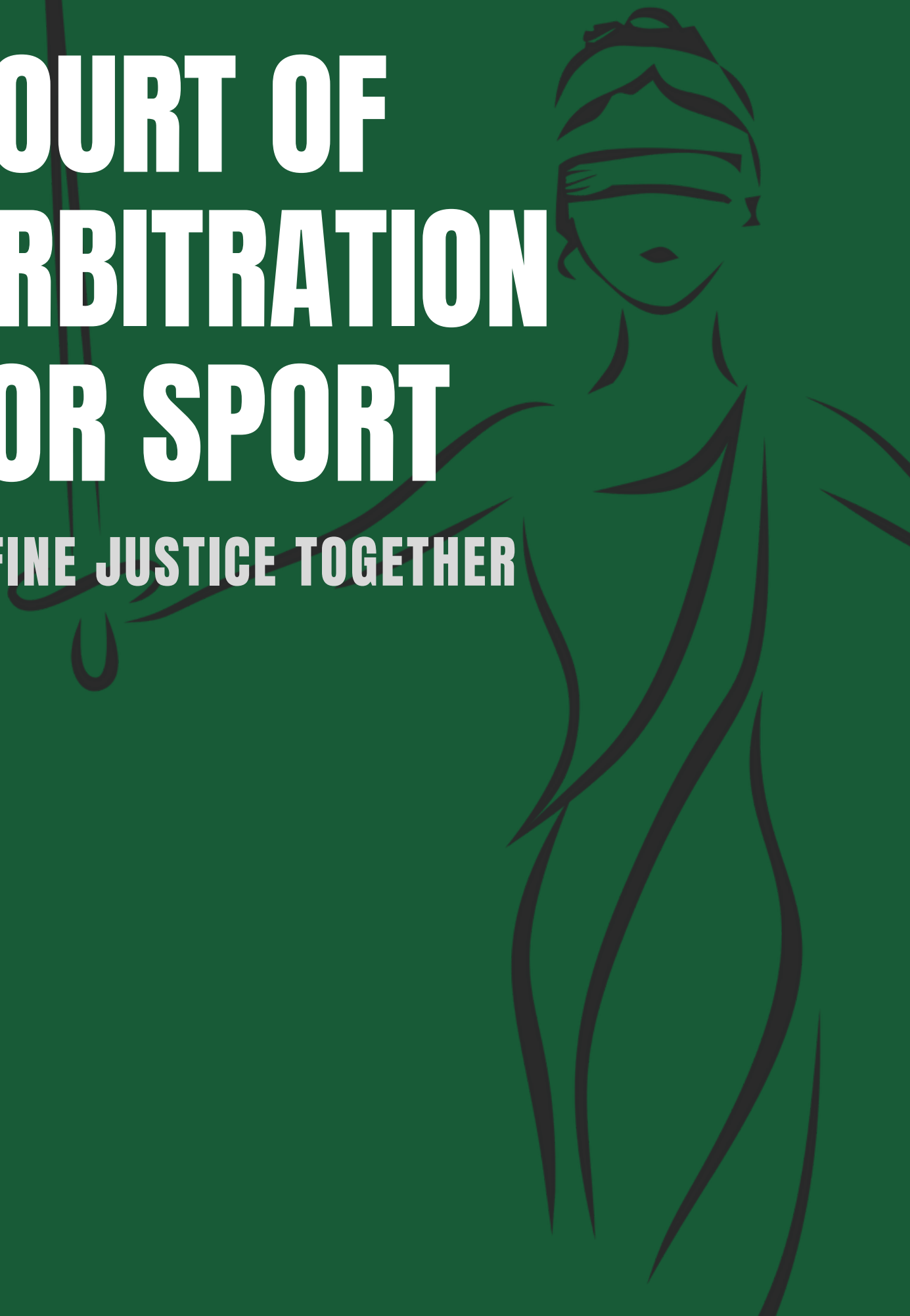


**TCS'24**

# **COURT OF ARBITRATION FOR SPORT**

**DEFINE JUSTICE TOGETHER**



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## **I. LETTER from SECRETARY GENERAL**

Dear participants, it is my privilege to introduce you to Themis Court Simulations 2024 as the Secretary General of the Conference.

This year, we are once again hosting Turkey's leading moot court conference with academic saturation as well as organizational excellence. As Themis Court Simulations, our goal is to continue this tradition and provide you with a unique and exciting experience.

This year, we are continuing a tradition with additions. Our perspective was to have courts in the most exciting, competitive, and instructive areas of law and in this context, we have prepared six interesting courts.

On behalf of the academic team who prepared these exciting courts and my Deputy Secretary General Ece Koç, I would like to welcome you all to Themis Court Simulation. Likewise, our organizing team will welcome you with their kind hospitality to make your experience as easy as possible.

I would also like to thank all my academic team in advance. I can see that I have the opportunity to work with a great group of people, so I am happy to have such a team. With their potential, this journey will be incredibly enjoyable. I would also like to thank my fellow Director General Mr. Can Deryahan and Deputy Director Generals Ms. Berfin Rabia İstek and Ms. Nur Damla Karadurmuş for their tireless organizational team.

In closing, on behalf of Themis Court Simulations, I would like to welcome you once again all to this year's event and look forward to defining justice together!

Best regards,

**Kaan Ünder**

***Secretary General of Themis Court Simulations 2024***

## **II. LETTER from UNDER SECRETARY GENERAL**

Distinguished participants,

It is an honor to serve you as Under Secretary General of the Court of Arbitration for Sport at Themis Court Simulations 2024. I'm Gökçen Polat, sophomore law student at Kadir Has University.

In this year's edition of CAS, distinguished participants will act as advocates and arbitrators to resolve a special case concerning Beşiktaş A.Ş.'s administrative procedures, the club's overall strategies, organizational structure, and decision-making processes. In addition to examining Beşiktaş's longstanding management, participants will additionally discuss the significance of the ÇARŞI by analyzing its impact on the club's principles, identity, and support culture, as well as its position in the history and growth of Beşiktaş.

Before concluding my words, I would like to express my sincere gratitude to Mr. Kaan Ünder, the esteemed Secretary-General, for offering me this chance and for his continuous encouragement and help throughout this entire journey. Additionally, I would like to express my gratitude to Director General Mr. Can Deryahan and Deputy Director Generals Ms. Berfin Rabia İstek, Ms. Nur Damla Karadurmuş, and Kadir Has Law Society for their tireless efforts.

Finally, let me extend a warm welcome to everyone here at Themis Court Simulations 2024. I am looking forward to meeting you in person.

Best regards,

Gökçen Polat.

### **III. INTRODUCTION TO THE COURT**

#### **A. General Structure of Arbitration**

Arbitration is a procedure in which a dispute is submitted, by agreement of the parties, to one or more arbitrators who make a binding decision on the dispute. Parties decide to go for a private dispute resolution procedure instead of going to court.

Arbitration agreements can be divided into two types. The first type of arbitration agreement is a contract that contains an arbitration clause, which stipulates the parties to the contract will arbitrate. The second type of arbitration agreement occurs after the dispute has arisen. The two parties reached an agreement on the dispute solved through arbitration. Sometimes called a submission agreement.

Parties are inclined to resolve disputes through arbitration due to some potential advantages pro-rata to judicial proceedings. Arbitration grants the parties to choose their arbitral tribunal whereas in judicial courts there is no possibility for judge selections. The proceedings are generally non-public and often faster than court proceedings. Provisions of the New York Convention 1958 enable arbitral awards to be enforceable in other nations in contrast to court decisions.

#### **B. Sports-Related Arbitration**

##### **1. Code of Sports-Related Arbitration**

The Code of Sports-related Arbitration entered into force on 22nd September 1994. In order to regulate some of the long-established principles of CAS case law and practices, the Code was revised on the 1st of January 2021. The current form of the Code was established in

2010.v The Code consists of 70 articles in total and it is divided into two sections. The first section, articles S1 to S26 (S1-S3 joint dispositions, S4-S11 ICAS, S12-S22 CAS, S23-S26 miscellaneous provisions.) The second section, articles R27-R70 (R27-R37 general provisions, R38-R46 special provisions applicable to the ordinary arbitration procedure, R47-R59 special provisions applicable to the appeal arbitration procedure, R60-R62 consultation proceedings, R63 interpretation, R64-R66 costs of arbitration proceedings, R67-R70 miscellaneous provisions) The Code constitutes of rules for four separate procedures:

- the ordinary arbitration procedure. - the appeals arbitration procedure.
- the advisory procedure, which is non-contentious and allows certain sports bodies to seek advisory opinions from the CAS.
- the mediation procedure.

Written and oral proceedings are the two classic phases of arbitration. An exchange of statements of the case is reviewed in the written proceedings and the phase where the parties are heard by the arbitrators, generally at the seat of the CAS in Lausanne, is the oral proceedings.

## **2. The International Council of Arbitration for Sport**

ICAS is the supreme organ of the CAS and serves as the management and administrative branch of the CAS. The purpose for ICAS establishment is distinctly disclosed in Article S2 of the Code: “The purpose of ICAS is to facilitate the resolution of sports-related disputes through arbitration or mediation and to safeguard the independence of CAS and the rights of the parties. It is also responsible for the administration and financing of CAS.”

ICAS protects the independence of CAS and parties' rights. ICAS is also responsible for the management and financing of the CAS. ICAS is composed of 20 high-level jurists who must all be well-acquainted with the issue of the arbitration along with knowledge of sports law. ICAS members sign a declaration that states that they will be undertaking to exercise their function with total objectivity and independence which also means that members should not have taken a part in the proceedings before CAS as an arbitrator or counsel. The exercise power of ICAS is listed under article S6 of the Code.

### **3. Court of Arbitration**

#### **a. History**

“The Court of Arbitration for Sport (CAS) is an institution independent of any sports organization which provides for services in order to facilitate the settlement of sports-related disputes through arbitration or mediation by means of procedural rules adapted to the specific needs of the sports world.”

The Court of Arbitration for Sport was established in 1984 in Lausanne, Switzerland where the headquarters are today. The courts of the CAS are located in New York City, Sydney and Lausanne.

In the early 1980s, the increase in international sport-related disputes revealed the necessity of an international and independent institution that could resolve sport specialized conflicts and be authorized to make mandatory settlements. In 1981, International Olympic Committee (IOC) President Juan Antonio Samaranch had an idea to form a sport-separated jurisdiction which led to the establishment of the CAS. The purpose for the creation of a separate jurisdiction for sports was to have an authority that can efficiently resolve direct or indirect international sport related disputes offering quick, flexible and inexpensive procedures.

The impartiality and independence of CAS started to create suspicion as a consequence of the aforementioned facts. The CAS also had a lack of procedural matters. There was only one type of attainable contentious proceeding which prohibited different approaches to different types of conflicts. A guide which provided a base for appeals was published by CAS in 1991 with the following clause: *“Any dispute arising from the present Statutes and Regulations of the ... Federation which cannot be settled amicably shall be settled finally by a tribunal composed in accordance with the Statute and Regulations of the Court of Arbitration for Sport to the exclusion of any recourse to the ordinary courts. The parties undertake to comply with the said Statute and Regulations, and to accept in good faith the award rendered and in no way hinder its execution.”*

## **b. Structure**

CAS operates through the intermediary of arbitrators, of whom there are at least 150, with the help of the Court Office headed by the Secretary-General. ICAS is the responsible body to appoint arbitrators of CAS. ICAS must appoint personalities with “appropriate legal training, recognized competence with regard to sports law and/or international arbitration, a good knowledge of sport in general and good command of at least one CAS working language, whose names and qualifications are brought to the attention of ICAS, including by the IOC, the IFs, the NOCs, and by the athletes' commissions of the IOC, IFs, and NOCs”. CAS consists of two divisions: ‘Ordinary Arbitration Division and ‘Appeals Arbitration Division. The Ordinary Arbitration Division is responsible for the resolution of the disputes submitted to the ordinary procedure. The Appealed Arbitration Division is responsible for the resolution of disputes concerning the decisions of federations, associations, and other sports-related bodies taking into account that statutes or regulations of the said sports-related bodies or a specific agreement provides it so.



#### **IV. LIST of ABBREVIATIONS**

CAS	Court of Arbitration for Sport
CAS Code	Code of Sport-related Arbitration
TFF	Turkish Football Federation
FIFA	Fédération Internationale de Football Association
UEFA	Union of European Football Associations
CONCAAF	Confederation of North, Central America and Caribbean Association Football
CAF	Confederation of African Football
OFC	Oceania Football Confederation
CONMEBOL	South American Football Confederation
PILA	Public and Private International Law
TCS	Themis Court Simulations



## **V. CASE: “BEŞİKTAŞ A.Ş.” v. “ÇARŞI INTERNATIONAL**

### **I. THE PARTIES**

1. Beşiktaş A.Ş. (hereinafter also the “Appellant” or “Club”) is a professional football club with its registered office in Istanbul, Turkey. The Club is a member of the Turkish Football Federation (hereinafter “TFF”), which is in turn affiliated with the Fédération Internationale de Football Association (hereinafter “FIFA”).
2. ÇARŞI International (hereinafter also the “Respondent”) is the club's fan base, and well known globally. ÇARŞI does not consist of a certain group of people with a specific identity. ÇARŞI International is one of the participants of Beşiktaş and also holds a shareholder position in Beşiktaş A.Ş.

### **II. FACTUAL BACKGROUND**

#### **A. Federations and Associations**

##### **A.1. Turkish Football Federation (TFF)**

The Turkish Football Association was founded on April 23, 1923, and is headquartered in Ankara, Turkey. It currently holds the sport of football at the national level and is the only organization that regulates issues related to Turkish football and is authorized to represent it at the national and international levels. The Turkish Football Association is a self-governing organization. The TFF has been a member of FIFA since 1923 and of UEFA since 1962.

## **A.2. Beşiktaş FC**

Beşiktaş Jimnastik Kulübü was founded in 1903 in the homonymous neighborhood of Istanbul's European part, which makes them the oldest of the city's "Big Three." In the early history of the club, the football team was playing in the Istanbul Football League, in which they, alongside Galatasaray and Fenerbahçe, were outstanding. Beşiktaş participates in various domestic and international football competitions, including the Süper Lig, and European competitions like the UEFA Champions League. Beşiktaş J.K. as a football club has multiple goals, including achieving success on the field, preserving its identity and values, developing young talent, engaging with fans, ensuring financial stability, and contributing to the community.

## **A.3. ÇARŞI**

The club's fan base, ÇARŞI, is well known globally. The group is involved with sociopolitical causes and is traditionally considered to be working-class and left-wing, supporting what is known as "the people's team". They were chosen as the best fan group in voting conducted by American sports viewers due to their 132-decibel noise record at a 2007 match against Liverpool. ÇARŞI does not have a homogenous structure and it does not consist of a certain group of people with a specific identity. People from different social backgrounds, cultural environments, and ethnic origins are assembled at the group even though they support opposite ways of thinking in terms of politics or ideologies.

## **A.4. Fédération Internationale de Football Association (FIFA)**

FIFA was founded in 1904, its membership comprises 211 national associations. These national associations must also be members of one of the six regional confederations into which the world is divided: CAF (Africa), AFC (Asia and Australia), UEFA (Europe), CONCAAF (North & Central America and the Caribbean), OFC (Oceania), and CONMEBOL (South America). FIFA outlines several objectives in its organizational statutes, including growing association football internationally, providing efforts to ensure it is accessible to everyone, and advocating for integrity and fair play. It is responsible for the organization and promotion of association football's major international tournaments, notably the World Cup which commenced in 1930, and the Women's World Cup which began in 1991. Although FIFA does not solely set the laws of the game, that being the responsibility of the International Football Association Board of which FIFA is a member, it applies and enforces the rules across all FIFA competitions.

#### **A.5. Ahmet Nur Çebi**

Ahmet Nur Çebi was born 29 October 1959 in Trabzon, Turkey. He attended Istanbul's Marmara University to study economics. He held multiple positions within the family business group of firms. In January 2010, Çebi joined candidate Murat Aksu's presidential campaign for the 33rd presidency of Beşiktaş J.K., which ended in favor of the former president, Yıldırım Demirören. Çebi was again named in March 2012, this time as a candidate for Fikret Orman on the primary list of campaign board of directors members, who faced off against two other candidates at the rally. Fikret Orman went on to win the election and served as the club's chair from 2012 to 2019. Under Fikret Orman's leadership, he was named vice president in April 2012. Çebi conducted his presidential campaign after Fikret Orman resigned on September 24, 2019, and on October 24, 2019, during the extraordinary general assembly, he was chosen as the 34th President of Beşiktaş J.K.

#### **A.6. Kaan Karaçam**

Kaan Karaçam was born 17.08.1987 in Dusseldorf, Germany. He studied his undergraduate degree at Munich Technical University to psychology. He works his own clinic as a psychologist. Kaan has been a great fan of Beşiktaş and has been following the matches since he was a child. Especially he postpone an appointments during the Beşiktaş matches. Being a fan of Beşiktaş and unrequited love to Beşiktaş is the most important for Karaçam's life. He is the member of Çarşı International.

## **B. Background Facts**

### **B.1. Agreement Between Beşiktaş & ÇARŞI International**

3. On 31 March 2019 Beşiktaş A.Ş. and ÇARŞI International officially established a collaborative agreement outlining their partnership in media works, fan engagement, and the promotion of Beşiktaş's image. The campaign resulted in increased engagement and enthusiasm among supporters, with both Beşiktaş and ÇARŞI International working together to create captivating content that resonated with fans. This collaboration not only strengthened the club's global image but also fostered a sense of unity within the Beşiktaş community. Through interactive social media campaigns and fan events, the partnership successfully brought supporters closer to the club they love, generating renewed passion and loyalty among Beşiktaş fans worldwide.
4. In July both parties successfully executed a joint media campaign, creating positive visibility for Beşiktaş and strengthening the fanbase's connection with the club. In addition to the joint media campaign, Beşiktaş also organized several fan events to further enhance the bond between the club and its supporters. These events included meet & greets with players, interactive games, and special discounts on club merchandise. The efforts proved to be highly effective as the fanbase grew significantly, with more supporters attending matches and actively engaging with the club on social media platforms.

## **B.2. Ahmet Nur Çebi's Damaging Decisions**

5. On 23 August 2021 , Çebi makes a controversial decision regarding a key player transfer, leading to backlash from both fans and football analysts. This decision sparked a storm of criticism, posing existential threats to the club's direction and raising concerns about its prospects. While backlash from fans and football analysts is expected with any controversial decision, it can also be argued that Çebi's decision could potentially bring positive changes to the club's direction and enhance its prospects in the long run.
6. In November, Çebi dismisses a popular coach against the wishes of the fanbase, causing a significant decline in team performance. The crucial consequence provoked thought among the fanbase, prompting insightful inquiries about the wisdom of the move above. The fans wondered if Çebi had considered the long-term consequences of his decision or if it was simply a knee-jerk reaction. They questioned whether the team would be able to recover from the decline in performance and if it would affect their chances in the upcoming tournaments. The dismissal of the coach also raised concerns about the stability and direction of the team, leaving the fanbase uncertain and eager for answers.
7. Throughout 2022, allegations surface about financial mismanagement under Çebi's leadership, damaging the club's financial stability. The allegations pose a significant danger to the club's financial health and strategic sustainability under Çebi's leadership. If the allegations are proven to be true, it could erode the trust of the club's sponsors and potential investors, making it difficult for the club to secure future financial support. The negative publicity surrounding the allegations could also result in a decrease in ticket sales and merchandise revenue, further exacerbating the club's financial woes. Without swift action to address these allegations and restore transparency, the club's long-term success could be at risk.
8. On 7 May 2023, Çebi unilaterally terminates a lucrative sponsorship agreement without proper consultation, causing a severe financial setback for Beşiktaş A.S. Therefore, the club's fiscal stability and strategic initiatives suffer. The lack of rigorous consideration leading to the ending has raised questions about governance processes and financial prudence within the organizational framework. The abrupt termination of the sponsorship agreement has not only damaged Beşiktaş A.S.'s financial prospects but also tarnished its reputation in the business world. The decision has left stakeholders and supporters questioning the competence and decision-making abilities of the club's management. Moving forward, Beşiktaş A.S. will need to regain the trust of sponsors and stakeholders to restore its fiscal stability and ensure the success of its strategic initiatives.

9. Çebi's implementation of a flawed youth development strategy results in a lack of promising talent in the club's academy, impacting the team's long-term prospects. The negative effects of this strategic failure are obvious, raising worries about the efficacy of the implemented youth development model and its possible consequences for the club's long-term competitiveness.
10. Çebi's public relations decisions, including controversial interviews and statements, further alienate the fanbase and damage the club's public image, causing the once-unbreakable relationship to disintegrate. Moreover, several important team members showed their obvious displeasure with Çebi's leadership, which only made matters worse. The team members openly criticized Çebi's decision-making and lack of understanding of their needs and concerns. This lack of support from key players further exacerbated the deteriorating relationship between the club's management and players. As a result, the fanbase began to lose faith in their beloved club, feeling disillusioned and disheartened by the chaos surrounding it.
11. Several key players express dissatisfaction with Çebi's leadership, citing a lack of communication and direction, contributing to internal team discord. The Çebi period serves as a clear warning of the hazards of reckless leadership, the weakness of the club's management's relationship with its devoted fan base, and financial risk. The decisions committed during an unstable period could potentially have a lasting impact on Beşiktaş A.Ş.'s heritage.

### **B.3. Rising Fan Protests and Extraordinary Board Election**

12. On 4 October 2023 fans organize the first demonstrations against Çebi's management, expressing concerns about the club's direction. These demonstrations highlighted supporters' growing concerns about the club's direction under his leadership and foreshadowed the upcoming crisis.
13. A social media campaign gains momentum in 13 October 2023, mobilizing Beşiktaş supporters and amplifying their dissent against Çebi. The campaign, led by passionate fans, spreads like wildfire across various platforms, with hashtags and powerful messages condemning the club's president. Thousands of supporters join forces, sharing their frustrations and demanding change, as the campaign becomes a powerful force challenging Çebi's leadership.

14. During a match on 15 November 2023, fans stage protests within the stadium, disrupting the match and drawing national attention to their grievances. This outrageous demonstration during a crucial game not only brought the game to a halt, but it also functioned as a symbolic appearance of a mass protest, representative of the club's committed supporters. The event highlighted a visible divide that demands careful analysis and active engagement to address the increasing tensions among supporters and develop a more harmonious relationship between the club's stakeholders.
15. In April 2024, Beşiktaş A.Ş. officially announces the scheduling of an extraordinary board election in response to the growing unrest among the fanbase. The declaration referred to the club's approaching substantial changes and was made in reaction to increasing supporter disapproval. The club's management acknowledged the need for a fresh start and emphasized the importance of fan representation in decision-making processes. The upcoming board election aimed to restore unity within the fanbase and regain their trust. Beşiktaş A.Ş. recognized that addressing the concerns of its loyal supporters was crucial for the club's future success and vowed to listen to their voices during this critical transition period.
16. The nomination period for the extraordinary board election opens on [Date], with multiple candidates vying for the presidency, indicating a significant challenge to Çebi's leadership. The wide range of candidates demonstrated the extent of dissatisfaction and the need for a change of course for the club's leadership.
17. As the election approaches, protests intensify, with the fans demanding a change in leadership and greater transparency in the club's decision-making. The spike in discontent poses a strong challenge to President Çebi's position, as evidenced by the wide range of candidates entering the election fray, demonstrating the depth of dissatisfaction and the need for a re-calibration in the club's leadership. Several influential former players and club legends, including those who had previously shown support for President Çebi, have also come forward to voice their concerns and join the call for change. Additionally, prominent fan groups have organized massive rallies outside the club's headquarters, further illustrating the growing frustration among supporters. It is clear that the upcoming election will be pivotal in determining the future direction of the club, highlighting the urgent need for President Çebi to address the grievances and implement meaningful reforms to regain the trust of the fans.



18. Despite widespread opposition, Çebi is re-elected as president during the extraordinary board election, sparking outrage and escalating tensions between the club and its supporters. The controversial election result highlights an obvious division inside the organizational hierarchy and emphasizes the need for decisive reunion attempts to bridge the growing divide between the administration and the supporters.

#### **B.4. ÇARŞI International Press Release**

19. Following Çebi's re-election in 15 May 2024 ÇARŞI International started to publicly expressing the dissatisfaction with the election results, questioning the legitimacy of the process. Later on the same day, anti-Çebi rhetoric was thrown at the protest made by the dissatisfied fans. "Go back to Trabzon." and more slogans which were known to have more aggressive content. The fact that Cebi, whose resignation is expected, faced such a reaction is a very small result of the fatigue and aggression in Turkish football. The frames in which Çebi, who was expected to explain himself on the day after the election did not satisfied the fans with his explanations regarding the future plans stating *"At this point, I don't think that the fans know what is best for the club. They cannot see the bigger picture, it is all bureaucracy. Maybe they should just step back and enjoy the league."* Discourse, which seems to exclude the fans from the club structure, caused ÇARŞI to enter into a bigger polemic.
20. After Çebi's comment on 17 May 2024, ÇARŞI International releases a detailed analysis of Çebi's decisions during his presidency, highlighting specific instances of mismanagement and citing the negative impact on the club. The analysis, which would later be defined by the news sites as a counterattack, almost carries the characteristics of a rebellion and an indictment among the fans. The analysis, which directly documented the mistakes made by Çebi from the very beginning of his presidential days, which began in 2019, raised the country's agenda. The fans, who has gathered a lot of support from the enlightened left section of the country with their stance in the Gezi Case, has received positive feedback from both the public and the fans of other football clubs this time. Even in the country's parliament, deputies known to support Besiktas made speeches supporting the Çarşı fan group.
21. In late May 2024, ÇARŞI International issues a public statement calling for greater transparency in Beşiktaş A.Ş.'s decision-making processes and financial dealings. Çarşı International who takes a harsh attitude towards Çebi now wants to take a place in the club bureaucracy and have a say. Some football commentators, who interpreted this attitude almost as a declaration of war, expressed that it is quite crucial for the future of both club and country football to take into account the wishes of a fan group so fed up with its management. This event, which has been talked about on the national agenda for days, has brought not only the administration and the fans, but the whole country against each other. While the team players mostly prefer to remain silent on this issue, Sinan Engin, a former Besiktas football player and presenter of the White Football program broadcasting on the channel Beyaz TV, made harsh statements about the ongoing issue.

22. ÇARŞI International organizes fan forums and Q&A sessions to engage with supporters, addressing concerns and providing a platform for open dialogue.
23. In June 2024, ÇARŞI International issues a public statement calling for greater transparency in Beşiktaş A.Ş.'s decision-making processes and financial dealings. In the statement, ÇARŞI International expresses concerns over the lack of accountability and the potential for corruption within the organization. The group calls on Beşiktaş A.Ş. to provide detailed financial reports and to involve fan representatives in decision-making to ensure transparency. ÇARŞI International also urges other stakeholders and fans to join their cause in demanding a more open and responsible management of the club.
24. ÇARŞI International organizes fan forums and Q&A sessions to engage with supporters, addressing concerns and providing a platform for open dialogue. It allows supporters to directly express their concerns and feedback, creating a sense of inclusivity. By providing a platform for open dialogue, ÇARŞI International fosters a strong sense of community and ensures that the voices of the fans are heard and valued.
25. On 12 June 2024 ÇARŞI International holds a public rally, attracting thousands of Beşiktaş fans to voice their dissatisfaction with Çebi's leadership. The fans gather in a central location, chanting slogans and waving flags in protest. They demand transparency, accountability, and a change in the direction of the club under Çebi's leadership. The rally becomes a powerful symbol of unity among Beşiktaş supporters, showcasing their determination to fight for what they believe is best for their beloved team.

## **B.5. Stabbing Incident**

26. On 25 June 2024 Ahmet Nur Çebi attends a public event where he is confronted by a disgruntled fan, leading to a chaotic scene. The fan, fueled by disappointment and frustration, begins shouting and berating Çebi in front of the crowd. The fan's outburst ignites a wave of tension among the onlookers, turning the event into a complete frenzy
27. During the public event, a 21-year-old Beşiktaş fan, Kaan Karaçam, attempts to stab Çebi, creating a moment of shock and panic. The crowd surrounding the incident became chaotic as people rushed to distance themselves from the assailant. Karaçam was immediately apprehended by authorities and escorted out of the premises.
28. Security personnel swiftly intervene, preventing further harm and apprehending the assailant. Çebi sustains minor injuries but is not critically hurt. He is quickly attended to by medical staff on the scene, who ensure that his injuries are properly treated. As the chaos settles, a wave of relief washes over the room, and people begin to process the shocking event that just unfolded before their eyes.
29. Beşiktaş A.Ş. issues a public statement condemning the violence and expressing support for Çebi's safety. The club officials stated that they deeply regretted the incident and emphasized that violence has no place in football. They reassured Çebi that they would take all necessary measures to ensure his safety and well-being. Additionally, Beşiktaş A.Ş. affirmed their commitment to preserving the spirit of fair play and urged all fans to show respect and support for each other both on and off the field.
30. The attempted stabbing deepens the divide among Beşiktaş fans, with some condemning the violence while others view it as a desperate response to the perceived mismanagement. The incident has sparked a heated debate within the Beşiktaş community, pitting fans against fans. Supporters who condemn the violence argue that such actions tarnish the club's reputation and go against the values it stands for. On the other hand, those who see the stabbing as a desperate response highlight the frustration many fans feel towards what they perceive as mismanagement and neglect from the club's leadership. This incident has highlighted the urgent need for dialogue and unity among Beşiktaş fans to address the underlying issues and find a peaceful way forward.

31. Local law enforcement launches an investigation into the incident, focusing on the motivations behind the stabbing attempt. They interview witnesses and gather evidence about the perpetrator's background and connections, hoping to uncover any potential motives for the attack. The investigators delve into the suspect's social media accounts and text messages, trying to establish if there were any prior conflicts or indications that could explain the stabbing attempt. Additionally, they examined the suspect's mental health records to determine if there were any underlying psychological factors contributing to the incident. Overall, the investigators aim to paint a comprehensive picture of the motivations behind the attack to bring justice to the victims and establish a safer community.
32. In response to the incident, Beşiktaş A.Ş. implements heightened security measures for future events, impacting the fan experience and further straining relations between the club and supporters. These security measures include increased bag checks, metal detectors, and stricter entry requirements. While the club intends to ensure the safety of everyone attending matches, the fans feel these measures are intrusive and unnecessary. This has led to a growing frustration and mistrust between the club and its supporters, causing a strain on their once close relationship. The fan experience, once filled with excitement and camaraderie, is now overshadowed by a sense of unease and dissatisfaction.

## **B.6. ÇARŞI International's Silence and Escalating Conflicts**

33. Following the stabbing attempt, ÇARŞI International refrains from immediately issuing a public statement, creating a void in communication. This disconnect created in communication has angered some fans, who were still trying to get an explanation regarding the issue, while putting the groups that previously supported the claims of ÇARŞI International in an ambiguous position.
34. Internally, ÇARŞI International engages in heated debates about how to respond to the incident, with differing opinions on condemning the violence versus maintaining silence.

35. The lack of a unified response from ÇARŞI International leads to divisions among Beşiktaş fans, with some supporting the organization's decision to remain silent, while others demand a condemnation.
36. As public pressure mounts, ÇARŞI International faces criticism for not condemning the stabbing attempt and addressing the broader issues within the club. This incident, which has become a problem closely followed by the entire Turkish football community for some time, has ceased to be national and has also become the focus of attention of international football organizations. Reacting to the fact that no explanation was given for the incident, UEFA president Aleksander Ceferin stressed in a press statement that the Besiktas problem has been going on for some time and needs to be resolved as soon as possible. Stating that it is contrary to the moral responsibility that sports clubs should follow that an explanation has been made to the necessary national and international authorities, and if not so, UEFA may have to take Besiktas Sports Club under investigation resulting in serious sanctions.
37. Facing serious criticism from their fan base after the statements of UEFA, ÇARŞI International holds an internal crisis meeting on 13 July 2024, eventually deciding to break their silence and issue a comprehensive statement addressing the incident at the larger context.
38. On 25 July 2024, ÇARŞI International officially releases a statement condemning the violence, expressing regret for the incident, and reiterating their call for Çebi's resignation.
39. The release of ÇARŞI International's statement further polarizes the fanbase, with some supporting the organization's stance, while others accuse it of betrayal

## **B.7. Protests in Istanbul and CAS Application**

40. Beginning of August, fans across Istanbul mobilize in large numbers, participating in protests and expressing their discontent with Beşiktaş A.Ş.'s management. Beşiktaş fans disrupt scheduled matches, demanding the resignation of the club's leadership and emphasizing their commitment to the protests. The protests gain significant media attention, further highlighting the widening gap between the fans and the club's management.
41. Fans disrupt scheduled matches, demanding the resignation of the club's leadership and emphasizing their commitment to the protests. The fans' frustration grew as they felt their concerns were being ignored by the club's leadership. They felt it was necessary to disrupt the matches to make their voices heard and bring attention to the need for change. With banners and chants, they made it clear that their commitment to the protests was unwavering until the resignation of the club's leadership was achieved.
42. The protests gain significant media attention, further highlighting the widening gap between the fans and the club's management. This increased media attention exposes the grievances and frustrations of the fans, who feel neglected and unheard by the club's management. The protests serve as a powerful symbol of the growing disconnect, as supporters demand transparency and accountability from those in charge. With the spotlight on the widening gap, it becomes clear that the relationship between the fans and the club's management is in dire need of repair.
43. On 22 August 2024 Beşiktaş A.Ş. convenes an emergency board meeting to address the escalating crisis, but the meeting fails to produce a resolution. As tensions rise within the organization, the board members engage in heated debates and disagreements, unable to reach a consensus. The failure of the meeting only exacerbates the crisis, leaving the future of Beşiktaş A.Ş. uncertain and its stakeholders increasingly concerned. With no resolution in sight, the club's fans and supporters anxiously wait for further updates, hoping for a breakthrough that can restore stability to the team.

44. Beşiktaş A.Ş. formally accuses ÇARŞI International of damaging the club's reputation through their press release, inciting violence among fans, and encouraging disorder during matches. Beşiktaş A.Ş. has presented evidence to support their claims, including screenshots and recordings of ÇARŞI International's statements on social media platforms and interviews with certain members promoting disruptive behavior. The club vows to take legal action against ÇARŞI International, highlighting their determination to maintain a safe and respectful environment for all fans. Beşiktaş A.Ş. emphasizes their commitment to fair play and sportsmanship, urging ÇARŞI International to reconsider their actions and work towards a more constructive approach to supporting the club.
45. Following the accusations, Beşiktaş A.Ş. independently applies to CAS for arbitration, citing the relevant provision in the earlier agreement. Beşiktaş A.Ş. firmly believes that the accusations made against them are baseless. They are confident that the evidence they possess will clear their name and prove their innocence. By independently applying to the Court of Arbitration for Sport, Beşiktaş A.Ş. aims to ensure a fair and impartial judgment to restore their reputation and preserve the integrity of the agreement they have with the other party.
46. ÇARŞI International counters on 30 August 2024 arguing that Beşiktaş A.Ş.'s management intentionally made detrimental decisions, leading to the club's failure, and breached their fiduciary duties towards the fans. They claim that the management's actions were not in the best interest of the fans and that they neglected their responsibilities as caretakers of the club. Additionally, ÇARŞI International argues that the decisions made by Beşiktaş A.Ş.'s management not only caused the club's failure but also damaged its reputation and financial stability. Therefore, they demand accountability and justice for the fans who have been left disappointed and disillusioned by the actions of the club's management.
47. In response to Beşiktaş A.Ş.'s accusations and counterclaims, ÇARŞI International independently applies to CAS for arbitration, seeking a resolution to the escalating conflict. They argue that Beşiktaş A.Ş.'s accusations are baseless and aim to tarnish their reputation. ÇARŞI International believes that a fair and unbiased arbitration process at CAS will help bring clarity to the situation and put an end to the escalating conflict. They are confident that the evidence and testimonies they present will prove their innocence and expose Beşiktaş A.Ş.'s ulterior motives.

**On 28 September 2024, in accordance with Article R47 of the Code of Sports-related Arbitration, edition in force since 1 January 2019 (the “CAS Code”), the Appellant filed a Statement of Appeal with the Court of Arbitration for Sport (“CAS”) against the Respondent. CAS consolidates the separate applications into one case, officially acknowledging the need for an arbitration procedure to address the complex issues between Beşiktaş A.Ş. and ÇARŞI International.**

**On 7 April 2024, the Appeal process began.**

### **III. Applicable Law**

#### **1. Jurisdiction of CAS**

The question whether or not the CAS has jurisdiction to hear the present dispute must be assessed on the basis of the *lex arbitri*. As Switzerland is the seat of the arbitration and not all Parties are domiciled in Switzerland, the provisions of the Swiss Private International Law Act (“PILA”) apply, pursuant to its Article 176.1. In accordance with Article 186 of PILA, the CAS has the power to decide upon its own jurisdiction (“Kompetenz-Kompetenz”).

#### **2. Court of Arbitration of Code (“CAS Code”)**

### **R30 Representation and Assistance**

The parties may be represented or assisted by persons of their choice. The names, addresses, electronic mail addresses, telephone and facsimile numbers of the persons representing the parties shall be communicated to the CAS Court Office, the other party and the Panel after its formation. Any party represented by an attorney or other person shall provide written confirmation of such representation to the CAS Court Office.



## **R47 Appeal**

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.

An appeal may be filed with CAS against an award rendered by CAS acting as a first instance tribunal if such appeal has been expressly provided by the rules of the federation or sports-body concerned.

## **R57 Scope of Panel's Review – Hearing**

The Panel has full power to review the facts and the law. It may issue a new decision which replaces the decision challenged or annul the decision and refer the case back to the previous instance. The President of the Panel may request communication of the file of the federation, association or sports-related body, whose decision is the subject of the appeal. Upon transfer of the CAS file to the Panel, the President of the Panel shall issue directions in connection with the hearing for the examination of the parties, the witnesses and the experts, as well as for the oral arguments...

## **R58 Law Applicable to the merits**

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.

## **R59 Award**

The award shall be rendered by a majority decision, or in the absence of a majority, by the President alone. It shall be written, dated and signed. The award shall state brief reasons. The sole signature of the President of the Panel or the signatures of the two co-arbitrators, if the President does not sign, shall suffice.

## **R67 Miscellaneous Provisions**

These Rules are applicable to all procedures initiated by the CAS as from 1 February 2023. The procedures which are pending on 1 February 2023 remain subject to the Rules in force before 1 February 2023, unless both parties request the application of these Rules.

### **3. Turkish Football Federation Statutes (“TFF Statutes”)**

#### **2.1 TFF**

**The principles of TFF are as follows:**

- 2.1.1. To organize, regulate, and supervise all football activities in Turkey;
- 2.1.2. To promote the development of football and its spread throughout the country;
- 2.1.3. To ensure the implementation of rules set by FIFA and UEFA, make relevant domestic regulations, and represent Turkey in football matters internationally;
- 2.1.4. To organize and regulate leagues at all levels domestically, facilitate the participation of national and club teams in international tournaments, and take necessary measures for acceptance and participation;
- 2.1.5. To ensure compliance of its members, clubs, players, referees, managers, coaches, medical staff, player representatives, competition organizers, and all stakeholders with the statutes, instructions, and decisions of FIFA, UEFA, and TFF, as well as decisions of the competent bodies of these football authorities;

- 2.1.6. To combat violence, match-fixing, bribery, racism, doping, and all forms of discrimination;
- 2.1.7. To conduct football activities, promote the development and spread of football, make regulations, decisions, and implementations in line with unifying, educational, cultural, and humane values, especially through youth and development programs;
- 2.1.8. To ensure the application of national and international rules and all kinds of instructions and represent Turkey in football matters abroad;
- 2.1.9. To uphold loyalty, honesty, and sportsmanship principles in accordance with Fair Play rules and FIFA and UEFA's Ethical Codes;
- To comply with the Football Laws prepared by the International Football Association Board ("IFAB") and other game rules prepared by FIFA and UEFA;
  - To adhere to the statutes, instructions, and decisions of FIFA and UEFA;
  - To recognize the jurisdiction of the judicial bodies specified in the FIFA and UEFA statutes and the Court of Arbitration for Sport (CAS) as stipulated in the relevant articles of the FIFA and UEFA statutes, as amended by the General Assembly decision on June 1, 2019;

## **2.2 TFF**

The TFF takes all necessary instructions, regulations, and agreements to achieve and implement the above objectives, ensuring that decisions related to the application of these regulations and agreements are made by the competent bodies and organs in accordance with this Statute and other instructions.

### **58.1 Disciplinary Regulations**

All disciplinary violations and unsportsmanlike conduct committed by clubs and individuals during football matches and events, as well as the disciplinary penalties to be imposed on such clubs and individuals, are regulated in the TFF Disciplinary Regulations to be issued by the TFF Board of Directors in accordance with widely accepted national and international practices, as well as the Discipline Instructions of FIFA and UEFA.

## **60.1 Ethics Committee**

The Ethics Committee consists of a President elected by the Board of Directors and four (4) principal and four (4) alternate members. It is mandatory for all members to be legal professionals. The Ethics Committee conducts necessary legal reviews to preserve the ethical values and brand integrity of Turkish football and prevent any damage to its reputation in society.

## **64.1 Court of Arbitration for Sport (CAS)**

In accordance with the statutes of FIFA and UEFA, all appeals against a definitive and binding decision of FIFA or UEFA are handled by the Court of Arbitration for Sport (CAS/TAS) located in Lausanne, Switzerland. However, CAS/TAS does not have jurisdiction over appeals related to violations of game rules, suspensions in accordance with the relevant provisions of the FIFA and UEFA statutes, or decisions made against the Turkish Football Federation (TFF) by the independent and duly constituted Arbitration Committee.

## **64.2 CAS/TAS**

The TFF ensures full compliance with all decisions taken and finalized by FIFA or UEFA bodies and CAS/TAS by itself and its members, players, officials, competition organizers, and player representatives through its established and independent Arbitration Committee in accordance with the relevant procedure

# **4.Fédération Internationale de Football Association Statutes ("FIFA Statutes")**

## **56.1 Court of Arbitration for Sport (CAS)**

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

## **56.2 CAS**

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

### **58.1 Obligations relating to dispute resolution**

The confederations, member associations and leagues shall agree to recognise CAS as an independent judicial authority and to ensure that their members, affiliated players and officials comply with the decisions passed by CAS. The same obligation shall apply to football agents and match agents that are licensed by FIFA.

### **58.3 Obligations relating to dispute resolution**

The associations shall insert a clause in their statutes or regulations, stipulating that it is prohibited to take disputes in the association or disputes affecting leagues, members of leagues, clubs, members of clubs, players, officials and other association officials to ordinary courts of law, unless the FIFA regulations or binding legal provisions specifically provide for or stipulate recourse to ordinary courts of law. Instead of recourse to ordinary courts of law, provision shall be made for arbitration. Such disputes shall be taken to an independent and duly constituted arbitration tribunal recognised under the rules of the association or confederation or to CAS. The associations shall also ensure that this stipulation is implemented in the association, if necessary by imposing a binding obligation on its members. The associations shall impose sanctions on any party that fails to respect this obligation and ensure that any appeal against such sanctions shall likewise be strictly submitted to arbitration, and not to ordinary courts of law.

## **IV. Merits Matters**

1. Whether Beşiktaş A.Ş. fails to provide the transparency demanded by its shareholders;
2. Whether Beşiktaş A.Ş. intentionally makes administrative faults and takes actions that would harm its shareholders;
3. Whether in cases where ÇARŞI International engages in legal actions that violate disciplinary rules or exhibit unsportsmanlike behavior on or off the field.
4. Whether the disputes brought before CAS must be primarily contractual, regulatory, or disciplinary;

5. Whether the dispute must not have been previously adjudicated by any federation;
6. It is not mandatory for the parties to have a status that concerning sport.

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