



**TAS / CAS**

TRIBUNAL ARBITRAL DU SPORT  
COURT OF ARBITRATION FOR SPORT  
TRIBUNAL ARBITRAL DEL DEPORTE

**Arbitration CAS ad hoc Division EURO 24/01 Turkish Football Federation (TFF) & Merih Demiral v. Union of European Football Associations (UEFA), award of 18 September 2024 (operative part of 6 July 2024)**

Panel: Mr Espen Auberg (Norway), Sole Arbitrator

*Football*

*Disciplinary dispute (Ad Hoc Division)*

*CAS jurisdiction*

*CAS jurisdiction in the context of the UEFA EURO 2024*

*Limitation to CAS jurisdiction and violation of rights*

1. The jurisdiction of CAS derives from Article R47 paragraph 1 of the CAS Code, which reads: *“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”*. Therefore, in order for the CAS to have jurisdiction to hear an appeal, there must exist either a specific arbitration agreement between the parties, or the jurisdiction of the CAS must be expressly recognized in the statutes or regulations of the sports-related body that issued the decision appealed against.
2. Article 1 of the Arbitration Rules for the UEFA Euro 2024 Final Round (Arbitration Rules) provides as follows: *“Application of the Present Rules and Jurisdiction of the Court of Arbitration for Sport (CAS). The purpose of the present Rules is to provide for the resolution by arbitration of any disputes covered by Article 4.01(b) of the Regulations of the UEFA European Football Championship 2022-24 in connection with Articles 61 and 62 of the UEFA Statutes, insofar as they arise during the final round of the UEFA European Football Championship 2024 (“EURO 2024 Final Round”), i.e. between 14 June and 14 July 2024”*. As stated in Article 1 of the Arbitration Rules, the jurisdiction of CAS derives from Article 62(1) of the UEFA Statutes (2024 Edition), which determines that *“[a]ny decision taken by a UEFA organ may be disputed exclusively before the CAS in its capacity as an appeals arbitration body, to the exclusion of any ordinary court or any other court of arbitration”*. However, not all decisions may be appealed to CAS as Article 63 of the UEFA Statutes provides a number of situations that CAS is not competent to deal with, *inter alia* *“[...] b) decisions through which a natural person is suspended for a period of up to two matches or up to one month; [...]”*. The exceptions to CAS jurisprudence as provided in Article 63 of the UEFA Statutes also apply to the UEFA EURO 2024.
3. In some cases, the rules of federations limit the right of appeal to the CAS to specific kind of disputes. The lack of a valid arbitration agreement cannot be resolved by

**claiming an alleged violation of a right. A valid arbitration agreement is the basis of arbitration procedures and jurisdiction in general, also in procedures before the CAS, and consequently CAS cannot accept jurisdiction without the existence of a valid arbitration agreement.**

## **I. PARTIES**

1. The Turkish Football Federation (The “First Appellant” or “TFF”) is the governing body of football in Turkey and is affiliated with the Union of European Football Associations (“UEFA”) and Fédération Internationale de Football Association (“FIFA”).
2. Mr Merih Demiral (the “Second Appellant” or “the Player”) is a professional football player and a representative player for TFF; TFF and the Player are hereinafter jointly referred to as the “Appellants”.
3. UEFA (the “Respondent”) has its registered office in Nyon, Switzerland and is the governing body of European football and is recognised as such by FIFA; The Appellants and the Respondent are hereinafter jointly referred to as the “Parties”.

## **II. FACTUAL BACKGROUND**

4. Below is a summary of the main relevant facts, as established on the basis of the written submissions of the Parties. This background information is given for the sole purpose of providing a summary of the dispute. Additional facts may be set out, where relevant, in connection with the legal analysis. While the Sole Arbitrator has considered carefully all the facts and evidence submitted by the Parties in the present proceedings, this Award refers only to the facts and evidence considered necessary.

### **A. Background Facts**

5. On 2 July 2024, TFF’s A representative team participated in a match (the “Match”) in the final round of the UEFA European Football Championship 2024 (“EURO 2024”) against the representative team of the Austrian Football Association (“AFF”). The Match was a part of the round of 16 knockout stage of the EURO 2024 and ended with a 2-1 win for TFF.

### **B. Proceedings before the UEFA Disciplinary Bodies**

6. On 4 July 2024, UEFA informed the TFF that disciplinary proceedings had been instigated in accordance with Article 55(1)(d) of the UEFA Disciplinary Regulations with regards to the potential infringements having been reported by the Ethics and Disciplinary Inspector during the Match. In the letter UEFA informed TFF that it could file a statement as well as evidence related to the alleged violations before 5 July 2024 at 9:00 (CET).

7. On 5 July 2024, before the deadline set by UEFA, TFF submitted a statement, where it, inter alia, declared that it did not agree with the allegations of UEFA.
8. On 5 July 2024 UEFA submitted to TFF the operative part of the decision passed by UEFA's Appeals Body (the "Appealed Decision"), which read as follows:
  - "1. *To suspend Turkish Football Federation player, Mr. Merih Demiral, for a total of two (2) UEFA representative team competition matches for which he would be otherwise eligible, for failing to comply with the general principles of conduct, for violating the basic rules of decent conduct, for using sports events for manifestations of a non-sporting nature and for bringing the sport of football into disrepute;*
  2. *The Turkish Football Federation ensures that its player is personally informed of this decision*".

### III. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT

9. On 5 July 2024, the Appellants filed a Statement of Appeal with the Ad Hoc Division ("CAS Ad Hoc Division") of the Court of Arbitration for Sport ("CAS") against the Respondent with respect to the Appealed Decision, pursuant to the *Arbitration Rules for the UEFA Euro 2024 Final Round* (the "Arbitration Rules"). In the Statement of Appeal, the Appellants requested, inter alia, that the Statement of Appeal should be considered as an Appeal Brief.
10. On 6 July 2024 at 10:28 (Swiss time), the CAS Court Office sent an email, informing the Parties that, pursuant to Article 12 of the Arbitration Rules and on behalf of the Deputy President of the CAS Ad Hoc Division, the matter had been submitted to a sole arbitrator, and that Arbitral Tribunal appointed to decide the present case was constituted as follows:

Sole Arbitrator: Mr Espen Auberg, Attorney-at-law in Oslo, Norway
11. In the same email the CAS Court Office informed the Parties informed that UEFA was invited to file the Reply by the same day at 13h00 (Swiss time).
12. On 6 July 2024 at 12:57 (Swiss time), UEFA filed its reply. In its reply, UEFA, inter alia, objected to the jurisdiction of CAS to deal with the matter at stake.
13. On 6 July 2024 at 13:14 (Swiss time), the CAS Court Office informed the Parties that the Appellants were invited to comment on UEFA's objection as soon as possible and, in any event, no later than 6 July 2024 at 15:00 (Swiss time).
14. On 6 July 2024 at 15:00 (Swiss time), the Appellants filed its comments on UEFA's objection to CAS' jurisdiction.

### IV. SUBMISSIONS OF THE PARTIES AND REQUESTS FOR RELIEF

15. This section of the Award does not contain an exhaustive list of the Parties' contentions. Its aim is to provide a summary of the substance of the Parties' main arguments. In considering and deciding upon the Parties' claims in this Award, the Sole Arbitrator has accounted for

and carefully considered all of the submissions made and evidence adduced by the Parties, including allegations and arguments not mentioned in this section of the Award or in the discussion of the claims below.

#### **A. The Appellants' Submissions**

16. The Appellants' submissions, in essence, may be summarized as follows:

##### Jurisdiction:

- Article 1 of the Arbitration Rules refer only to Articles 61 and 62 of the UEFA Statutes. Article 63 referring to "Excluded jurisdiction" shall not apply to proceedings instigated during the EURO 2024 based on Article 1 of the Arbitration Rules.
- The Appealed Decision severely violates the rights of the Player. UEFA could not be allowed to create regulations preventing the Player from appealing the Appealed Decision, as this would result in severe violation of the basic legal right to legal defence and due process.
- If CAS decides that Article 63 is applicable, CAS should in all cases interfere with the autonomy of UEFA, as the impossibility to appeal the decision of the association that interferes with personality rights of the Player would be violating mandatory legal rules.
- UEFA's regulation could even create a clear case of discrimination, as a Player sanctioned with a monetary fine would be able to appeal the decision, contrary to the Player sanctioned with suspension, despite the latter jeopardising his rights heavier. Such discrimination could not be justified anyhow and should be not allowed.
- The sanction was wrongly imposed, violating the natural right of the Player to his freedom of expression. CAS should not tolerate the regulation, which would allow UEFA to suppress the fundamental rights without having the possibility to challenge the suppression by the right to legal defence.
- Whereas the rule preventing the Player from appeal in casu would manifestly violate his personality rights and offend a basic sense of justice, CAS should interfere with the autonomy of association and do not tolerate the infringements of the basic principle of law. Any other situation would not be compatible with Swiss public order, especially considering the absence of the Player's notification of the opening of the proceedings, UEFA's failure to include the Player as a party to the proceedings and the violation of the personality rights without even providing any grounds.
- UEFA attempts to prevent the Player to search for the legal protection despite the clear violation of his personality rights. UEFA claims that CAS has no jurisdiction to hear the Player's appeal, despite acknowledging at the same time, that CAS is the exclusive judicial body to hear the disputes between UEFA and associations, leagues, clubs, players or officials. If CAS was not competent to hear the appeal of the Player against the Appealed

Decision, the Player simply would not have any other legal remedies available to cure the breach of his personality rights by the UEFA.

- UEFA never informed the Player about the opening of the disciplinary proceedings. If UEFA chose to fall under the judicial scrutiny of CAS, it could not be allowed to escape it at the same time without providing any other legal remedies for the Player. Preventing the Player from appealing the Decision, could result in severe violation of the basic legal right to legal defence and due process.

The merits:

- The case concerns the Player's gesture during the Match, and his alleged breach of article 11(1) in conjunction with article 11(2)(b), (c) and (d) of the UEFA Disciplinary Regulations ("UEFA DR").
- The scope of the relevant articles of UEFA DR is extremely wide and subject to many possible interpretations.
- The Player did not breach the UEFA DR with the gesture. The gesture was a reference to Asena, being the name of a she-wolf associated with the Gokturk foundation. The Player's celebration of the winning goal during the Match did not, and does not, violate the basic rules of decent conduct. Further, it does not constitute any manifestation of non-sporting nature or bring football or UEFA into disrepute.
- The gesture is a symbol widely used by Turks, has nothing to do with politics and always used by people for showing themselves as "Turks".
- The existence of clarity and predictability is required in the whole football community, so that players are duly informed of the regulatory system where they work and operate. necessary to have not only a precise system of infringements, but also a system of sanctions corresponding to each infringement. This means that every sanction must be directly and precisely connected with a specific infringement allowing the player or Club foreseen the consequences of their acts. The above principles would be violated not only because articles of the UEFA DR are broadly drawn but mainly because said articles do not embrace the Asena gesture as one of the different forms of behavior considered unacceptable.
- A suspension of the Player for the next two official football matches to be played by the TFF is clearly unacceptable. Should UEFA believe such gesture worthy of being sanctioned during the present proceedings, a suspension will be evidently excessive and disproportionate.

17. On these grounds, the Appellants made the following requests for relief:

1. *to accept this Appeal against the Decision;*
2. *to issue an order on provisional measures, i.e.:*

*“To suspend the provisional sanction, imposed on the Player, up until the CAS issues a final award in this matter”*

3. *to consider this Statement of appeal as an appeal brief; and*

*Primarily:*

4. *to annul the Decision challenged and issue a new decision, replacing the Decision, in the following terms:*

*“to close the pertinent disciplinary proceedings with Ref. No. 38586 - EURO - 2023/24, and so not to impose any sanctions on the Player”*

*Subsidiarily, only in case the primary request above was not granted, to modify the sanction imposed on the Player, and*

*“to refrain from imposing the suspension of the Player Merih Demiral under Article 6(2)(d) of the DR from the next official football matches of the Turkish National Team; and*

*to apply any other alternative sanction the UEFA CEDB would find appropriate”;*

*In any case:*

5. *to determine any other relief the CAS Panel may deem appropriate;*
6. *to condemn the Respondent to the payment of the whole CAS administration costs and arbitrator’s fees; and*
7. *to fix a sum to be paid by the Respondent, in order to contribute to the payment of the Appellants’ legal fees and costs”.*

## **B. UEFA’s Submission**

18. UEFA’s submission solely concerns the issue of CAS jurisdiction and may, in essence, be summarized as follows:

- Article 63(1)(b) UEFA Statutes clearly states that CAS is not competent “to deal with decisions through which a natural person is suspended for a period of up to two matches or up to one month”.
- The Regulations of the UEFA European Football Championship 2022-24 “UEFA EURO Regulations”) is the governing document for this competition. Article 4.01(b) of said regulations makes clear that to be eligible to participate in the competition, associations must confirm that they agree to recognise the jurisdiction of CAS, as defined in the relevant provisions of the UEFA Statutes.
- TFF itself signed an entry form to the competition which confirmed its agreement to abide by the UEFA Statutes and regulations of the competition. In said entry form, TFF

further confirmed that also players and officials agree to respect the relevant obligations stated in such form.

- Article 1 of the Arbitration Rules expressly provide the purpose of the Arbitration Rules is to provide for resolution by arbitration of disputes covered by Article 4.01(b) of the UEFA EURO Regulations in connection with Articles 61 and 62 of the UEFA Statutes.
- The Appellants' argument on jurisdiction regarding alleged violations of the Player's personality rights, and that he should be able to appeal even in the event that it is excluded by the rules is not relevant. The lack of a valid arbitration agreement cannot be resolved by claiming an alleged violation of a right: jurisdiction of a court or a tribunal has simply nothing to do with the merits of a case.

19. On this basis, UEFA made the following request for relief:

*"an order confirming the lack of CAS jurisdiction over the matter and in any event, to reject the appeal and the provisional measures request".*

## V. JURISDICTION

20. The jurisdiction of CAS derives from Article R47 paragraph 1 of the Code of Sports-related Arbitration ("the Code"), which reads:

*"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".*

21. The principles set out in Article R47 paragraph 1 of the Code has been considered by numerous CAS panels, hereunder CAS 2022/A/8700 paragraph 35, with further reference to CAS 2008/A/1602, CAS 2009/A/1910, CAS 2008/A/1708 and CAS 2005/A/952, where the sole arbitrator stated as follows:

*"in order for the CAS to have jurisdiction to hear an appeal, there must exist either a specific arbitration agreement between the Parties, or the jurisdiction of the CAS must be expressly recognized in the statutes or regulations of the sports-related body that issued the decision appealed against".*

22. As such, the main issue to be resolved by the Sole Arbitrator in the case at hand is if the statutes or regulations of UEFA provides that the decision may be appealed to CAS.

23. Article 1 of the Arbitration Rules provides as follows:

*"Application of the Present Rules and Jurisdiction of the Court of Arbitration for Sport (CAS)*

*The purpose of the present Rules is to provide for the resolution by arbitration of any disputes covered by Article 4.01(b) of the Regulations of the UEFA European Football Championship 2022-24 in connection with*

*Articles 61 and 62 of the UEFA Statutes, insofar as they arise during the final round of the UEFA European Football Championship 2024 (“EURO 2024 Final Round”), i.e. between 14 June and 14 July 2024”.*

24. As stated in Article 1 of the Arbitration Rules, the jurisdiction of CAS derives from Article 62(1) of UEFA’s Statutes (2024 Edition), which determines that “[a]ny decision taken by a UEFA organ may be disputed exclusively before the CAS in its capacity as an appeals arbitration body, to the exclusion of any ordinary court or any other court of arbitration”.
25. However, not all decisions may be appealed to CAS as Article 63 of the UEFA Statutes provides a number of situations that CAS is not competent to deal with. The applicable article reads as follows:  
  
"The CAS is not competent to deal with:  
  
a) matters related to the application of a purely sporting rule, such as the Laws of the Game or the technical modalities of a competition;  
  
b) decisions through which a natural person is suspended for a period of up to two matches or up to one month;  
  
c) awards issued by an independent and impartial court of arbitration in a dispute of national dimension arising from the application of the statutes or regulations of an association”.
26. In the case at hand, the Appealed Decision imposed a suspension for two matches on the Player. Such a suspension falls under the scope of Article 63 litra b of the UEFA Statutes and is therefore categorised as a case that CAS is not competent to deal with.
27. The Sole Arbitrator does not concur with the Appellants’ claim that as Article 1 of the Arbitration Rules only refers to Articles 61 and 62 of the UEFA Statutes, Article 63 shall not apply to proceedings instigated during the EURO 2024. Article 1 of the Arbitration Rules provides a description of the purpose of the Arbitration Rules, which, in essence, is to provide for a resolution mechanism for disputes covered by Article 4.01(b) of the UEFA EURO Regulations. Article 4.01(b) of the UEFA EURO Regulations provides that the football associations participating in the UEFA EURO 2024 must recognize the jurisdiction of CAS “as defined in the relevant provisions of the UEFA Statutes”. This reference to the provisions of the UEFA Statutes in Article 4.01(b) of the UEFA EURO Regulations does not imply that the jurisdiction of CAS is extended during the UEFA EURO 2024, in the sense that Article 63 shall not apply to proceedings instigated during the EURO 2024.
28. Against this background, the Sole Arbitrator holds that Article 1 of the Arbitration Rules cannot be considered as an extension of cases that may be appealed to CAS pursuant to Articles 61, 62 and 63 of the UEFA Statutes.
29. Regarding the Appellants’ argument that the Appealed Decision in any case may be appealed to CAS as it severely violates the personality rights of the Player, and that UEFA could not be allowed to create regulations preventing the Player from appealing the Appealed Decision as this would result in severe violation of the basic legal right to legal defence and due process, the Sole Arbitrator notes that an association’s right to define and limit the types of disputes that

may be appealed to CAS has been recognized by CAS. In CAS 2008/A/1571 (paragraph 16) the panel stated as follows:

*“The TFF Law only provides for a right of appeal from decisions of the Appeal Board to the CAS in cases that concern transfer, license and contracts of players and contracts of technical directors and trainers. There is no omnibus right of appeal to the CAS in the TFF Law for cases such as the present dispute, and no such right can exist unless and until the TFF Law is amended to incorporate such a right of appeal”.*

30. A similar approach is taken by MAVROMATI/REEB, The Code of the Court of Arbitration for Sport: Commentary, Cases and Materials, 2015, p. 389:

*“In some cases, the rules of federations limit the right of appeal to the CAS to specific kind of disputes. Indeed, the choice whether to confer a wide right of challenge or a more restrictive one is a matter of policy the sports body. If the wording of the rule shows that the appeal to the CAS is limited to a specific number of cases, it must be examined whether the dispute at hand falls under the cases listed therein”.*

31. The Sole Arbitrator concurs with these considerations and does not agree with the Appellants’ claim that CAS jurisprudence, hereunder CAS 2022/A/8871 and CAS 2020/A/7090, suggests that CAS in all cases is competent to interfere with the autonomy of an association. In neither of the cited cases CAS’ jurisdiction was contested. CAS 2022/A/8871 concerned an administrative decision taken by the UEFA Executive Committee, which fell under the scope of cases that could be appealed to CAS. CAS 2020/A/7090 concerned a decision taken in Mexican professional football to suspend the promotion and relegation system. Both panels’ considerations with respect to the limitations of a sports association’s autonomy concerned the merits of the cases, not CAS jurisdiction.
32. The Sole Arbitrator further agrees with UEFA that the lack of a valid arbitration agreement cannot be resolved by claiming an alleged violation of a right. A valid arbitration agreement is the basis of arbitration procedures and jurisdiction in general, also in procedures before the CAS, and consequently CAS cannot accept jurisdiction without the existence of a valid arbitration agreement.
33. In view of the above considerations, the Sole Arbitrator concludes that CAS does not have jurisdiction to hear the Applicants’ application.

## **ON THESE GROUNDS**

### **The Court of Arbitration for Sport rules that:**

1. It does not have jurisdiction to hear the appeal filed by the Turkish Football Federation and Mr. Merih Demiral against the decision issued by the Appeals Body of Union des Associations Européennes de Football (UEFA) on 5 July 2024 in the case 38586 – EURO – 2023/2024.
2. (...).
3. (...).
4. All other motions or prayers for relief are dismissed.