



Arbitration CAS 2022/A/8844 Olea Sports Capital LLC v. Football Union of Russia (FUR) & JSC Professional Football Club CSKA (Moscow), award of 7 September 2023

Panel: Mr Lars Hilliger (Denmark), President; Mr Wouter Lambrecht (Belgium); The Hon. Michael Beloff KC (United Kingdom)

Football

Contractual dispute - Intermediaries

Interpretation of international sports federations regulations

No principle of binding precedent at CAS

1. It is generally accepted that rules and regulations of international sports federations are subject to the methods of interpretation applicable to statutory provisions rather than contracts. The interpretation of the statutes and rules of a sport association has to be rather objective and always to start with the wording of the rules, which falls to be interpreted. The adjudicating body will have to consider the meaning of the rule, looking at the language used, and the appropriate grammar and syntax. In its search, the adjudicating body will have further to identify the intentions (objectively construed) of the association which drafted the rule.
2. There is no principle of binding precedent (*stare decisis*) at the CAS, thus leaving it to every CAS panel to make its own decision in every case, albeit by virtue of the same freedom, such panel may wish to take note of previous CAS awards in order to sustain a consistent and predictable jurisprudence.

I. PARTIES

1. Olea Sports Capital LLC (the “Appellant” or “Olea”) is a limited liability company with its registered offices in Moscow, Russia. Olea provides intermediary services to football clubs and players. Olea is registered as an intermediary with the Football Union of Russia (“FUR”).
2. The FUR is the national football association of Russia, which is affiliated with the Fédération Internationale de Football Association (“FIFA”). FUR did not actively participate in these proceedings.
3. JSC Professional Football Club CSKA (the “Second Respondent”, the “Club” or “CSKA”) is a Russian professional football club based in Moscow, Russia, and affiliated with the FUR. CSKA competes in the Russian Premier League, i.e. the top-tier league in Russia in the sporting season 2023/2024.

4. Olea and CSKA are collectively referred to as the “Parties”.

II. FACTUAL BACKGROUND

A. Background Facts

5. Below is a summary of the relevant facts and allegations as established by the Panel on the basis of the decision rendered by the Committee on the Status of Players of the Football Union of Russia (the “FUR PSC”) on 3 March 2022 (the “Appealed Decision”), the written and oral submissions of the Parties and evidence adduced. Additional facts and allegations found in the written submissions, pleadings and evidence may be set out, where relevant, in connection with the legal discussion that follows. While the Panel has considered all the facts, allegations, legal arguments and evidence submitted by the Parties in the present proceedings, the Panel refers in this Award only to the submissions and evidence it considers necessary to explain its reasoning.
6. On 19 June 2019, the professional football player Mr N. (the “Player”) was transferred on a permanent basis from Football Club Everton to CSKA, and the Player entered into an employment contract with CSKA valid until the end of the season 2023/2024 (the “Employment Contract”).
7. The Employment Contract contained a buy-out clause in the amount of EUR 35,000,000.
8. The Player’s stay with CSKA was very successful, and the Player became a highly valuable part of the team, thus attracting interest from several professional clubs outside Russia, which were interested in the potential transfer of the Player.
9. In the summer of 2021, the Club was approached by Olea regarding a possible transfer of the Player to the English Premier League (the “Premier League”), and on 7 July 2021 following a meeting between the Parties, Olea forwarded a draft representation service contract, which stated, *inter alia*, that “*The Club undertakes to pay to the Intermediary a Remuneration in the amount equal to 10% (ten per cent) of the total gross transfer amount proposed and accepted by the Club as a result of a Services’ provision by the Intermediary under the Contract*”.
10. The Parties never signed this draft, but on the same date the Club signed an authorisation (the “Mandate”) valid until 18 July 2021, authorising Olea “*to negotiate on behalf of [the Club] possible transfer of [the Player] to all clubs in Premier League (England) on agreed terms and agreed commission*”.
11. According to Olea, from that moment it provided the agreed intermediary services to the Club, *inter alia* via its authorised intermediary in the United Kingdom (UK), Mr Des Voeux. However, according to the Club, it never received any offers from any Premier League clubs during the term of the Mandate.
12. Nevertheless, on 10 August 2021, and since the Club was still interested in transferring the Player to a Premier League club, according to the Club, it proposed to Olea that it could bring

an offer from a Premier League club that would secure the Club at least EUR 25,000,000, on which basis the Club would then mandate Olea to negotiate with the said club.

13. The Club further stated that *“Your remuneration will be 5% from the transfer value, if the transfer value will be minimum EUR 26.5 mln clean. The club should receive minimum 25 mln. The higher the transfer value, the more will be your commission”*.
14. Olea submits that it accepted this offer, and the Parties thus essentially extended the terms of the Mandate – with some minor amendments – until 31 August 2021. Any such alleged agreement (the “New Mandate”) was negotiated between the Parties by exchange of messages, mainly via WhatsApp.
15. On 11 August 2021, according to the Club, it received a first offer (the “First Offer”) directly by email from the Premier League club West Ham United Football Club (“West Ham”), but the terms of the offer were not acceptable to the Club. On the following day, CSKA replied by making a counteroffer in the amount of EUR 30,000,000 plus some additional conditional payments which was rejected by West Ham later the same day.
16. On 17 August 2021, and without any further reaction from West Ham, Olea forwarded a new offer (the “Second Offer”) from West Ham to the Club, to which the Club replied that it might consider a transfer of the Player upon payment of EUR 30,000,000 plus some additional conditional payments as it had previously informed West Ham already on 12 August 2021.
17. The Second Offer was received by Mr Des Voeux on behalf of Olea, from West Ham and the Parties agree that the counteroffer to this Second Offer was prepared in collaboration between the Parties and forwarded to West Ham by Mr Des Voeux.
18. Olea submits that it attempted to have the Parties’ alleged agreement under the New Mandate integrated into a more formal document dated 17 August 2021 (the “Formalised Mandate”). However, it is common ground that the Club never signed the Formalised Mandate.
19. The Formalised Mandate stated, *inter alia*, as follows:

“4.1 The Club undertakes to pay to the Intermediary a Remuneration in the amount to a minimum of 5% (five per cent) of the total gross transfer amount proposed and accepted by the Club as a result of a Services’ provision by the Intermediary under the Contract”.
20. On 18 August 2021 according to Olea, the Parties met to discuss the possible transfer of the Player to West Ham, and also discussed and agreed on Olea’s remuneration if the transfer was to be completed. According to Olea, the Parties further agreed that the Club would not communicate directly with West Ham. Moreover, and also according to Olea, the Club was informed about discussions with the Premier League club Wolverhampton Wanderers F.C. (“Wolverhampton”), which, allegedly, was also interested in the Player. Notably, between 18 and 30 August 2023, a WhatsApp conversation took place between Mr Babaev and Mr Meratabene regarding a possible transfer of the Player.

21. On 24 August 2021, the Club received a new offer directly from West Ham (the “Third Offer”), which was still not acceptable to the Club. The Club informed Olea about the receipt of this offer.
22. On 30 August 2021, after negotiations conducted between the two clubs, and final agreement on the transfer conditions, the Club, West Ham and the Player signed a Player Transfer Agreement (the “Transfer Agreement”), according to which the Club was to receive as a guaranteed Transfer Compensation Fee the amount of EUR 26,666,667, as well as several Contingent Transfer Compensations Fees.
23. The Parties are not in agreement about what role Olea played in these final negotiations, if any.
24. On 30 August 2021, Olea again forwarded to the Club by WhatsApp the *Formalised Mandate*, and also sent a hard copy of the same agency agreement signed by Olea via letter, which according to the Club, was only received on 7 September 2021. Olea further informed the Club, *inter alia*, that (i) the offers from West Ham were received thanks to Olea, (ii) Olea was expecting to be paid the agreed remuneration and (iii) Olea must be mentioned as the intermediary acting on behalf of the Club in the FIFA TMS and in the Transfer Agreement. The Club apparently never responded to this letter.
25. On 31 August 2021, the transfer was made public on the Club’s website.
26. On 1 September 2021, Olea forwarded to CSKA a “pre-trial notification” pursuant to Article 45(2) of the FUR Regulations on Dispute Resolution (the “FUR DR”), requesting payment of the agreed remuneration and offering settlement negotiations. Apparently, CSKA never responded to this notification.

III. PROCEEDINGS BEFORE THE FUR

27. On 16 September 2021, Olea filed a claim with the FUR Commission on Working with Intermediaries (the “FUR Intermediary Commission”), requesting, *inter alia*, the registration of the Formalised Mandate.
28. On 23 September 2021, the FUR Intermediary Commission rejected such request, holding that CSKA never accepted the offer that was forwarded to it by Olea, as a result of which the Formalised Mandate was never concluded between the two parties.
29. On 4 October 2021, Olea appealed the decision of the FUR Intermediary Commission before the FUR Appeal Committee.
30. On 14 October 2021, the FUR Appeal Committee dismissed said appeal, holding that it had not been proven that the Formalised Mandate had been entered into by the Parties.
31. On 4 December 2021, the motivated version of the FUR Appeals Committee decision was forwarded to CSKA and Olea. By virtue of the applicable regulations, as set out in this Award, the decision was appealable to the CAS. It is common ground that this option was not exercised.

32. On 9 December 2021, Olea filed a claim against CSKA before the FUR Chamber on Dispute Resolution (the “FUR DRC”), requesting the FUR DRC to acknowledge as effective the New Mandate and the Formalised Mandate as well as the services rendered by Olea to the Club in connection with the Player’s transfer, and hold that therefore the Club was obliged to pay the allegedly agreed remuneration to Olea.
33. On 20 January 2022, the FUR DRC rejected Olea’s claim in particular – on the grounds that the FUR DRC lacked jurisdiction pursuant to Article 49 (2) (a) of the FUR Regulations on Dispute Resolution (“FUR DR”) as the Formalised Mandate had not been registered by the FUR Intermediary Commission (“the Ruling”).
34. On 11 February 2022, the Parties received the motivated version of the Ruling of the FUR DRC.
35. On 15 February 2022, Olea filed an appeal against the decision of the FUR DRC before the FUR PSC, requesting the FUR PSC to overturn the ruling, and to examine and decide Olea’s claim on its merits.
36. On 28 February 2022, the Club submitted to the FUR PSC its motion to reject Olea’s appeal.
37. On 2 March 2022, Olea filed its objections to the said motion.
38. In its submissions to the FUR PSC, Olea submitted, *inter alia*, that the FUR DRC had incorrectly determined its (lack of) competence and the (lack of) competence of the FUR Appeal Committee, and that the proceedings should not have been terminated pursuant to Article 49 (2) (a) of the FUR DR.
39. According to Olea, the FUR Intermediary Commission was authorised, *inter alia*, to supervise matters relating to intermediaries’ activity and to register contracts with intermediaries, so that negotiations should have been held with the Club with a view to implementing the signing of the agreement concluded between Olea and the Club.
40. Olea also submitted that in accordance with the jurisprudence of the CAS, the Formalised Mandate was validly concluded in fact and in law between the two parties, since the two parties had agreed on/accepted all essential terms, and, pursuant thereto, Olea rendered the agreed services, which resulted in the Player’s transfer to West Ham.
41. Olea contended that the systematic interpretation of the applicable regulations should be guided by the general provision of the FUR Charter, which does not have any provision for non-recognition or non-resolution of non-registered contracts with intermediaries and the termination of the proceedings denies access to justice for Olea.
42. Based, *inter alia*, on the above, Olea requested the cancellation of the ruling of the FUR DRC and also requested the FUR PSC to consider and deliver a decision on the merits of Olea’s claim.

43. The Club, for its part, rejected the contentions of Olea, submitting, *inter alia*, that the FUR Regulations of Working with Intermediaries (the “FUR RWI”), which govern the activity of intermediaries, establishes, *inter alia*, the procedures for concluding a contract with an intermediary, the form and the content of such contract and (critically) the obligation to have such a contract registered with the FUR.
44. The Club further argued that pursuant to the FUR RWI, a contract with an intermediary must be concluded in written form in no less than three original copies, which the FUR Intermediary Commission in its decision of 23 September 2021 had already found was not the case with regard to the alleged agreement between the Club and Olea. Therefore, this decision was correctly upheld by the FUR Appeal Committee on 14 October 2021.
45. Since Olea failed to appeal the FUR Appeal Committee’s decision to the CAS in accordance with the applicable appeal procedure, it had therefore become final and binding, as correctly confirmed by the FUR DRC in its decision.
46. The reasoning of the FUR PSC in reaching the Appealed decision can be summarized as follows:
 - *Pursuant to Article 11 par. 6 of the FUR RWI, contracts with intermediaries which have not been registered within the deadline set forth in the same regulations will not be recognised by the FUR and, in particular, disputes under such contracts will not be considered under the procedures established by Article 18 of the FUR DR.*
 - *As such, the disputes arising out of Olea’s claim are not within the competence of the FUR Chamber in accordance with Article 18 of the FUR DR, and consequently, the said chamber legitimately terminated the proceedings dealing with this dispute between the Club and Olea since this dispute would not be considered and resolved by the FUR Chamber on the basis of Article 49 par. 2(a) of the FUR DR.*
 - *The FUR Committee initially noted that in accordance with Article 2 par. 1 of the FUR DR, the FUR Chamber is a judicial body which, in accordance with the FUR Charter, conducts compulsory pre-trial settlement (resolution) of disputes between, *inter alia*, football clubs and other football entities in accordance with the FUR RSTP and also imposes sports sanctions for violation of the applicable regulations. The Committee further noted that in accordance with Article 3 of the FUR DR, *inter alia*, football clubs and other football entities have a right to file a claim with the FUR Chamber and with the FUR Committee in accordance with the FUR DR and the FUR RSTP. The Committee finally noted that Olea is to be considered as an intermediary in accordance with the FUR RWI and that Olea is duly registered with the FUR as such.*
 - *Pursuant to subparagraph “o” of Article 18 par. 1 of the FUR DR, the FUR Chamber examines and dissolves disputes on breach of contracts with intermediaries. However, the dispute arising from Olea’s request for recognition of the alleged contract between the Club and Olea is not related to the FUR Chamber’s competence as set out in the said provision.*
 - *The FUR RWI, which regulate the activities of the intermediaries, also establish the procedure for conclusion of contracts with intermediaries, their form and content, as well an obligation to have such*

contracts registered. As such, a contract with an intermediary must, inter alia, be concluded in no less than three original copies with the signatures of the parties on each page, and the intermediary is obliged to register the signed contract within 30 calendar days after its signing by submitting three original copies of the signed contract to the FUR.

- *Pursuant to Article 11 par. 4 of the FUR RWI, contracts with intermediaries are not accepted for registration in case of failure to comply with the requirements as set out in the same regulations, including requirements for the content and execution of such contracts.*
- *Based on the above, and also since the alleged contract between Olea and the Club had not been provided with the signature of the Club, the FUR Commission rejected the requested registration of the said document, which decision was subsequently confirmed by the FUR Appeal Committee following Olea's appeal.*
- *The decision of the FUR Appeal Committee was never appealed before the CAS in accordance with the established procedure and has as such entered into force.*
- *In accordance with Article 11 par. 6 of the FUR RWI, contracts with intermediaries which are not registered with the FUR within the set deadline will not be recognised by the FUR, and, in particular, disputes under such contracts will not be resolved in accordance with the procedure established by Article 18 of the same regulations. As such, the dispute at hand could not be resolved by the FUR Chamber.*
- *The facts regarding Olea's alleged actions in connection with the transfer of the Player to West Ham are irrelevant to the determination of the competence of the FUR Chamber as the Formalised Mandate was not concluded and, as a consequence, was not registered with the FUR.*
- *Registration of contracts with intermediaries is a necessary administrative procedure to prevent abuse of parties, through which the FUR has information regarding all concluded agreements with intermediaries granting it the possibility to verify in the agreements the existence of all essential conditions.*
- *The said rule does not deprive the parties to an intermediary contract of their right to have a dispute under the jurisdiction of the FUR considered and decided on. Rather it provides for such right but only under a certain condition: i.e. the fulfilment of registration of the said agreement. Moreover, the FUR Charter contains no provisions that are inconsistent with the said provision in the FUR RWI.*
- *As such, the FUR Committee agreed with the conclusions of the FUR Chamber that disputes arising from Olea's claims are not within the competence of the FUR Chamber as established by Article 18 of the FUR DR as the claims are not claims for violation of the terms of contract concluded with intermediaries within the competence of the FUR Chamber pursuant to subparagraph "o" of Article 18 par. 1 of the FUR DR.*

47. Based on the above, on 3 March 2022, the FUR PSC rendered the Appealed Decision and decided as follows:

- 1) *To reject in satisfaction of the appeal of the OOO "OLEA SPORTS CAPITAL" on the ruling of the FUR Chamber on dispute resolution No. 002-22 dates 20 January 2022 (on the claim of the OOO*

“OLEA SPORTS CAPITAL” to the JSC “PFC “CSKA” on the acknowledgement of the existence of the Intermediation and Sporting Representation Services’ Contract, acknowledgement of the services provided, disclosure of the transfer value’s amount, on obligation to pay the amount of the remuneration).

- 2) *To remain in force the ruling of the FUR Chamber on the dispute resolution No. 002-22 dates 20 January 2022 (on the claim of the OOO “OLEA SPORTS CAPITAL” to the JSC “PFC “CSKA” on the acknowledgement of the existence of the Intermediation and Sporting Representation Services’ Contract, acknowledgement of the services provided, disclosure of the transfer value’s amount, on obligation to pay the amount of the remuneration) in its entirety.*
- 3) *To oblige the OOO “OLEA SPORTS CAPITAL” to pay the FUR the due fee for consideration of the case by the Committee in the amount of 15.000 (fifteen thousand) rubles within 30 (thirty) days from the entry in force of this decision in accordance with article 36 of the FUR Regulations on dispute resolution”.*

48. On 4 April 2022, the Appealed Decision was communicated to the Parties.

IV. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT

49. On 25 April 2022, the Appellant filed its Statement of Appeal in accordance with Articles R47 and R48 of the Code of Sports-related Arbitration (edition January 2021) (the “CAS Code”) against the Respondents with respect to the Appealed Decision.
50. On the same date, and in order to preserve its procedural rights, Olea filed a Request for Arbitration against the Club before the CAS, while at the same time requesting that such CAS ordinary proceedings be stayed pending the outcome of the present appeal which request, in agreement with the Club, was granted.
51. On 17 June 2022, the Appellant filed its Appeal Brief in accordance with Article R51 of the CAS Code.
52. On 22 August 2022, the Second Respondent filed its Answer in accordance with Article R55 of the CAS Code.
53. The First Respondent failed to file an Answer nor did it participate in any other way in these proceedings.
54. On 24 August 2022, the Parties were informed that the Panel had been constituted as follows:

President: Mr Lars Hilliger, Attorney-at-Law in Copenhagen, Denmark

Arbitrators: Mr Wouter Lambrecht, Attorney-at-Law in Barcelona, Spain

The Hon. Michael J Beloff, M.A. KC, Barrister in London, United Kingdom

55. By letter of 6 September 2022, the Parties were informed that the Panel had decided to hold a hearing in this case pursuant to Article R57 of the CAS Code.
56. By letter of 8 September 2022, and with reference to a request of the Appellant, the Panel requested the Second Respondent to produce “*A copy of the Contract signed by the Second Respondent and West Ham FC for the transfer of the Player N. in or around 30 August 2021*”,
57. On 14 September 2022, the Second Respondent forwarded the copy requested to the CAS Court Office.
58. On 26 January 2023, a hearing was held at the CAS Court Office in Lausanne, Switzerland.
59. In addition to the Panel and Mr Fabien Cagneux, Managing Counsel of the CAS, the following persons attended the hearing:

For the Appellant:

- Mr Antonio Rigozzi – Counsel
- Mr Eolos Rigopoulos – Counsel
- Mr Nabil Merabtene – Party Representative and Witness – via video-conference

For the Second Respondent:

- Mr Ilya Chicherov – Counsel
 - Mr Yury Yakhno – Counsel
 - Mr Roman Babaev – the Club’s CEO and Witness – via video-conference
 - Mr Andrey Movseyan – the Club’s sporting director and Witness – via video-conference
 - Mr Maksim Golovlev – Interpreter – via video-conference
60. The First Respondent was not present at the hearing, but the Panel, nevertheless, decided to proceed with the hearing in accordance with Article R57 of the CAS Code.
 61. At the outset of the hearing, the Parties confirmed that they had no objection to the constitution of the Panel.
 62. The Panel heard the evidence of Mr Merabtene called by the Appellant and of Mr Babaev and Mr Andrey Movseyan, witnesses called by the Second Respondent, who were all invited by the President of the Panel to tell the truth subject to the sanctions of perjury under Swiss law. The Parties and the Panel had the opportunity to examine and cross-examine the witnesses.

63. The Parties were afforded ample opportunity to present their case, submit their arguments and answer the questions posed by the Panel. At the end of the hearing, they expressly stated that their right to be heard had been fully respected and that they had been treated equally and fairly in these proceedings
64. After the Parties' final submissions, the Panel closed the hearing and commenced its deliberations.
65. On 26 April 2023, Olea sent a letter to the CAS office stating that it had received on the previous day a CAS award (2021/A/8251) in a matter with facts similar to those of the present matter and, without making any further submission, given its relevance and materiality to the present matter, requested the Panel to consider it in its award.
66. On 27 April 2023, CKSA sent a letter to the CAS office stating that there was a second CAS award of the same date (CAS 2021/A/8252) dealing with the same issue and asked for an opportunity to make comments on both awards.
67. On 28 April 2023, Olea sent a letter to the CAS office making no objection to the Panel's consideration of the second CAS award, which it stated turned on different facts; said that there was no need for a further round of pleadings which would unnecessarily delay the issuance of the award, but that, if CSKA were granted its requested opportunity to comment on both awards, Olea should have a similar opportunity.
68. On 29 April 2023, CKSA sent a letter to the CAS office reiterating its request to comment on the Awards, but agreeing that there was no need for further pleadings.
69. On 8 May 2023, after consideration of the above correspondence and upon receipt of both Awards on 4 and 5 May 2023, which the Parties had been asked to provide, the Panel invited the parties within 10 days to file their comments thereon.
70. On 23 May 2023 both Parties provided their comments (the "Comments").

V. PARTIES' SUBMISSIONS AND REQUESTS FOR RELIEF

71. The following outline of the Parties' positions is illustrative only and does not necessarily comprise each and every contention put forward by the Parties. The Panel, however, has during its deliberations carefully considered all the submissions made by the Parties, including the Comments which are dealt with separately at paras 136-144 below, even if no explicit reference has been made in what immediately follows. The Parties' written submissions, their verbal submissions at the hearing and the contents of the Appealed Decision were all taken into consideration.

A. The Appellant

72. In its Appeal Brief and as specified in its post-hearing letter dated 27 January 2023, the Appellant requested the CAS to:

- “a. Declare the present Appeal admissible;*
- b. Set aside the Decision under Appeal in its entirety;*
- c. Render a new decision:*
 - i. Ordering CSKA to pay to Olea Sports an amount of EUR 1,333,333.35 plus interest at 6,5%, alternatively 5%, per annum from 1 September 2021;*
 - ii. Ordering any other remedy that the Panel deem appropriate;*
 - iii. Ordering that FUR and CSKA jointly bear all arbitration costs incurred with the present proceedings, and cover all legal expenses of Olea Sports related to the present proceedings”.*

73. The Appellant’s submissions, in essence, may be summarised as follows:

- With regard to the question of jurisdiction of the FUR DRC, the Appellant does not dispute that this issue is governed by Article 18 of the FUR DR.
- However, both the FUR DRC and the FUR PSC applied this provision incorrectly when deciding that the FUR DRC was not competent to decide on the Appellant’s request.
- According to Article 18 (o) of the FUR DR, the FUR DRC “*shall bear and decide the following disputes [...] m) breach of contracts stipulated in the RFU’s regulations; o) breach of contracts concluded with intermediaries*”.
- Since the present dispute concerns precisely a breach of contract concluded with an intermediary, i.e., CSKA’s breach of contract, the jurisdiction of the FUR DRC to decide the Appellant’s claim against CSKA is triggered and must be upheld.
- Furthermore, the FUR DRC also had jurisdiction pursuant to Clause 5.2 of the Formalised Mandate, which states, *inter alia*, that “*All disputes under this Contract shall be submitted to the RFU’s Chamber on Dispute Resolution (hereinafter – the Chamber) in accordance with the RFU’s Regulations on dispute resolution. [...]*”.
- In any event, Article 11 (6) of the FUR RWI is irrelevant to and does not affect the FUR DRC’s jurisdiction over the claim against the Second Respondent.
- Article 11 (6) of the FUR RWI reads as follows:

“REGISTRATION OF A CONTRACT WITH AN INTERMEDIARY

[...]

6. Contracts with the Mediator not registered within the deadline set forth in these Regulations shall not be recognized by the FUR and, in particular, disputes thereunder shall not be subject to the procedure set forth in Article 18 of these Regulations, and sanctions may be imposed on the Mediator in accordance with these Regulations”.

while Article 18 (1) of the same regulations reads as follows:

*“DECISION-MAKING BY THE COMMISSION. SETTLEMENT OF DISPUTES.
APPEAL AGAINST THE COMMISSIONS DECISIONS.*

1. All disputes, controversies or claims arising out of contracts concluded on the basis of the present Regulations between footballers/clubs/trainers, on the one hand, and the Intermediaries (as of the date of the relevant agreement), on the other hand, are subject to resolution by the RFU jurisdictional bodies (the RFU Chamber for Dispute Resolution and the RFU Committee on the Status of Players) as a mandatory pre-trial dispute resolution procedure under the procedure under the procedures provided by the RFU Regulations for dispute resolution”.

- As such, and in accordance with these provisions, if an intermediary’s contract is not registered with the FUR in accordance with the described procedure, then the FUR does not have jurisdiction to assist the parties with the mandatory “pre-trial” dispute resolution procedure provided for in Article 18 (1).
- However, this does not mean that the parties to such an agreement are unable to bring their claims before the FUR DRC under its general jurisdiction provided for in Article 18 (o) of the FUR DR.
- In this particular case, the Appellant correctly brought a claim in accordance with Article 3 of the FUR DR before the FUR DRC, which was competent to hear it based on Article 18 (o) of the same regulation and Clause 5.2. of the Formalised Mandate.
- For those reasons, the FUR PSC decision to confirm the decision of the FUR DRC is incorrect and must be set aside, and, the jurisdiction of the FUR DRC must be upheld.
- Moreover, it must be noted that the position taken by both the FUR DRC and the FUR PSC is contrary to Article 46 (1) of the FUR Charter, which provides for the well-established principle of sports dispute resolution that such disputes are required, as a general rule, to be resolved by the relevant sports adjudicatory bodies – and not by state courts. Furthermore, dealing with the Appellant’s claim on the merits in the present appeal procedure would also be procedurally efficient.
- With regard to the merits of the Appellant’s claim, and even in the absence of a ruling on it in the Appealed Decision, the Panel has, in accordance with Article R57 of the CAS Code, the power to issue a new decision on the entirety of the Parties’ dispute, including

on the validity of the agreement between the Appellant and the Second Respondent and the quantum of the claim.

- This is confirmed by CAS jurisprudence, which holds that CAS' power of review is limited only by the object of the dispute that existed in the previous proceedings below, which is determined by the parties' requests and relief sought in front of the previous instance proceedings.
- As the merits of the Appellant's claim against CSKA clearly fall within the "*object of the proceedings before the previous authority*", the scope of the Panel's review and decision-making power should not be limited to the question of jurisdiction of the FUR DRC to hear and decide on the Appellant's claim, but should also extend to the merits of such a claim; this is also in line with the principle of procedural efficiency.
- As the Appellant's claim against CSKA was dismissed on jurisdictional grounds, neither the FUR PSC nor the FUR DRC made any determination on the validity and enforceability of the Formalised Mandate.
- Thus, the Panel has the power to freely review and decide on these issues without any limitations deriving from the findings of the FUR Intermediary Commission and/or the FUR PSC.
- In this regard, and for the sake of good order, it must be stressed that the decision of the FUR Appeal Commission to refuse the registration of the Formalised Mandate in accordance with the FUR RWI – which in any case is irrelevant to the question of validity – was ill-founded for several reasons.
- In the absence of any rules on the validity and enforceability of the Formalised Mandate in the applicable regulations of FUR and FIFA, this question must be determined under the subsidiarily applicable laws of Russia and Switzerland, in which context Russian law has priority as the regulations of the FUR are primarily applicable to this dispute.
- Article 432 of the Russian Civil Code states, *inter alia*, as follows:

"The Basic Provisions on the Conclusion of a Contract.

1. *The contracts shall be regarded as concluded, if an agreement has been achieved between the parties on all its essential terms, in the form proper for the similar kind of contracts.*

As essential shall be recognized the terms, dealing with the object of the contracts, the terms, defines as essential or indispensable for the given kind of contracts in the law or in the other legal acts, and also all the terms, about which, by the statement of one of the parties, an accord shall be reaches.

2. *The contract shall be concluded by way of forwarding the offer (the proposal to conclude the contract) by one of the parties and of its acceptance (the acceptance of the offer) by the other party.*

3. The party that has accepted the full or partial execution under a contract from the other party or in some other way has proved the validity of a contract is not entitled to demand that this contract be recognized as not having been made, if making such a claim, subject to the specific circumstances, contradicts the principle of fairness (Item 3 of Article 1)”.

- The Formalised Mandate is valid, binding and enforceable under Russian law and the principles set out in CAS jurisprudence as i) the Appellant accepted the Second Respondent’s offer of 10 August 2021, and ii) the Second Respondent accepted and fully benefited from the Appellant’s successful performance of the Formalised Mandate and cannot now rely on an alleged formal defect to invalidate it. Moreover, it contained all *essentialia negotii* – hence, the Formalised Mandate was validly concluded in accordance with Article 432 of the Russian Civil Code.
- This is in line with and a clear expression of the principle of good faith and would be the same under any system of law. Furthermore, neither the FUR RWI nor the FIFA RWI provide that in case any formal requirements of an intermediary’s contract are not fully satisfied, the consequence would be the invalidity of the said contract.
- Moreover, the Formalised Mandate is also valid, binding and enforceable under Swiss law, even if not primarily applicable, based on the same principles as those of Russian law.
- In the unlikely event that the Panel finds that the Formalised Mandate was not itself validly concluded in point of form, it is submitted that the Formalised Mandate was concluded under both Russian and Swiss law by reason of the Second Respondent’s acceptance, by way of conduct, of the Appellant’s offer to conclude such and Formalised Mandate.
- As to the quantum of the Appellants claim, the Second Respondent fully benefited from the intermediary services of the Appellant that led to the successful transfer of the Player to West Ham for a transfer compensation of EUR 26,666,667, Therefore the Second Respondent must pay to the Appellant the agreed remuneration as provided for under the Formalised Mandate.
- The two parties agreed on a progressive remuneration for the Appellant depending on the final gross amount of the transfer of the Player, based on which the Appellant is entitled to receive an amount of EUR 1,333,333.35 plus interest at 6.5% p.a., alternatively 5% p.a.

B. The First Respondent

74. As noted above, the First Respondent did not file any submissions during these proceedings.

C. The Second Respondent

75. In its Response to the Appeal Brief, the Second Respondent requested the CAS to:

- “1. *Dismiss the appeal lodged by [the Appellant].*
2. *Confirm [the Appealed Decision].*
3. *Order the Appellant to bear all costs incurred with the present procedure at CAS.*
4. *Order the Appellant to pay [the Second Respondent] a contribution towards its legal and other costs, the amount to be determined at the Panel’s discretion”.*

76. The Second Respondent’s submissions, in essence, may be summarised as follows:

- The Appealed Decision was correct in its finding that the FUR DRC was not competent to decide on the request of the Appellant.
- First of all, it is undisputed that the Second Respondent never signed the Formalised Mandate and the document presented to the Panel by the Appellant does not include the signature of CSKA.
- However, it follows from Article 10 of the FUR RWI, *inter alia*, that “*The contract of the [Mediator] shall necessarily include: [...] [o] the signatures of the parties. [...]*”.
- Furthermore, it follows from Article 10 (5) of the same regulations that “*The contract is concluded in at least 3 (three) originals (one for the Intermediary, the second for the Player, the Coach or the Club, the third – for the FUR), signed by all parties page by page and must comply with the civil legislation of the Russian Federation and the requirements of the FUR*”.
- Finally, Article 11 (1) of the FUR RWI, provides, *inter alia*, as follows: “*Within 30 (thirty) calendar days after signing of the respective contract the Intermediary shall register the contract by submitting to the Commission [FUR Commission on Working with Intermediaries] the original of the concluded contracts in 3 (three) copies with all annexes and additional agreements to the contract (in any). [...]*”.
- It is not disputed that the Appellant was duly registered with the FUR as an intermediary and therefore should have known all formal requirements for performing its duties as set out in the FUR RWI.
- Furthermore, it is not disputed that the Appellant never complied with the above-mentioned requirements.
- Pursuant to Article 11 (4), the FUR denies the registration of an intermediary contract that does not comply “*with the requirements for the contract set out in these Regulations, including*

the requirements for the content and execution of the contract”, in which situation, and pursuant to paragraph 5 of the same article, the intermediary is entitled to a written refusal, which, under Article 18 (2) of the FUR RWI, itself may be appealed before the FUR Appeal Committee, as was done by the Appellant.

- However, a decision by the FUR Appeal Committee may also be appealed before the CAS, and this was never done by the Appellant.
- Article 11 (6) of the FUR RWI sets out the consequences of such non-registration as follows: *“The contracts with an Intermediary which are not registered within the deadline set forth in these Regulations are not recognized by the FUR and, in particular, disputes arising therefrom are not subject to the resolution in the procedure set forth in Article 18 of these Regulations”*. This means that the consequence of non-registration of an agency agreement is that the parties to the said agreement are deprived of their right to submit a dispute to the FUR.
- As confirmed by the FUR Appeal Committee, the disputed agreement, while subject to registration, was not validly registered. The decision of the FUR Appeal Committee has itself become final and binding, therefore constituting *res judicata*.
- In this regard, it must also be stressed that there is no obligation for the FUR jurisdictional bodies to “help to settle” as alleged by the Appellant and the notion pre-trial settlement is a wording used keeping in mind the principal competence of state courts.
- In short, as long as no agreement between the Appellant and the Second Respondent is registered with the FUR, the FUR has no jurisdiction to decide on a dispute between the Appellant and the Second Respondent on any basis.
- Moreover, and as such, the jurisdiction of the FUR to consider some disputes between an intermediary and a club as set out in Article 18 (1) (o) of the FUR RWI, cannot be interpreted separately from any prerequisite set forth by the same regulations to establish the FUR jurisdiction.
- The said article provides for jurisdiction of the FUR Intermediary Commission in disputes *“on violation of the terms of contracts concluded with intermediaries”*, it does not provide the FUR Intermediary Commission with jurisdiction to decide whether such a contract has been concluded or not.
- In this particular case, there is a dispute over whether the agreement was ever concluded.
- In any case, Article 11 (6), as mentioned above, is still *lex specialis* to the general rules governing the FUR’s jurisdiction, and the said provision must therefore be primarily applied
- Furthermore, it must be emphasised that the Appellant cannot rely on any argument about alleged *“denial of justice”* in respect of the FUR Intermediary Commission’s refusal

to consider the dispute on the merits since the Appellant, as a Russian legal entity, is not deprived of its right to appear before the state courts under the procedural codes of Russia and to seek justice there.

- In the unlikely event that the Panel dismisses the above submission, it is noted that the validity of the Mandate is still subject to the FUR RWI and not to Russian law.
- The Appellant is an intermediary certified by the FUR and is therefore obliged to comply with the FUR rules and regulations, as is the Second Respondent.
- As such, and in accordance with Article 10 (1) of the FUR RWI, the two parties were obliged to conclude any agreement between them in writing, and paragraph 2 of the same provision sets out further mandatory prerequisites of an agency agreement in addition to what is generally set forth in Russian law.
- Even in the draft contract submitted by the Appellant, there is no clause providing for any remuneration of the Appellant, which is one of the *essentialia negotii* of an agency agreement.
- In line with this, the FUR Intermediary Commission has already established that no agreement on *essentialia negotii* was reached between the two parties, which was confirmed by the FUR Appeal Committee; this latter decision was never appealed before the CAS, thus becoming *res judicata*.
- As such, and as the Appellant failed to procure a written agreement that fits all the requirements stipulated in Article 10 (2) of the FUR RWI, the submitted draft is invalidated by the FUR regulations. Furthermore, and as there is no lacuna in the FUR regulations in this regard, there is no need to introduce into the analysis any concepts of the validity of the agreement in the context of Russian law.
- In any case, there is no sign that the two parties indeed agreed on the terms and conditions of an agency agreement, but simply exchanged information about the circumstances under which an authorisation might be given to authorise the Appellant to negotiate the transfer of the Player and no intent at that or any other point to give it such authorisation.
- Furthermore, negotiations between West Ham and the Second Respondent were conducted directly between the two clubs.
- The Appellant has failed to discharge its burden of proof regarding the alleged performance of the services foreseen in the New Mandate.
- In summary, the Appellant has failed to present proof of the validity of the New Mandate under any applicable law whatsoever or even proof of actual performance of its alleged obligations as an agent, so that the Appellant's requests for relief must necessarily be dismissed.

VI. JURISDICTION

77. Article R47 of the CAS Code provides as follows:

“An appeal against the decision of a federation, association or sports-related body may be filed with the 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 him prior to the appeal, in accordance with the statutes or regulations of that body. [...]”

78. With respect to the Appealed Decision, and in accordance with the above-mentioned provision, the jurisdiction of the CAS derives from Article 58 (2) of the FUR DR, which states as follows:

“The Committee’s decision may be appealed within twenty-one (21) days of receipt by the parties of the Committee’s decision in full (final form) to CAS, unless the arbitration agreement provides for an appeal to NCCA”.

This is also confirmed in the Appealed Decision, which states:

“In accordance with the par. 2 of art. 58 of the FUR Regulations on dispute resolution decisions of the case by the Committee on status of players may be appealed only in the Court of Arbitration for Sports (Tribunal Arbitral du Sport) in Lausanne (Switzerland) within 21 (twenty-one) calendar days from the moment of receipt of the final version of the decision by the parties”.

79. Incidentally, and for the sake of completeness, the Panel notes that pursuant to Clause 5.2 of the Formalised Mandate “[...] *In accordance with the relevant RFU’s Regulations, the Decisions of Chamber may be appealed to the RFU’s Committee on the Status of Players (hereinafter – Committee) and the Decisions of the Committee may be appealed to the Court of Arbitration for Sport (Lausanne) in accordance with the CAS Code. The language of the arbitration shall be English*”.

80. In addition, the Appellant asserted and the Second Respondent did not object to the jurisdiction of the CAS, and the two Parties further confirmed the CAS jurisdiction by signing the Order of Procedure.

81. Based on the above, the Panel holds that the CAS has jurisdiction to decide on the appeal against the Appealed Decision.

VII. ADMISSIBILITY

82. As set out above, it follows from Article 58 (2) of the FUR DR that a decision of the Committee may be appealed to the CAS within 21 calendar days from the moment of the Parties’ receipt of the final version of the said decision.

83. The Appealed Decision was notified to the Appellant and the Second Respondent on 4 April 2022, and the Statement of Appeal was lodged on 25 April 2022, i.e. within the statutory time limit of 21 days set out in the above-mentioned article, which is not disputed.

84. Furthermore, the Statement of Appeal and the Appeal Brief complied with all the requirements of Articles R48 and R51 of the CAS Code.
85. In addition, the Appellant asserted, and the Second Respondent did not object to the admissibility of the Appeal.
86. Based on the above the Panel holds that the appeal is admissible.

VIII. APPLICABLE LAW

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

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

88. The Panel notes that the Appellant and the Second Respondent both submit that the applicable regulations in these proceedings for the purposes of Article R58 of the CAS Code are the rules and regulations of the FUR, at least with regard to the determination on the competence of the FUR Chamber, just as the Parties both submit that the rules and regulations of the FUR in this regard are to be interpreted and supplemented in compliance with Russian law which applies on a subsidiary basis.
89. Based on the above, and with reference to the submissions filed, the Panel accepts that it must decide this dispute, in particular with regard to the on the competence of the FUR Chamber in accordance with various rules and regulations of the FUR and, subsidiarily, Russian law.

IX. MERITS

A. Introduction

90. Initially, the Panel notes that it is undisputed that on 19 June 2019, the Player and the Club entered into the Employment Contract, which contained a buy-out clause in the amount of EUR 35,000,000, and that the Player’s stay with the Club was very successful, which triggered the interest from several clubs in acquiring the services of the Player.
91. In the summer of 2021 and as a result of the Player’s success, the Club was approached by Olea offering its services in connection with a possible transfer of the Player, in which regard the Parties signed the Mandate valid until 18 July 2021, authorising Olea *“to negotiate on behalf of [the Club] possible transfer of [the Player] to all clubs in Premier League (England) on agreed terms and agreed commission”*.
92. No transfer was concluded under the Mandate, but on 10 August 2021, the Club apparently proposed to Olea that the latter could bring an offer from a Premier League club according to

which the Club would receive at least EUR 25,000,000, based on which Olea would then again be mandated by the Club.

93. In this regard the Club informed Olea, *inter alia*, that “*Your remuneration will be 5% from the transfer value, if the transfer value will be minimum EUR 26.5 mln clean. The club should receive minimum 25 mln. The higher the transfer value, the more will be your commission*”.
94. According to Olea, it accepted this proposal, on which basis the Parties essentially extended the terms of the Mandate – with some minor amendments – until 31 August 2021, based on which Olea continued its work for a possible transfer of the Player in the interests of the Club.
95. During the following weeks, several offers and counteroffers were exchanged between the Club and West Ham, some directly between the two clubs and some via Olea. Upon receipt of at least one of the offers from West Ham, the Club informed Olea about the content of such an offer.
96. Furthermore, Olea was, at least to some extent, advising the Club on these negotiations, and the Parties also met on 18 August 2021 in order to discuss the possible transfer of the Player to West Ham with the CEO of the Club, Mr Roman Babaev and Mr Meratbene, legal representative of Olea, exchanging several messages via the instant messaging service WhatsApp in relation to said transfer.
97. During the last week of August 2021, the Club and West Ham reached an agreement on the conditions for a transfer of the Player, and on 30 August 2021, the two clubs signed the Transfer Agreement, according to which the Club was to receive a guaranteed transfer compensation fee of EUR 26,666,667 together with several contingent transfer compensation fees.
98. On the same date, Olea forwarded by WhatsApp the *Formalised Mandate* to the Club and also forwarded a hard copy of the same agency agreement, signed on behalf of Olea, to the Club in order for the latter to sign it.
99. Furthermore, the Club was informed by Olea, *inter alia*, that Olea had to be mentioned as the intermediary acting on behalf of the Club in the Transfer Agreement and in the TMS. The Club apparently never responded to this letter.
100. While the Parties seem to agree that Olea, at least to some extent and in the beginning, was involved in negotiations between West Ham and the Club, it is undisputed that the Formalised Mandate was never duly signed by the Club.
101. Furthermore, it is undisputed that no written agreement between the Parties with respect to services of Olea in connection with the Player’s transfer to West Ham was ever duly registered with the FUR.
102. However, while the Club submits that it never entered into any valid contract with Olea regarding such services after the expiry of the Mandate and that it essentially conducted negotiations with West Ham on its own, Olea, on the other side, submits that the Parties did in fact enter into such a valid contract, that Olea played an essential part in negotiations with West

Ham, which resulted in the transfer of the Player, and that, as a result, Olea should be paid the agreed remuneration for the services duly rendered.

103. Moreover, Olea submits that the Appealed Decision was wrong in denying the competence of the FUR DRC, and at the same time Olea requests the CAS to decide also on the merits of the dispute.
104. Based on the above, the Panel finds that the main issues to be resolved by the Panel are:
- Did the FUR DRC have jurisdiction to decide on Olea's claim against the Club?
 - And in the affirmative, and subject to the Panel assessing the merits of the dispute, did the Parties validly enter into an intermediary agreement, and, if so, what are the financial consequences thereof for the Parties, if any?

B. Did the FUR DRC have jurisdiction to decide on Olea's claim against the Club?

105. As a starting point to address this question, the Panel considers it useful to recall the wording of the relevant provisions of the different FUR regulations.
106. Initially, the Panel notes that Article 18 of the FUR DR states, *inter alia*, as follows:

"Article 18. Competence of the Chamber

1. The Chamber shall hear and decide the following disputes:

[...]

m) breach of contracts stipulated in the RFU's regulations;

o) breach of contracts concluded with intermediaries;

[...]

t) other disputes referred to the competence of the Chamber by the relevant documents of the RFU".

107. Furthermore, Article 49 of the same regulations state, *inter alia*, as follows:

"Article 49. Suspension and termination of proceedings

[...]

2. The Chamber or the Committee shall discontinue the proceedings in the following cases: a) the dispute is not subject to examination and resolution by a Chamber or the Committee; [...]"

108. The FUR RWI o *inter alia*, as follows:

“PREAMBLE

[...]

These regulations regulate the participation of intermediaries in relations between football clubs, coaches and players when football players make transfers from one football club to another football club, as well as when football players/coaches conclude (amend, terminate) employment contracts with football clubs.

These Regulations aim to protect the rights and legitimate interests of football players, coaches and football clubs by creating mechanisms to counter their involvement in illegal, unscrupulous activities, as well as to ensure the control over transfers of football players and the conclusion (amendment, termination) of football players/coaches contracts with intermediaries.

These Regulations apply to football clubs and their officials, players, coaches and other football entities, in accordance with the regulations and other documents of FIFA and RFU, as well as to football intermediaries.

[...]

Article 10 – CONTRACTS WITH THE INTERMEDIARY

1. For the purpose of these Regulations, a contract with an Intermediary means a written agreement between a Football Player, Coach or Club and an Intermediary whereby the Intermediary provides the Football Player, Coach or Club with the services referred to in Article 2 paragraph 1 of these Regulations. [...]

2.The contract with the Mediator shall necessarily be include:

[...]

o) the signatures of the parties.

[...]

Article 11 – REGISTRATION OF A CONTRACT WITH AN INTERMEDIARY

1. Within 30 (thirty) calendar days after the signing of the respective contract the Mediator shall register the contract by submitting to the Commission the original of the concluded contract in 3 (three) copies with all annexes and additional agreements to the contract (if any). [...] Such contracts and documents must be submitted by the Mediator using the electronic addresses stipulated by the RFU in these Regulations and by the Mediator specified in the application for accreditation [...].

4. Contracts shall not be accepted for registration in the following cases

(a) Failure to comply with the requirements for the contract set out in these Regulations, including the requirements for the content and execution of the contract; [...]

6. Contracts with the Mediator not registered within the deadline set forth in these Regulations shall not be recognized by the [FUR] and, in particular, disputes thereunder shall not be subject to the procedure set forth in Article 18 of these Regulations and sanctions may be imposed on the Mediator in accordance with these Regulations.

ARTICLE 18 – DECISION-MAKING BY THE COMMISSION. SETTLEMENT OF DISPUTES. APPEAL AGAINST THE COMMISSION’S DECISIONS.

1. All disputes, controversies or claims arising out of contract concluded on the basis of the present Regulations between footballers/clubs/trainers, on the one hand, and the Intermediaries (as of the date of the relevant agreement), on the other hand, are subject to resolution by the RFU jurisdictional bodies (the RFU Chamber for Dispute Resolution and the RFU Committee on the Status of Players) as a mandatory pre-trial dispute resolution procedure under the procedures provided by the RFU Regulations for dispute resolution.

[...]”.

109. While the Parties are not in dispute over the status of Olea as an intermediary duly registered with the FUR and thus that Olea is to comply with the rules and regulations of the FUR applicable to registered intermediaries, the Parties are in dispute over whether such applicable regulations also impact the jurisdiction of the FUR DRC to hear Olea’s claim against the Club.
110. Olea, on its side, submits, *inter alia*, that the jurisdiction of the FUR DRC derives from Article 18 of the FUR DR, according to which the FUR DRC is competent to hear and decide on breaches of “*contracts concluded with intermediaries*”, which, according to Olea, is precisely what this case is about.
111. The Club, on its side, submits, *inter alia*, that since no intermediary agreement was ever duly registered with the FUR, the parties to such an alleged agreement are deprived of their right to submit a dispute to the FUR, with the effect that the FUR DRC was not competent to hear and decide on Olea’s claim against the Club.
112. Based on the Parties’ submissions and the facts of the case, and noting for the sake of good order that neither Party contests that the FUR DR and the FUR RWI emanate from the same authorised body and were adopted in a fair and transparent way in compliance with the rules of the FUR, the Panel finds that the answer to the question of the possible jurisdiction of the FUR Chamber in the present dispute depends on the interpretation of the rules and regulations in questions as set above.
113. As correctly stated in CAS 2020/A/7456, and subsequently confirmed in other jurisprudence, it is generally accepted that rules and regulations of international sports federations are subject to the methods of interpretation applicable to statutory provisions rather than contracts (see e.g., BK-ZGB/RIEMER, Systematischer Teil, no. 331; SFT 114 II 193, E.5a; SFT 4A_600/2016, E.3.3.4.1; CAS 2010/A/2071, para. 20; CAS 2016/A/4602, para. 101).

114. Consequently, the CAS panel in *CAS 2010/A/2071* rightly found as follows:

“The interpretation of the statutes and rules of a sport association has to be rather objective and always to start with the wording of the rules, which falls to be interpreted. The adjudicating body – in this instance the Panel – will have to consider the meaning of the rule, looking at the language used, and the appropriate grammar and syntax. In its search, the adjudicating body will have further to identify the intentions (objectively construed) of the association which drafted the rule [...]”.

115. In accordance with the above, the meaning of Article 18 (o) of the FUR DR and of Articles 10 and 11 of the FUR RWI must be determined in accordance with the principles of interpretation applicable to statutory provisions, i.e. literal interpretation, teleological interpretation, systematic interpretation and historical interpretation.
116. Initially, the Panel notes that it agrees with Olea that Article 18 (o) of the FUR DR sets out a more or less general competence of the FUR Chamber to hear and decide on disputes regarding breaches of *“contracts concluded with intermediaries”*.
117. However, the Panel also notes that pursuant to Article 11 (6) of the FUR RWI, contracts with intermediaries which are not duly registered with the FUR will not be recognised by the same, and *“in particular, disputes arising therefrom shall not be subject to the procedure set forth in Article 18 of these Regulations”*, which article sets out that all disputes, controversies or claims arising out of contracts concluded on the basis of the FUR RWI between, *inter alia*, clubs and intermediaries, are subject to resolution by the FUR Chamber and the FUR Committee *“as a mandatory pre-trial dispute resolution procedure”* under the procedures provided by the FUR DR.
118. The Panel notes in this regard that the Parties during the hearing agreed that the words *“pre-trial dispute resolution procedure”* as set out in said article do not refer to any independent or extraneous *“pre-trial negotiations procedure”*, but simply refer to the dispute resolution procedure provided for by and in the FUR DR.
119. The Panel further notes that pursuant to its preamble, one of the aims of the FUR RWI is to protect the rights and legitimate interests of football players, coaches and football clubs by creating mechanisms to counter their involvement in illegal, unscrupulous activities, as well as to ensure the control over transfers of football players and the conclusion (amendments, termination) of football players’/coaches’ contracts with intermediaries.
120. In this regard, one of the requirements set out in these regulations, namely that a contract with a registered intermediary has to be in the form of a written agreement duly signed by both parties in order for it to be registered, seems, at least on a *prima facie* basis, to be a reasonable requirement in order for the FUR to be able to verify whether an agreement has been validly concluded without having to look further into this during what the Panel expects to be a relatively simple registration process.
121. Based on the above, the Panel is of the opinion that the limitation of the competence of, *inter alia*, the FUR DRC, as defined in Article 18 of the FUR RWI, excluding certain disputes between, *inter alia*, clubs and intermediaries from such jurisdiction, even if the parties to such a

dispute are in general subject to the jurisdiction of the FUR jurisdictional bodies, is to be construed as being the “*lex specialis*” compared to Article 18 (o) of the FUR DR, which is considered to be the “*lex generalis*” with respect to the competence of the FUR DRC concerning intermediary contracts covered by the FUR rules and regulations.

122. As such, the Panel agrees that, pursuant to the applicable regulations, the FUR DRC is not competent to hear and decide a dispute regarding breach of an intermediary contract if such a contract is not duly registered with the FUR within the given deadline.
123. In this regard, and importantly, the Panel stresses that, pursuant to the applicable FUR regulations, a party to an intermediary contract who is faced with the refusal of the RFU to register an intermediary contract can appeal such refusal by the FUR Intermediary Commission to the FUR Appeal Committee, with a further opportunity to appeal the decision of the FUR Appeal Committee to the CAS for a final decision.
124. In the present dispute, Olea did in fact file such a claim before the FUR Intermediary Commission requesting, *inter alia*, the registration of the Formalised Mandate, which request was subsequently rejected.
125. Olea then appealed this decision to the FUR Appeal Committee, which dismissed the appeal, essentially holding that it had not been sufficiently demonstrated that the Formalised Mandate had effectively been entered into by the Parties, thus keeping in mind *inter alia* the lack of a valid signature but also discarding the notion that the agreement was concluded by means of implicit acts.
126. Specifically, in its decision, the FUR Appeals Committee held *inter alia* as following:

“The FUR Commission on working with intermediaries refused in conclusion of the contract on provision of intermediary and sporting representation services provided by the Appellant basing on the subparagraph “o” paragraph 2 article 10 of the FUR Regulations on working with intermediaries due to the absence of a signature of the representative of the JSC “PFC CSKA”.

The FUR Appeal Committee could not agree with the Appellant who considers that there is proof of conclusion of the contract with the JSC “PFC CSKA” through implicative actions.

First of all, the Appellant did not provide the proof of the existence of the authority (powers) of the Head of Scouting Department of the PFC “CSKA” A. Movsesyan to issue a power of attorney to any intermediary accredited by the FUR for representation of interests of the JSC “PFC CSKA” in relations with all clubs of the Premier League (England).

Secondly, the correspondence in messenger with individuals designated as “Andrey Nicolaevich Movsesyan” and “Roman Babayev”, provided by the Appellant, does not support the conclusion of the contract and could not be considered as implicative actions. The Appellant bears the burden of proof of legal fact of conclusion of the contract through implicative actions and shall involve in the process conclusive proof. However, the Appellant failed to comply with this burden. According to the correspondence, corresponding parties discussed possible terms under which legalization of relations between the parties could have happened. While such discussion may indicate on a

*presence of intention to conclude a contract, but not about real (expressed) wish of the club for acceptance. The FUR Appeal Committee believes that the acceptance in situation under consideration should have been explicitly expressed agreement of the club of all terms of the offer for provision of the intermediary and sporting representation services sent by the Appellant. According to the messenger's correspondence provided by the Appellant it does follow that there is (1) the acceptance by the club of terms initially provided in the draft of the contract or (2) the harmonization by the club of the new version of terms of the future contract. Namely the harmonization between the club and the intermediary of all terms of provision of the intermediary and sporting representation services allowed the CAS in one of its decisions to recognize oral negotiations of the club and the intermediary as equivalent to the concluded in written form contract (v., **Arbitration CAS 2016/A/4573, award of 10 March 2017, para. 8.22**). However, in the considered by the FUR Appeal Committee dispute the Appellant did not prove agreement on all terms. According to par. 3 article 427 of the Civil Code of the Russian Federation the person, who has received an offer, may perform the actions, involved in complying with the terms of the contract, pointed out in the offer, which shall be regarded as the acceptance. The Club has not committed the relevant actions indicated in the provision of the Civil Code since the appellant failed to provide proof of actual performance by the club of the mentioned in the offer conditions. As the CAS case law (Jurisprudence) shows the latter could include acceptance (approval) of the intermediary's actions, if such started providing intermediary and sporting representation services (v., **Arbitration CAS 2016/A/4899 para. 88**)”.*

127. The Panel observes that the issue addressed above in the decision of the FUR Appeal Committee is similar to the one Olea wishes to submit to the current Panel in addition to which the aforementioned ruling, according to the Panel, does indicate that in cases where an intermediary agreement lacks a signature, there is still a possibility to seek the registration of said contract at the FUR when a party would be able to demonstrate that a contract was concluded via different means, including via implicit acts.
128. However, and as pointed out by CSKA, Olea failed to appeal this decision of the FUR Appeal Committee to the CAS within the given 21 days deadline, by which the decision to reject the registration of the said document became binding.
129. Based on the above, and since it is undisputed that the intermediary agreement between the Parties was never signed and never duly registered with the FUR, the Panel finds that the FUR DRC, and subsequently the FUR PSC, were correct in finding that the FUR DRC was not competent to hear and decide on Olea's claim against the Club.
130. This is also the case, even considering Olea's submission regarding Clause 5.2 of the Formalised Mandate as said clause in any event refers to the FUR DR, which does not grant jurisdiction to the FUR Chamber in this dispute as set out above.
131. The Panel does not find this decision to be in conflict with the well-established principle that sport-related disputes, as a general rule, must be resolved within the sports legal framework by the relevant sports adjudicatory bodies, for the mere reason that the requirement of having written contract as set out in the FUR RWI duly registered with the FUR, and thus to benefit from the jurisdiction of the FUR Chamber pursuant to the FUR DR and FUR RWI, appears to be based on a fair interest in safeguarding the rights and interests of the parties to intermediary contracts.

132. As such, the Panel finds that Olea's appeal must be dismissed, and the Panel therefore does not need to deal with the merits of the claim.
133. In this regard, the Panel also notes that as a registered agent with the FUR, Olea should have known all the mandatory formal requirements laid down in the applicable regulations of the FUR, and it was furthermore in the hands of Olea to decide whether or not to provide any services to the Club without having obtained a written agreement signed by the Club which, the obtaining of which in turn could have triggered the jurisdiction of the FUR's judicial bodies.
134. However, at the same time, the Panel finds it important to stress that by dismissing the appeal, it has not rendered a binding decision on whether or not a valid intermediary contract was in fact entered into between the Parties and whether or not Olea did in fact materially contribute to the transfer of the Player to West Ham.
135. Moreover, the Panel notes that by dismissing Olea's appeal, the Panel has not taken any decision that intends to limit Olea's possibilities to have its claim against the Club heard and decided on in any other way, including before the ordinary national courts.
136. As such, the Panel finds that Olea's submission regarding the alleged denial of justice has no merits, and the Panel dismisses the submission of Olea that this dispute allegedly goes beyond a question of regulations since it also concerns the validity of the alleged contract. In the Panel's view, this is not the case since the questions regarding the validity of the agreement and, thus, any payment obligations the Club may have towards Olea, can possibly be solved by a juridical body other than the Panel in these appeal procedures.
137. With regard to CAS 2021/A/8251 and CAS 2021/A/8252 and the Comments forwarded by the Appellant and the Second Respondent, the Panel makes the following observations.
138. Firstly, the Panel notes there is no principle of binding precedent (*stare decisis*) at the CAS, thus leaving it to every Panel to make its own decision in every case (see e.g. CAS 2008/A/1545 and CAS 2018/A/6072), albeit by virtue of the same freedom, such Panel may wish to take note of previous CAS Awards in order to sustain a consistent and predictable jurisprudence.
139. Secondly, the Panel notes that, in the present dispute, and contrary to what happened in CAS 2021/A/8251 and CAS 2021/A/8252, the Appellant filed a claim with the FUR Intermediary Commission, requesting, *inter alia*, the registration of the Formalised Mandate, and subsequently appealed the rejection from the FUR Intermediary Commission to the FUR Appeal Committee, which dismissed this appeal. Such a decision is appealable to the CAS, which option was never exercised by the Appellant. Therefore, the Panel notes that the facts of this dispute are different from the facts in CAS 2021/A/8251 and CAS 2021/A/8252, so that these two cases are not directly comparable with the one under review.
140. Thirdly, the Panel further notes that in CAS 2021/A/8251 and CAS 2021/A/8252, the Sole Arbitrator found, *inter alia*, that he was comfortably satisfied that the appealed decisions in these two cases, both of which holding that the FUR DRC was not competent to hear the disputes, followed the line of reasoning set out in the relevant sections of the FUR RWI and that, in

principle, this should have led the FUR DRC to conclude that it did not have jurisdiction (CAS 2021/A/8251, §96, and CAS 2021/A/8252).

141. The Panel agrees with the Sole Arbitrator on this point and on the principle to which he alluded and its consequences.
142. However, while the present Panel finds that this conclusion should in and by itself have been dispositive of the outcome of the cases before the Sole Arbitrator (as it is, *mutatis mutandis*, of the present appeal), the Sole Arbitrator in CAS 2021/A/8251 and CAS 2021/A/8252 nonetheless entered into discussions on the merits of the alleged contracts between the respective parties, a course which this Panel itself chooses not to follow.
143. Finally, and for the sake of good order, while the Panel agrees with the Sole Arbitrator that the mere fact that a contract is not signed does not automatically have as a consequence that no agreement has been entered into between the parties, the Panel finds it inappropriate to address this issue in the present case, given its prior finding that the FUR DRC was not competent to hear and decide the present dispute as it was not validly registered with the FUR.
144. Besides, as the Panel finds that the Appealed Decision was correct in confirming the decision of the FUR DRC, the Panel does not find it necessary, or even relevant, to delve further into the discussion regarding the alleged agreement between the Appellant and the Second Respondent.
145. Based on the above, *inter alia*, the Panel respectfully finds that the decisions in CAS 2021/A/8251 and CAS 2021/A/8252 are not decisive for the Panel's decision in the present dispute.

ON THESE GROUNDS

The Court of Arbitration for Sport rules that:

1. The appeal filed by Olea Sports Capital LLC on 25 April 2022 against the decision rendered by the Committee on the Status of Players of the Football Union of Russia on 3 March 2022 is dismissed.
2. The decision rendered by the Committee on the Status of Players of the Football Union of Russia on 3 March 2022 is confirmed.

3. (...).
4. (...).
5. All other motions or prayers for relief are dismissed.