel took note of PSG's reliance on the following statement in the FIFA Commentary (2021 edition):

"Any compensation clause that states that termination without just cause by the employee (i.e. the player) before the expiry date of the contract will render the employee liable to pay a set amount in damages will likely be a liquidated damages clause" (FIFA Commentary (2021 edition), p. 142).

85. The Panel does not disagree with this statement, but finds that clause 8(c) of the Employment provides the Player with a right to terminate the Employment Contract prematurely by paying an amount of EUR 222,000,000, rather than describing the consequences of a breach of contract by the Player. Indeed, clause 8(c) does not refer to *"damages"*.

86. PSG also relies on CAS 2010/A/2098. The relevant clause in question provides as follows:

"To the effect of [the Royal Decree], in the case of unilateral breach ante tempus of this present contract, or its possible extensions, by the player before the expiry of the agreement, as well as for the purpose of indemnification for this same matter in case that the parties submit the matter to the arbitration bodies of FIFA or UEFA, the Player should indemnify Sevilla FC with the sum of EUR 14,000,000, if the rescission occurs before the 15th of February 2009, and EUR 10,000,000 if it occurs afterwards" (English translation provided by the Appellant)" (CAS 2010/A/2098, p. 4 of the abstract published on the CAS website).

87. PSG relies on the following citation from the arbitral award in CAS 2010/A/2098:

"[…] The right of the Player to put an end to the Employment Agreement, and the corresponding obligation to pay an indemnity, was based on the law (the [Royal Decree]) and not on the Employment Agreement itself, whose limited purpose was to define, in the Indemnification Clause, the measure of the indemnity due under the law. In other words, the Player's release from the Employment Agreement was not effected by Sevilla, but by

operation of the law. Sevilla did not consent to the early termination of the Employment Agreement: it was obliged to "tolerate" it, as imposed by the law. Sevilla, actually, stipulated in the Indemnification Clause the amount to be paid by the Player in the event of exercise of the statutory right of termination. But the claim for such payment would have existed irrespective of the Indemnification Clause and cannot be regarded to refer to a consideration for the grant of a (termination) right to the Player" (CAS 2010/A/2098, para. 36 of the abstract published on the CAS website).

88. While the reasoning of CAS 2010/A/2098 may at first sight appear to be favourable to PSG, the Panel finds it important that the relevant section in CAS 2010/A/2098 refers to a *"unilateral breach ante tempus"*, which terminology is not used in clause 8(c) of the Employment Contract. The Panel finds that the terminology of clause 8(c) is more consensual and establishes the preconditions under which the Player can exercise a right, rather than determining the consequences in case of a breach of contract.

89. Furthermore, the Panel finds that clause 8(c) of the Employment Contract does not only describe the amount to be paid, but goes further than what was required by the Royal Decree, as clause 8(c) also provides that no sporting sanctions are to be imposed on the Player in case of exercising the buy-out clause and that FC Barcelona is required to issue the Player's ITC. The Panel finds that in particular the latter aspect indicates that FC Barcelona voluntarily consented in advance to release the Player if the relevant buy-out fee of EUR 222,000,000 would be paid.

90. Accordingly, the Panel finds that clause 8(c) is to be qualified as a *"buy-out clause"* as opposed to a *"liquidated damages clause"*.

b) Does the solidarity mechanism apply to clause 8(c) of the Employment Contract?

91. Turning then to the discussion of whether the solidarity mechanism should apply to so-called *"buy-out clauses"*, the Panel agrees with the considerations of FIFA in the FIFA Commentary (2021 edition) as set forth above. Indeed, the Panel finds that a predetermined buy-out fee set forth in a buy-out clause is not materially different from a negotiated transfer fee for the purposes of the solidarity mechanism. The buy-out fee is to be considered as an offer that remains valid throughout the term of the employment contract.

92. Besides the above interpretation of the wording of clause 8(c), the Panel finds that the specific circumstances of this case make it particularly clear that the Player's move from FC Barcelona to PSG was consensual.

93. It is not disputed that it was PSG (as opposed to the Player personally) funding the EUR 222,000,000 required to satisfy clause 8(c) of the Employment Contract. Had the Player funded the amount of EUR 222,000,000, the conclusions of the Panel may well have been different.

94. FC Barcelona at no point in time objected to the compliance with clause 8(c). Besides agreeing in advance to release the Player in exchange for a buy-out fee of EUR 222,000,000, FC Barcelona also voluntarily issued the Certificate, providing, *inter alia*, that *"[i]n accordance with the stipulations of Clause 8 of the [Employment Contract], [FC Barcelona] will authorize the transfer of the Player's*

Federative License to PSG, provided that the issuing bank has cashed the cheque for the amount of 222.000.000 Euros (TWO HUNDRED TWENTY MILLION EUROS) and that the said amount is available in [FC Barcelona's] bank account" (free translation) and indeed released the Player's ITC, through the RFEF, upon receipt of such sum.

95. The Panel does not consider it relevant that apparently neither of the Parties relied on the Certificate in the proceedings before the FIFA DRC, but that the FIFA DRC nonetheless relied on such document in the reasoning of its Appealed Decision without asking the Parties to comment on it. While it may have been opportune for the FIFA DRC to seek for the Parties' comments in this respect, the Parties were afforded full opportunity by the Panel to make any submissions they wished to make with respect to the Certificate in the present proceedings before CAS. Accordingly, any potential default in this respect in the proceedings before the FIFA DRC, is cured in the present appeal arbitration proceedings by the Panel's *de novo* authority to review the facts and the law, in accordance with Article R57 CAS Code.

96. As to PSG's argument that the Certificate was issued as a *fait accompli* once the Player had decided to leave FC Barcelona and enforce clause 8(c) and that FC Barcelona had to tolerate the early termination of the Employment Contract by the Player, the Panel finds that this was precisely because FC Barcelona had beforehand offered to release the Player for the sum of EUR 222,000,000, which offer was accepted by the Player and PSG, following which FC Barcelona did not consider itself to be in a position to object and chose to issue the Player's ITC. Had FC Barcelona objected, this may have been an important indication that it did not agree with the Player's move to PSG, but FC Barcelona did not object and released the Player's ITC.

97. Accordingly, the Panel finds that the solidarity mechanism applies to the Player's move from FC Barcelona to PSG and the buy-out fee of EUR 222,000,000.

98. In the view of the Panel, this conclusion is further strengthened by the fact that it remained undisputed by PSG that, for tax purposes, it considered the incorporation of the Player in exchange for a payment of EUR 222,000,000 as a transfer, as opposed to a benefit in kind for the Player. PSG indicated in its Appeal Brief that *"it came to the Appellant's attention that the French tax authorities considered that sequences of events similar to that which resulted in the Player joining the Appellant were to be treated as a transfer"*. FC Barcelona relied on this specific statement of PSG in its Answer by arguing that PSG *"actively chose not to dispute the qualification of the Player's registration as a transfer"* (emphasis omitted by the Panel).

99. Finally, and regardless of the exact amount transferred by PSG to Santos FC, the Panel finds that PSG's acknowledgement that it paid an amount of EUR 8,599,018.82 to Santos FC undermines PSG's contention that the solidarity mechanism is not applicable to the Player's move to PSG and the buy-out fee of EUR 222,000,000. PSG's contention that it voluntarily paid Santos FC an amount of approximately EUR 8,600,000 without being obliged to do so lacks credibility.

100. Consequently, the Panel finds that the Player's move from FC Barcelona to PSG qualifies as a "transfer" in the sense of Article 21 and Annex 5 FIFA RSTP and that the solidarity mechanism is applicable to clause 8(c) of the Employment Contract.

ii. If so, are there other valid arguments to conclude that no solidarity contribution is due from PSG to FC Barcelona?

a) FC Barcelona's alleged violation of PSG's legitimate expectations

101. As to PSG's argument that FC Barcelona's conduct and its decision to lodge a claim amount to a violation of PSG's legitimate expectations, because FC Barcelona at no point in time during the two-year period until filing its claim with the FIFA DRC indicated that it considered itself entitled to any additional payment from PSG with respect to the Player, the Panel finds that this argument must be dismissed.

102. The Panel notes that the statute of limitation for filing a claim concerning solidarity contribution is two years and that it is not in dispute between the Parties that FC Barcelona complied with such time limit.

103. While the Panel finds that it may have been appropriate for FC Barcelona to contact PSG concerning its alleged entitlement to solidarity contribution before lodging a claim with the FIFA DRC, but not doing so is no legal predicament barring FC Barcelona from filing such claim within the relevant two-year period.

104. In any event, the Panel notes that, pursuant to Article 2(2) of Annex 5 FIFA RSTP, *"[i]t is the responsibility of the new club to calculate the amount of the solidarity contribution and to distribute it in accordance with the player's career history as provided in the player passport"* and, thus, not for FC Barcelona to claim solidarity contribution.

105. PSG failed to prove that FC Barcelona at any point in time waived its right to claim solidarity contribution from PSG or made PSG legitimately believe that no such claim would be filed. PSG's understanding that FC Barcelona would not file such claim because the two-year statute of limitation almost expired cannot be assimilated to a waiver or a violation of the principle of *venire contra factum proprium* or PSG's legitimate understanding.

106. Indeed, the Panel finds that if one of the Parties acted contradictory, it was PSG, as it relied upon the qualification of "transfer" for tax purposes and "voluntarily" paid an amount of approximately EUR 8,600,000 to Santos FC that roughly equates the amount due as solidarity contribution, but still maintains in the present proceedings that the Player's move to PSG was no transfer and that the solidarity mechanism is not applicable.

b) The alleged inclusion of the solidarity contribution in the buy-out fee of EUR 222,000,000

107. As to PSG's argument that no solidarity contribution is due because the amount of solidarity contribution due was already included in the amount of EUR 222,000,000, the Panel finds that this argument is to be dismissed too.

108. The Panel considers it obvious that clause 8(c) of the Employment Contract would only be triggered if FC Barcelona would receive an amount of EUR 222,000,000 without any reduction or mitigation, not if it would have received an amount of EUR 210,900,000 (EUR

222,000,000 – 5%) or would be required to pay back a certain part of the amount of EUR 222,000,000 to PSG. Accordingly, the Panel finds that 5% solidarity contribution is payable on top of the amount of EUR 222,000,000.

109. In this respect, clause 8(c) specifically provides as follows:

"The PLAYER cannot terminate the present [Employment Contract], nor does [FC Barcelona] authorize the transfer of his federative license, nor can the PLAYER be contracted by a club or sports entity of any level, ***if the compensatory payment agreed herein plus taxes, if any, has not been paid in full beforehand****"* (emphasis added by the Panel).

110. The Panel feels comforted in this respect by CAS jurisprudence:

"The Panel finds it must be regarded as implied in the regulations of the [Royal Decree] that the amount of indemnification to be paid to the old club in case of a player's unilateral termination of a contract under the [Royal Decree] is a "net" amount to be paid without any deduction" (CAS 2015/A/4188, para. 8.32).

111. The same view is supported by the FIFA Commentary (2021 edition):

"A last consideration is whether the solidarity contribution should be paid by the player's new club on top of the amount stipulated in the buy-out clause. Both the DRC and CAS have previously confirmed that it should be. This is also in line with the existing jurisprudence on contractual clauses included in transfer agreements, according to which the new club has to pay both the entire stipulated transfer fee and the solidarity contribution on top of it. For a buy-out clause to be properly exercised, the agreed sum must be paid unconditionally, with no deductions of any kind. It would therefore run counter to the essence of such a clause if the amount due to be paid by the new club as a solidarity contribution were deducted from the amount stipulated in the buy-out clause" (FIFA Commentary (2021 edition), p. 338).

c) The Player's alleged early completion of training

112. The Panel also finds that PSG's argument that no solidarity contribution is payable because the Player had already completed his training by the time of his move from FC Barcelona to PSG is to be dismissed.

113. The completion of training may be a relevant consideration with respect to the concept of training compensation, but it can play no role in the context of solidarity contribution. This is because the two concepts have different rationales. The concept of training compensation is there to reimburse training clubs for their expenses incurred in contributing to the development of a professional football player. However, the concept of solidarity contribution is there to *"foster a level of solidarity between the members of the football community"*. Both systems operate differently.

114. More relevantly, while Article 1 of Annex 4 FIFA RSTP expressly foresees that an exception to the general rule concerning training compensation is warranted if *"it is evident that a player has already terminated his training period before the age of 21"*, no such exception is foreseen in the context of solidarity contribution.

115. Furthermore, the total amount of solidarity contribution to be paid is always 5% of the total transfer fee, regardless of the club category or the time spent at a certain club. If PSG's argument that the Player's training finished before his 23rd birthday was upheld in the context of solidarity contribution, this would either mean that a percentage less than 5% would be payable, which would contravene the concept of solidarity and can therefore not be accepted, or it would mean that the clubs that contributed to the player's training until the completion thereof (before his 23rd birthday) would receive a larger share of the 5% solidarity contribution. In the matter at hand, the latter would entail that FC Barcelona would receive less or no solidarity contribution, while Santos FC would receive the amount FC Barcelona would otherwise have been entitled to. Besides the fact that PSG's reasoning lacks a regulatory basis, there is also no benefit for PSG as the total amount of solidarity contribution payable would remain the same. The entity benefitting from such outcome would be Santos FC to the detriment of FC Barcelona, but Santos FC is not a party to the present dispute and does not appear to have ever invoked such argument.

d) FC Barcelona's alleged abuse of rights

116. Finally, the Panel also finds that PSG's argument that the Appealed Decision is to be set aside because FC Barcelona allegedly acted in bad faith and sought to abuse a right is to be dismissed.

117. PSG maintains that FC Barcelona sought to unjustly enrich itself by claiming solidarity contribution, while it did not contribute to the training and education of the Player and because of FC Barcelona's inaction between September 2017 and September 2019.

118. The Panel finds that PSG's arguments have already been dismissed *supra*. However, for the avoidance of doubt, the Panel finds that PSG has not established that FC Barcelona abused any right or acted in bad faith.

e) Conclusion

119. Consequently, the Panel finds that there are no valid arguments to conclude that no solidarity contribution is due from PSG to FC Barcelona.

iii. What are the consequences thereof?

120. Having determined that Article 21 and Annex 5 FIFA RSTP apply to the Player's move from FC Barcelona to PSG and that there are no valid arguments to conclude that no solidarity contribution is due from PSG to FC Barcelona, the next question to be addressed is what amount of solidarity contribution is to be paid by PSG to FC Barcelona.

121. The Panel already dismissed PSG's argument that the solidarity contribution was included in the amount of EUR 222,000,000. Rather, the amount of EUR 222,000,000 is only 95% of the total transfer or buy-out fee.

122. PSG's argument that it paid an amount of EUR 8,599,018.82 to Santos FC, which it maintains is consistent with considering the buy-out fee of EUR 222,000,000 as the entire transfer fee, as opposed to only 95% (in which case it should have paid EUR 9,008,526.32 to Santos FC) does not make this any different, as PSG failed to prove that it indeed paid an amount of EUR 8,599,018.82 to Santos FC.

123. The Panel also considers it inconsistent that the solidarity contribution due to Santos FC was not included in the buy-out fee of EUR 222,000,000, but that the solidarity contribution due to FC Barcelona allegedly was.

124. Furthermore, the Panel finds that the mere fact that Santos FC may have been satisfied with a smaller amount than it would have been entitled to under the relevant regulatory framework does not bar FC Barcelona from claiming the full amount of solidarity contribution it is entitled to.

125. The total transfer or buy-out fee is therefore EUR 233,684,211 (222,000,000 / 95 x 100), with the consequence that the total amount of solidarity contribution amounts to EUR 11,684,211 (EUR 233,684,211 – EUR 222,000,000), which is the same calculation applied by the FIFA DRC in the Appealed Decision.

126. The FIFA DRC subsequently reasoned as follows in the Appealed Decision:

"It is undisputed that the player was registered with [FC Barcelona] from 8 August 2013 until 30 June 2015. As such, [FC Barcelona] is entitled to receive 18.96% of the total solidarity contribution, calculated on a pro rata basis as follows:

- *for 327 days of the season of the player's 22nd birthday (2013/2014). [FC Barcelona] is entitled to receive 8.96% of the due solidarity contribution of EUR 11,684,211; and*

- *for 365 days of the season of the player's 23rd birthday (2014/2015). [FC Barcelona] is entitled to receive 10.00% of the due solidarity contribution of EUR 11,684,211.*

In view of the above, the Chamber held that [FC Barcelona] is entitled to receive solidarity contribution in the amount of EUR 2,215,326.32 (18.96% of the 5% solidarity contribution due over the total amount of EUR 233,684.211)".

127. PSG did not invoke any specific argument to contest the afore-cited part of the Appealed Decision and the Panel has no reason to doubt the accuracy thereof.

128. The date as from which interest was awarded by the FIFA DRC over this amount (11 September 2017) and the interest rate applied (5%) equally remained unchallenged.

129. Consequently, the Panel finds that FC Barcelona is entitled to receive solidarity contribution from PSG in the amount of EUR 2,215,326.32, plus interest at a rate of 5% *per annum* as from 11 September 2017 until the effective date of payment.

B. Conclusion

130. Based on the foregoing, the Panel finds that:

i. The Player's move from FC Barcelona to PSG qualifies as a "transfer" in the sense of Article 21 and Annex 5 FIFA RSTP.

ii. There are no other arguments to conclude that no solidarity contribution is due from PSG to FC Barcelona.

iii. FC Barcelona is entitled to receive solidarity contribution from PSG in the amount of EUR 2,215,326.32, plus interest at a rate of 5% *per annum* as from 11 September 2017 until the effective date of payment.

iv. PSG's appeal is dismissed and the Appealed Decision is confirmed.

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

ON THESE GROUNDS

The Court of Arbitration for Sport rules that:

1. The appeal filed on 21 December 2021 by Paris Saint-Germain Football against the decision issued on 6 May 2021 by the FIFA Dispute Resolution Chamber, as corrected by letter dated 16 December 2021, is dismissed.

2. The decision issued on 6 May 2021 by the FIFA Dispute Resolution Chamber, as corrected by letter dated 16 December 2021, is confirmed.

3. (…).

4. (…).

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