

# News

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## Between a pledge and a proposal: International football contract formation



***The article looks at the rules that regulate football contracts.***

Negotiations usually take place through unofficial routes in the extremely fast-paced transfer market of modern football. The distinction between first negotiations and legally enforceable promises is blurred by WhatsApp messaging, scanned documents, and quickly traded "offers." This issue is directly addressed in Arbitration CAS 2024/A/10841, Bogdan Ilie V?t? jelu v. Abha FC. The fundamental question is this: in professional football, when does a job offer become a legally enforceable contract?

***The disagreement started when Romanian footballer Bogdan Ilie Vîțelju signed and returned a one-year USD 500,000 offer from Abha FC. Citing unfulfilled terms and the document's non-binding nature, the club subsequently withdrew. The player's claim was denied by the FIFA Dispute Resolution Chamber (DRC), which concluded that there was no legitimate contract. The Court of Arbitration for Sport (CAS) was requested to decide whether the paper was a legitimate offer and, if it was, whether accepting it resulted in a legally binding employment contract.***

Essentialia negotii, conditional contracts under Swiss law, and the legal relevance of disclaimers in football employment discussions are all explained in detail in the award. According to this article, the case represents a significant doctrinal clarification: even though an offer with all the necessary criteria may be legitimate, its legal validity is contingent upon a careful interpretation of prior requirements and express reservations of withdrawal.

### ***Background information about facts and procedures***

Though legally complex, the factual matrix is really simple. Vîțelju's employment agreement with his former club, Universitatea Craiova, was amicably terminated on June 15, 2023. The Sporting Director of Abha FC sent a letter over WhatsApp the next day, giving what it called a "proposal" for employment. It outlined the duration (one year plus an option), compensation (USD 500,000 per year), extra benefits, and a breach compensation clause equal to two monthly salaries. Both the player's and the club's professionalism director's signatures were on it.

***However, it was important to note that the letter contained cumulative criteria, which included signing an employment contract, providing verification of free agent status, and passing a physical examination. It made it clear that it was "not a binding employment offer" and that the club would withdraw if certain requirements weren't fulfilled.***

Within the allotted 48 hours, the player signed and returned the papers. The club later pulled out, claiming that official channels had not received evidence of free agency before the deadline. The player signed with another Romanian club a few days later.

***The player claimed that the document met all the requirements of an employment contract before the FIFA DRC and that the club's removal amounted to termination without cause. The DRC acknowledged that the player's signature was genuine and that the agreement had necessary terms. Nonetheless, it determined that the player***

***had failed to show compliance within the allotted period and that the offer was legitimately contingent upon verification of free agent status. The assertion was denied.***

The player argued in his appeal to CAS that his acceptance formed a legally binding agreement and that the 48-hour deadline only related to acceptance and not to condition fulfillment. The club reaffirmed that it had specifically retained the ability to withdraw and that the proposal was non-binding and subject to cumulative criteria.

### ***Analysis of the law***

The two phases of the award's analytical architecture include determining whether the "Offer" was legitimate and if it was legally binding.

#### Negotiation essentials and the offer's legitimacy

The Sole Arbitrator reiterated the well-established CAS doctrine that a contract is concluded when parties jointly express assent on important aspects, citing Articles 1 and 2 of the Swiss Code of Obligations (SCO). These essentialia negotii usually include the parties' identities, duration, compensation, position, and signatures in employment contracts.

***All of these components were present in the contested letter. It met the structural requirements for a legitimate offer in that regard. Crucially, the ruling makes clear that essentialia negotii have two purposes: they establish whether a contract is in place and whether a communication qualifies as a legally cognizable offer as opposed to merely a negotiation.***

The club's attempt to undermine the offer by claiming that it was transmitted through an intermediary without authorization was denied. The arbitrator acknowledged that when a document originates from the club and is signed by the club, passive or implicit authorization may be sufficient even in the absence of active authorization. This method is consistent with earlier CAS jurisprudence that prioritizes content over formality when assessing written communications.

### ***Binding force and conditionality***

The impact of the conditions and disclaimer that were stated was the deciding factor. Contracts may be subject to precedent-setting requirements under SCO Article 151(1). The

existence of such conditions delays enforceability until fulfillment but does not negate validity.

***The award carefully examined the letter's textual meaning. The 48-hour limit only applied to the player's statement of acceptance or rejection, it was noted. It didn't specifically call for conditions to be met within that time frame. Therefore, by returning the signed document, the player met the deadline on a literal reading.***

The arbitrator did, however, make a distinction between meeting the norm and accepting the plan. It was decided that requiring evidence of free agent status was a valid and enforceable requirement. FIFA RSTP Article 18(3) renders clauses requiring a medical examination to be legitimate void; nevertheless, this does not apply to the verification of free agency. There was not enough evidence, according to the arbiter, that the athlete had provided proof within the allotted period.

Furthermore, interpretive weight was given to the clear warning that the proposition was "not a binding employment offer" and that the club retained the right to withdraw. Disclaimers inform the parties' intent and the nature of the endeavor, even if they cannot objectively refute the existence of fundamental clauses. The award points to a purposeful interpretation: the document was intended to be a structured proposal that, if certain requirements were met, would result in a formal employment contract.

***Therefore, even if the offer was legitimate, it did not develop into a legally binding employment contract since a crucial requirement precedent had not been established. Thus, the club's departure was permitted by law.***

Critical analysis and current applicability

Although the award is doctrinally sound, it raises a number of important questions.

First, the arbitrator makes a conceptually coherent difference between binding force and validity. All too frequently, parties confuse the existence of necessary phrases with instant enforceability. The ruling maintains contractual flexibility in the erratic football market by restating that conditional offers are acceptable under Swiss law.

***However, in cases when the paper otherwise looks like a finished contract, one would wonder if the disclaimer wording should have determining weight. The claim that the plan "is not a binding employment offer" conflicts with the inclusion of specific***

***compensation, breach compensation, and signatures. When seen objectively, the instrument had the characteristics of finality. Clubs may use disclaimers to hedge promises with little to no repercussion if they can so readily nullify binding intent.***

Second, the prize emphasizes the participants' evidentiary burden. According to the "comfortable satisfaction" requirement, the player did not provide evidence of free agency in a timely manner. A larger CAS tendency that prioritizes documentary clarity is reflected in this evidential emphasis. In reality, players and agents need to make sure that adherence to precedent-setting conditions is clearly conveyed through verifiable channels.

***Third, the case demonstrates the limitations of RSTP under Article 18(3). Conditions pertaining to medical examinations are void, while other requirements—like confirming the contractual status—remain binding. In terms of regulatory policy, the asymmetry is justified, but it gives clubs flexibility to strategically frame proposals around requirements that are challenging to meet in a short amount of time.***

Lastly, the award can be interpreted as an unspoken warning against the digitization of negotiations. While electronically signed documents and WhatsApp conversations are not intrinsically flawed, they nevertheless necessitate stricter procedural oversight. Commercial reality is reflected in the arbitrator's recognition of implicit authorization, but it also emphasizes the necessity of distinct lines of authority and communication.

### ***In conclusion***

The fundamentals of contract creation in football employment disputes are articulated more clearly in this case. It makes a clear but moral distinction between a legally enforceable employment contract subject to precedent and a legitimate offer that contains essentialia negotii. The ruling affirms that, even in cases where a document seems substantively complete, disclaimers and conditional clauses, when properly worded, might prevent immediate contractual obligations.

It's a clear message for practitioners. Careful documentation, clear communication of condition fulfillment, and accurate writing are essential. The case serves as an example for academics of the continuous conflict between formal contractual law and the dynamic realities of football negotiations.

***Ultimately, the ruling places the FIFA RSTP within the larger context of Swiss contract law rather than undermining its protective architecture. It is unclear if panels in the future will take a more stringent stance on disclaimers. Although the line between proposition and promise has been carefully delineated from a doctrinal standpoint thus far, it is still open to future contestation.***

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