



Arbitration CAS 2013/A/3155 Club Jeanne d'Arc Drancy v. FC Sheriff Tiraspol, Amath André Dansokho Diedhiou & Fédération Internationale de Football Association (FIFA), award of 31 December 2013

Panel: Mr Quentin Byrne-Sutton (Switzerland), Sole Arbitrator

Football

Breach of the employment contract between a club and a player during the protected period

Right to be served process

Burden of proof regarding the service of process and duty of cooperation

Conformity of the service of process with the requirements of due process

Violation of due process

Preservation of the existence of two levels of decision (case referred back to FIFA)

1. The right to be served process in a fair and timely manner, which effectively allows a person to know he/she is subject to a claim/trial and to understand where and when he/she must appear in court for what reason, is an essential procedural right, which is recognized by the laws of all democratic Nations. At the same time, the right to proper and fair service of process forms part of the “right to be heard” and more generally of “due process”, which are components of Swiss national and international procedural public policy and of transnational procedural public policy. Due process forbids legal action against a person unless the person has been given notice thereof and an opportunity to be heard. Any person who is not validly served is not bound by the decision in the case.
2. With respect to the validity of the DRC’s notification (the “Service of Process”) of the claim filed in front of it by a respondent club, it is primarily the appellant club’s burden to establish the facts it is alleging, i.e. that, in practice, it did not become aware of the claim due to the manner/form in which the FIFA DRC chose to deal with the Service of Process. However, since so-called negative facts are difficult to prove, FIFA also had a duty to cooperate in clarifying the circumstances of its Service of Process and to adduce corresponding evidence.
3. To the extent FIFA decides, legally speaking, to entertain a claim by opening an official corresponding proceeding in front of the DRC despite the fact that the claimants failed to provide FIFA with sufficient or reliable information regarding the respondent’s contact details/adresses, such claims are deemed admissible. It becomes the DRC’s duty, as the competent jurisdictional body, to ensure that the respondents are given adequate notice of the claim. In this respect, although FIFA may find it convenient to sometimes or often rely on national federations when summoning national clubs to proceedings in front of FIFA’s jurisdictional bodies, by serving process in such fashion, FIFA runs the risk of sometimes not meeting the requirements of due process.

4. **A DRC's decision rendered at the term of proceedings in which the appellant club's right to be treated with due process, as guaranteed by Swiss law, was violated shall be set aside to the extent of its holdings awarding the claims made by the respondent club against the appellant club.**
5. **In order to preserve the existence of two levels of decision, the DRC's decision rendered in violation of due process should be annulled and the case referred back to the DRC.**

I. THE PARTIES AND THE ORIGIN OF THE DISPUTE

A. The Parties

a) The Appellant

1. Club Jeanne d'Arc Drancy (the Appellant, hereinafter also referred to as "the Appellant Club") is a football club affiliated to the French football federation (the "FFF")

b) The Respondents

2. FC Sheriff Tiraspol (the Respondent 1, hereinafter also referred to as "the Respondent Club") is a football club affiliated to the Moldovan football federation.
3. Mr. Amath André Dansokho Diedhiou (the Respondent 2, hereinafter also referred to as "the Player") is a Senegalese professional football player born in 1989.
4. The Fédération Internationale de Football Association (the Respondent 3, hereinafter also referred to as "FIFA") is the global governing body of football. It exercises regulatory, supervisory and disciplinary functions over national associations, clubs, officials and players around the world. FIFA is an association established under Swiss law with headquarters in Zurich, Switzerland.

B. The Origin of the Dispute

5. This summary is made for the sole purpose of providing a synopsis of the matter in dispute. It is based on the written documents on record. Further relevant details of the parties' factual allegations and legal arguments are set out in sections III and IV of this award.
6. On 30 December 2008, the Player signed an employment contract with the Respondent Club, which was valid from 1 January 2009 until 30 June 2012.

7. On 23 June 2011, the Player signed an employment contract with the Appellant Club, which was valid from 1 July 2011 until 30 June 2012.
8. On 26 August 2011, upon the request of the FFF, the Single Judge of the Player's Status Committee of FIFA decided to authorize the provisional registration of the Player with the Appellant Club.
9. On 23 November 2011, the Respondent Club lodged a claim in front of the Dispute Resolution Chamber of FIFA (the "DRC of FIFA") against the Player and the Appellant Club, alleging that the Player, induced by the Appellant Club, had breached his employment contract without just cause, and requesting the payment of damages as well as sporting sanctions.
10. On 16 January 2012, the DRC of FIFA sent a letter by fax to the FFF with the reference **"Football Club Sheriff Tiraspol, Moldavia/Player Amath Andre Dansokhu Diedhiou, Senegal and Club Jeanne d'Arc de Drancy, France"**, stating, among others: *"We refer to the above-mentioned matter as well as to the correspondence received from the Football Club Sheriff Tiraspol, according to which we were informed that the ... player ... is currently registered with one of your affiliated clubs, Jeanne d'Arc de Drancy. Furthermore, we would like to point out that said information appears to be in compliance with the information contained in TMS"*.
11. Therein, FIFA requested the FFF to contact the Player and ask him to *"... provide us with a fax number and complete address, in order for us to remit him the whole correspondence in connection with the present affair"*. FIFA further stated that if the required information was not received by 6 February *"... we will assume that the player ... wishes to be contacted via the club, Jeanne d'Arc de Drancy"*.
12. FIFA copied its foregoing letter directly to the Football Association of Moldavia and to the Respondent Club.
13. On 17 January 2012, the FFF sent an email to the Appellant Club stating the following: *"... Veuillez trouver ci-joint, une correspondance que nous a fait parvenir la FIFA relative au joueur visé en objet, qui (sic) membre de votre club [...] Nous vous prions de nous faire parvenir par retour de courrier, l'adresse complète du joueur (téléphone, fax et mail) d'ici le 06/02/2012"*. Free translation by FIFA *"Please find enclosed a letter which FIFA has sent to us regarding the player of the reference, who is a member of your club [...] We kindly ask you, by return of mail, to provide us with the complete address of the player (telephone, fax number and postal address) until 06/02/2012"*.
14. FIFA declares that on 3 February 2012, as a result of its foregoing enquiry, *"... FIFA received a document which appears to be an extract from Jeanne d'Arc's website, displaying the player's profile ..."* containing his photo and the handwritten details of his postal address, mobile telephone numbers and email address.
15. However, FIFA states that because the document was unsigned it was unable to take it into account:

"With regard to the latter (sic) question, we would like to inform you that the document which we filed

as enclosure [4] together with our answer dated 5 August 2013 was received by letter on 3 February 2012. In this regard, as you will have noted, such document is not signed. Consequently, we were not in a position to take it into account in the sense that we could be sure that these indeed were the player's contact details".

16. The Player affirms that he was never contacted by the FFF in relation to the foregoing enquiry by FIFA and that he has never before seen the document filed as exhibit 4 by FIFA.
17. According to the Player, the phone numbers listed in that document were his, i.e. are correct, but not the email or the address. He states that he initially lived with his brother and that a few months later the club provided him with accommodation.
18. In relation to the document contained under FIFA's exhibit 4, the FFF submits that it has never seen it before.
19. Concerning the FFF's email of 17 January 2012, the Appellant Club states:

"No one present at the Jeanne d'Arc de Drancy Club that day can confirm whether or not such email was received or even answered at all [...] It should be noted that the subject of the Fédération Française de Football's email was: "DIEDHIOU Amath Born on 19/11/1989" and that the Fédération Française de Football was merely asking for the player's complete contact details (telephone, fax and email) [...] The Fédération Française de Football did not in any way refer to any pending dispute before the Dispute Resolution Chamber, and even less to the Jeanne d'Arc Drancy Club's possible involvement".

20. On 16 May 2012, the DRC of FIFA sent a letter jointly to the FFF and to the Player, which was faxed to the FFF and was addressed as follows: " - Fédération Française de Football (FFF) - Mr Amath Andre Dansokho Diedhion c/o J.A. Drancy (via the FFF)". It was copied to the Football Association of Moldavia and by fax to the Respondent Club.
21. FIFA's letter contained the following reference "**Football Club Sheriff Tiraspol, Moldavia/Player Amath Andre Dansokhu Diedhiou, Senegal and Club Jeanne d'Arc de Drancy, France. Ref. no Isk 12-00412** (please always indicate this reference)" and stated, among others:

"We refer to the aforementioned matter and, in particular, to our correspondence dated 16 January 2012, by means of which we asked the French Football Federation (FFF) to contact the Senegalese player, Amath Andre Dansokho Diedhion, and inform him that, within the scope of the investigation of the matter of the reference, he should provide us with a fax number and complete address, in order for us to remit him the whole correspondence in connection with the present affair [...] In this context, we would like to inform, by copy of this fax, the Moldovan club that we received a letter from the concerned player informing our services about his contact details, however, without providing us with any fax number. Consequently, and since the player of the reference appears to be registered with the French club, Jeanne d'Arc de Drancy, we kindly ask the FFF to provide him with the following documentation [...] Moreover, from the enclosed correspondence sent by the Moldovan club, we have duly taken note that FC Sheriff intends to lodge a claim against the player of the reference, Mr Amath Andre Dansokho Diedhion, and against the French club, Jeanne D'Arc de Drancy. In particular, we have taken note that the

Moldovan club, FC Sheriff, requests, inter alia, compensation for an alleged breach of contract, amounting to USD 164,999.16 [...] On account of the above, we should be grateful if the FFF informed its member club, Jeanne d'Arc de Drancy, as well as the above-mentioned player, Mr Amath André Dansokho Diedhiou, since the latter player – as stated before – appears to be part of the French club's team, to provide us with their respective positions on the Moldovan club's claim, along with any documentary evidence they deem useful in their support, duly translated into one of the four official FIFA languages (English, French, German or Spanish), if need be (cf. art. 9 of the Rules governing the procedures of the Players' Status Committee and the Dispute Resolution Chamber), by 11 June 2012 ”.

22. On 18 May 2012, the FFF forwarded FIFA's above letter (and its enclosures) by registered post to the Appellant Club in an envelope containing a cover letter dated 18 May 2012 which was addressed to the Player alone ("care of" the Appellant Club) as follows: *"Monsieur Amath André Dansokho Diedhiou c/o Monsieur le Secrétaire Général, JEANNE D'ARC DRANCY 26 avenue Marceau 93700 DRANCY"*.
23. The FFF's cover letter of 18 May 2012 used the same reference as FIFA and contained the following instructions to the Appellant Club:
"Monsieur, Veuillez trouver ci-joint, au fin de remettre la présente correspondance et ses annexes que nous a fait parvenir la FIFA à Mr. Amath André Dansokho Diedhiou, joueur de votre club". Free translation by FIFA: "Dear Sir, Please find enclosed, to be remitted to Mr Amath André Dansokho Diedhiou, player of your club, the present letter as well as its annexes which we received from FIFA".
24. The FFF affirms it never received any feedback from the Player or the Appellant Club with respect to its registered letter of 18 May 2012.
25. In that relation, the Appellant Club submits the following:
"With respect to the letter of 18 May 2012, at the time, the General Secretary of the Jeanne d'Arc Drancy Club was Mr. Jean-François Villatte, a volunteer who would not attend the Club's registered office every day. It is standard practice that any mail intended for a player that is received by the Club is left unopened for the sake of privacy and is directly deposited into the relevant team's pigeonhole so that it can be delivered to its recipient by the coach [...] In the present case, Mr BIMON, the administrative manager of the Jeanne d'Arc Drancy Club since March 2012, signed the acknowledgement of receipt for this letter. Considering this letter was addressed to Mr DIEDHIOU, Mr BIMON did not open it and, as is common practice, left it in the pigeonhole for the CFA group, so that the coach may deliver the envelope to Mr DIEDHIOU".
26. The Player alleges he never received a copy of FIFA's letter of 16 May 2012 in any form and was never informed of its existence or content by the Appellant Club.
27. At the end of June 2012, the Player left the Appellant Club to join a new club (US Quevilly) in Normandy, France.

28. Five months later, on 18 October 2012, the DRC of FIFA sent another letter by fax to the FFF, which this time was addressed as follows to the Player and to the Appellant Club: “*Mr Amath Andre Dansokho Diedhiou and Club Jeanne d’Arc de Drancy via the Fédération Française de Football, FFF*”). It was copied to the Football Association of Moldavia and by fax to the Respondent Club.
29. This letter contained the same reference as FIFA’s previous letter - i.e. “***Football Club Sheriff Tiraspol, Moldavia/Player Amath Andre Dansokhu Diedhiou, Senegal and Club Jeanne d’Arc de Drancy, France. Ref. no Isk 12-00412*** (please always indicate this reference)” - and stated the following:

“We refer to the above-referenced matter and, in particular, to our latest correspondence (cf. enclosed for ease of reference), which appear to have remained unanswered by the Senegalese player, Mr. Amath André Dansokho Diedhiou, and the French club, Jeanne d’Arc de Drancy [...] On account of the above and in accordance with our previous correspondence, we would like to inform the parties concerned that the investigation in the above-mentioned affair has been completed, i.e. no further documents will be admitted to the file, and that we will, consequently, proceed to submit the present matter to the Dispute Resolution Chamber for consideration and a formal decision. The date of the meeting of the aforementioned deciding body will be communicated to the parties concerned in due course [...] We thank you for your kind attention to the above, the Fédération Française de Football (FFF) for informing its affiliated club, and Jeanne d’Arc de Drancy for informing its player accordingly”.
30. On 22 October 2012, a copy of the foregoing FIFA letter was sent to the Player’s new club, US Quevilly, by fax; for it to forward the letter to the Player.
31. The Player and the Appellant Club submit they never received a copy of FIFA’s letter of 18 October 2012.
32. On 21 February 2013, the DRC of FIFA sent a further letter by fax to the FFF, which contained the same reference and was addressed to the Player and to the Appellant Club in the same manner as FIFA’s previous letter. This letter stated that the matter in dispute would be submitted to the DRC on 27 February 2013 for its consideration and formal decision. The letter ended as following: “*We thank you for taking note of the above, the Fédération Française de Football (FFF) for informing its affiliated club, and Jeanne D’Arc de Drancy for informing its player accordingly*”.
33. The Player submits he was never informed of the existence of this letter.
34. The Appellant Club submits that it only received a copy of this letter from the FFF by fax – whereas normally the practice was for such types of letter to be sent by registered post – and that it was received on Friday, 22 February 2012 after 5 pm. In that relation, the Appellant Club underlines that, it being an amateur club, its administrative secretary only works part time (50%) and is responsible for all the club’s sections, and that its offices are closed from Friday, 5 pm to Monday, 10 am.

35. On 9 April 2013, the DRC of FIFA issued a letter whereby it notified to the parties its decision in the disputed matter. This letter contained the same reference as FIFA's previous correspondence. However, contrary to FIFA's previous correspondence, it was addressed directly to all the parties. It was addressed directly by fax to the Appellant Club and to the Respondent Club, and sent by DHL to the private address of the Player in Le Petit Quevilly.
36. The letter stated the following:
- "Dear Sirs,*
- Please find attached the decision passed in the aforementioned matter by the Dispute Resolution Chamber in the meeting held in Zurich, Switzerland, on 27 February 2013, as well as a copy of the directives of the CAS regarding its appeal procedure".*
37. In its decision of 27 February 2013 (the "FIFA DRC Decision"), the DRC held the following:
- "1. The claim of the Claimant, JSC SC Sheriff, is partially accepted.*
- 2. The Respondent player, Amath André Dansokho Diedhiou, is ordered to pay to the Claimant, JSC SC Sheriff, within 30 Days as from the date of notification of this decision, compensation for breach of contract in the amount of USD 57,987, plus interest of 5% p.a. as of the date of this decision until the date of effective payment.*
- 3. The Respondent club, Jeanne d'Arc de Drancy, is jointly and severally liable for the aforementioned payment.*
- 4. If the aforementioned sum plus interest is not paid within the above-mentioned time limit, the present matter shall be submitted, upon request, to the FIFA Disciplinary Committee for its consideration and a formal decision.*
- 5. The Claimant JSC SC Sheriff, is directed to inform the Respondent player, Amath André Dansokho Diedhiou, and the Respondent club, Jeanne d'Arc de Drancy, immediately and directly of the account number to which the remittance is to be made and to notify the Dispute resolution Chamber of every payment received.*
- 6. A restriction of four months on his eligibility to play in official matches is imposed on the Respondent player, Amath André Dansokho Diedhiou. This sanction applies with immediate effect as of the date of notification of the present decision. The sporting sanctions shall remain suspended in the period between the last official match of the season and his first official match of the next season, in both cases including national cups and international championships for clubs.*
- 7. The Respondent club, Jeanne d'Arc de Drancy, shall be banned from registering any new players, either nationally or internationally, for the two next entire and consecutive registration periods following the notification of the present decision.*
- 8. Any further claims lodged by the Claimant, JSC SC Sheriff, are rejected".*
38. In this connection, the Player submits that he "... was informed, for the first time, of the FIFA proceedings on 12 April 2013, by a representative of his former football club, i.e. FC Quevilly..." and that

"A few days later, he received the decision issued by the Dispute Resolution Chamber at his domicile, in le Petit Quevilly. The notification of this decision was the very first that the Second Respondent received".

39. The Appellant Club submits that it was surprised to receive a decision from the FIFA ordering it to pay damages and sanctioning it, and that it therefore approached the FFF to ask for a copy of the complete file, which it collected at the FFF's offices.

II. SUMMARY OF THE ARBITRATION PROCEEDINGS

40. On 26 April 2013, the Appellant Club filed its Statement of Appeal with the CAS against the FIFA DRC Decision issued on 27 February 2013.
41. In its Statement of Appeal, the Appellant Club requested the stay of the execution of the FIFA DRC Decision and the appointment of a Sole Arbitrator.
42. On 3 May 2013, the Appellant Club specified that it was limiting its request for stay to the sporting sanctions decided by the FIFA DRC.
43. On 10 May 2013, the Appellant Club filed its Appeal Brief.
44. On 16 May 2013, the Third Respondent filed its position regarding the Appellant's request for stay.
45. On 28 May 2013, the First Respondent filed its answer to the request for stay.
46. The Second Respondent filed no submission relating to the request for stay.
47. On 31 May 2013, by means of a procedural order, the Appeals Arbitration Division of the CAS ruled that the language of these arbitration proceedings is English and that: *"The submissions and exhibits already filed in another language than English shall be translated into English"*.
48. On 14 June 2013, the Appeals Arbitration Division of the CAS ruled on the request for stay and rejected it in a reasoned procedural order.
49. On 24 June 2013, the Appellant Club filed an English translation of its Appeal Brief and corresponding exhibits. The Appellant Club's request for relief was formulated as follows:

"On the main claim:

- *to cancel, or, at least, set aside the decision of the Dispute Resolution Chamber on the grounds that the Jeanne d'Arc de Drancy Club has not had a fair trial, that its rights of defence were purely and simply breached and that, therefore, it cannot avail itself of the right to a second hearing*

And, ruling again:

- *to state that no sanction shall be imposed on the Jeanne d'Arc de Drancy Club*

In the alternative:

- *To set aside the decision of the Dispute Resolution Chamber in that it held the Jeanne d'Arc de Drancy Club jointly and severally liable for payment of the amount of USD 57,987 USD the Sheriff Club.*
 - *In the most unlikely event that the notion of joint and several liability should be confirmed, to state that the FC Sheriff Club may bring an action against the Jeanne d'Arc de Drancy Club only after it has substantiated that its attempts to enforce the sentencing decision against Mr Diedhiou have failed.*
 - *Alter the decision of the Dispute Resolution Chamber in that it held that the salary paid by Jeanne d'Arc Drancy Club to Mr Diedhiou, during the 2011-2012 season, amounted to USD 39,600.*
 - *State that the salary paid by the Jeanne d'Arc de Drancy Club to Mr Diedhiou, during the 2011-2012 season, amounted to USD 25,768.19.*
 - *Reduce the compensation for breach to a fairer amount.*
 - *State that the amount of compensation shall not bear interest at the rate of 5% per annum.*
 - *Alter the decision of the Dispute Resolution Chamber in that it imposed a sporting sanction on the Jeanne d'Arc de Drancy Club.*
 - *State that no sporting sanction shall be imposed on the Jeanne d'Arc de Drancy Club.*
 - *Sentence the FC Sheriff Club, Mr Diedhiou and FIFA jointly to pay the Jeanne d'Arc de Drancy Club an amount sufficient to cover the costs it has had to incur to defend itself before CAS (counsel's fees, travel expenses, etc.), which amount shall be substantiated on the hearing date.*
 - *Sentence the FC Sheriff Club, Mr. Diedhiou and FIFA jointly to bear all costs of these arbitral proceedings”.*
50. On 27 June 2013, the parties were granted a twenty-day deadline to file their Answers to the Appeal Brief.
51. On 16 July 2013, upon request, the First and Third Respondents were granted an extension to file their Answers.
52. The same day, the CAS informed the parties that Mr Quentin Byrne-Sutton, Attorney-at-law in Geneva, Switzerland, had been appointed as Sole Arbitrator in this proceeding.
53. On 5 August 2013, the Third Respondent filed its Answer in this proceeding, containing the following request for relief:
- “1. In conclusion of all of the above, we request that the CAS rejects the present appeal and confirms the decision passed by the Dispute Resolution Chamber on 27 February 2013 in its entirety*
- 2. Finally, we ask that the CAS orders the Appellant to bear all the costs incurred with the present procedure and to cover all legal expenses of FIFA related to the proceedings at hand”.*

54. On 5 August 2013, the Second Respondent indicated that its preference was for a hearing to be held.
55. On 8 August 2013, under the reference CAS 2013/A/3155, the First Respondent submitted the following: *"The Administration of CJSC SC "Sheriff" waives the jury trial of the case 3167. We ask you to leave the decision unchanged since the decision of the Dispute Resolution Chamber on 27/02/2013 absolutely fulfills (sic) the claim of CJSC SC "Sheriff"*.
56. On 9 August 2013, the CAS informed the First Respondent that the proceedings in the case "TAS 2013/A/3167" had been terminated, that the CAS had not received the First Respondent's Answer due on 5 August 2013 in case CAS 2013/A/3155 and that the CAS had taken note of the latter's position regarding a hearing.
57. By letter of 27 August 2013, the CAS confirmed that neither the First nor the Second Respondent had filed an Answer within the fixed deadlines, and the parties were invited to confirm their positions as to a hearing.
58. On 30 August 2013, the Second Respondent filed an Answer outside the fixed deadline. The Answer also included a counterclaim, and the Second Respondent's prayer for relief was formulated as follows:

"It is in consideration of all of the above that Mr Diedhiou requests that the decision returned on 27 February 2013 by the Chamber of Dispute Resolution be overturned.

By way of counterclaim,

 - *The respondent club will pay Mr DIEDHOU the sum of 10,500 USD in respect of salary arrears (to be assessed)*
 - *30,000USD in respect of the balance of the bonuses paid to players for the Championship, the Moldavian Cup and the European Cup,*
 - *His pay slips starting from January 2009.*
 - *To state that no sanction shall be imposed to DIEDIOU*
 - *Sentence the FC Sheriff Club, Jeanne d'Arc DRANCY and FIFA jointly to bear all costs of these arbitral proceedings"*.
59. On 3 September 2013, the Third Respondent indicated that it considered a hearing to be unnecessary.
60. On 4 September 2013, the Appellant Club indicated that its preference was for a hearing and objected to the admission of the Respondent Club's late Answer.
61. On 10 September 2013, the CAS requested the parties and the FFF to reply to a list of questions issued by the Sole Arbitrator.

62. Furthermore, the parties were informed as follows regarding the Sole Arbitrator's decision on the question of the admissibility of the Second Respondent's unsolicited written submission of 30 August 2013:

"... the parties are advised that the Sole Arbitrator has decided for several reasons not to admit the Second Respondent's unsolicited written submissions of 30 August 2013. Part of that submission constitutes in effect a counterclaim which is not admissible in accordance with the 2010 reform of the Code.

Moreover, the written submission contains arguments and contentions in defence which have been filed (sic) a long time after the fixed deadline for the filing of the answer. I also draw the Second Respondent's attention that he did not request any extension of his time limit to file his answer brief.

Accordingly, in application of article R56 of the Code, and because no exceptional circumstances have been raised by the Second Respondent and that the Appellant and the Third Respondent have objected to the admission of the submissions in question, the Sole Arbitrator has decided to reject the late Second Respondent's written submissions of 30 August 2013".

63. On 18 September 2013, the Third Respondent was requested to provide a clarification regarding one of its exhibits.
64. On 20 September 2013, the Third Respondent made its clarification.
65. On 26 September 2013, the Appellant Club submitted its replies to the Sole Arbitrator's list of questions.
66. On 26 September 2013, the Second Respondent submitted its replies to the Sole Arbitrator's list of questions.
67. On 27 September 2013, the Third Respondent submitted its replies to the Sole Arbitrator's list of questions.
68. On 8 October 2013, the FFF submitted its replies to the Sole Arbitrator's list of questions.
69. On 15 October 2013, all of the parties and the FFF were invited to make any observations they had on the other parties' and the FFF's replies to the Sole Arbitrator's questions.
70. On 24 October 2013, the Appellant Club filed its observations on the other parties' and the FFF's replies.
71. On 31 October 2013, the Third Respondent filed its observations on the other parties' and the FFF's replies.
72. On 5 November 2013, the Second Respondent filed its observations on the other parties' and the FFF's replies.

73. On 13 November 2013, the First Respondent filed an unsolicited submission containing the following prayer for relief:

"1. The Appeal filed by the Appellants, Jean D'Arc Drancy Club and Mr. Diedhiou, shall be dismissed in its entirety and the FIFA DRD (sic) Decision of 27 February 2013 confirmed.

2. The Appellants shall bear the costs of this arbitration proceeding subject to article R65.2 of the Code of Sports-related Arbitration.

3. The Appellants shall contribute an amount to the legal costs of the RESPONDENT".

74. On 15 November 2013, the CAS informed the parties that the Sole Arbitrator had decided not to hold a hearing because he deemed himself to be sufficiently well informed and that he would be issuing an award in due course.

III. THE PARTIES' SUBMISSIONS

75. This section of the award does not contain an exhaustive list of the parties' contentions; its aim being to provide an overview of the substance of the parties' main arguments. Nevertheless, in considering and deciding upon the parties' claims in this award, the Sole Arbitrator has accounted for all of the parties' submissions and evidence on record.

A. Appellant

76. In essence, the Appellant Club submits the following:
- Principally, its defence rights were violated in front of the DRC of FIFA because it was not duly informed of the claim made against it by the Respondent Club and was not given the opportunity to defend itself.
 - Thereby its right to a fair trial under article 6.1 of the European Convention on Human Rights was violated.
 - In assessing the violation of its defence rights it is also necessary to account for the fact that it is a multisport amateur club with sparse financial and administrative means, resulting in its internal procedures for dealing with incoming communications as well as its opening hours and the working schedule of its employees being limited.
 - Alternatively, it cannot be deemed jointly liable on the merits, since it believed in good faith that the Player had terminated his contract with the Respondent Club for just cause, and furthermore, by law, joint liability cannot be presumed.
 - In any event, the Respondent Club would have the duty to first attempt enforcing the FIFA DRC Decision against the Player prior to bringing any action against the Appellant Club.
 - Furthermore, the calculation of the amount of compensation awarded as damages to the Respondent Club is erroneous because based on inaccurate data and on an incorrect

application of article 17.1 of the FIFA Regulations on the Status and Transfer of Players (the "FIFA Regulations").

- In light of the facts of the case, the sporting sanction imposed on it under article 17.4 of the FIFA Regulations is unfair and unwarranted.

B. First Respondent

77. During these proceedings, the Respondent Club filed the prayers for relief quoted under section II of this award but submitted no arguments in defence and adduced no evidence despite having been given the opportunity to do so.

C. Second Respondent

78. In these proceedings, the Player was given the opportunity to file an Answer brief but failed to do so within the fixed deadlines and instead subsequently filed an unsolicited submission containing some defence arguments and a counterclaim. In application of the CAS Code of sports-related Arbitration (the "CAS Code"), that submission was however not admitted on record due to it being late and because counterclaims are not allowed under the rules of the CAS Code.
79. In relation to the clarification of certain facts relating to this proceeding, the Player was nevertheless requested by the Sole Arbitrator to answer various questions simultaneously with the other parties and given leave to comment on the latter's replies.
80. In conclusion to those submissions, the Player affirmed that he "... *completely ignored that disciplinary proceedings were initiated against him by FC Sheriff Tiraspol until he received a phone call from a representative of FC Quevilly on 12 April 2013. His rights have been severely breached by FIFA as he had never been granted the opportunity to be heard before the FIFA Dispute Resolution Chamber. There is no need to say that the findings of the disciplinary body are challenged vehemently. On the merits, the Second Respondent persists to claim that the employment contract with FC Sheriff Tiraspol was terminated validly, as salaries remained unpaid, despite several requests to the Club*".

D. Third Respondent

81. In essence, FIFA submits the following:
- It duly took all the required steps to notify the Player and the Appellant Club of these proceedings by communicating via the FFF.
 - In doing so, it "... *strictly followed its long-standing approach in similar cases, which consists in notifying a club of a claim lodged against it via the association with which the club in question is affiliated*".
 - In keeping with its practice, "*Subsequently, and should the club in question not revert to FIFA directly, FIFA shall continue to notify the club of the next steps of the relevant procedure via the association and invite the association to inform its affiliated club accordingly*".

- To date, this method has proven to be efficient in thousands of cases throughout the world.
- In this respect, "... FIFA entirely relies on its member associations to inform clubs, for which they possess the most accurate and up-to-date contact details, of the contents of FIFA's correspondence, and such approach has remained unchallenged by any club until today".
- "... the chosen approach is also somehow an answer to practical necessities. Indeed, FIFA's deciding bodies encounter an ever-increasing amount of claims being lodged in front of them. In order to cope with such workload, also for reasons of efficiency and economy, the FIFA administration systematically proceeds to notify clubs of a claim lodged against it, by means of a fax sent via the association to which the club is affiliated. Therefore, we would like to underline that FIFA's above-described approach, which is consistently applied in all procedures pending in front of its deciding bodies, is one which is as pragmatic as possible, taking into account the challenge of dealing with thousands of procedures on a yearly basis".
- Furthermore, "According to art. 9 par.1 lit. a) of the Rules Governing the Procedures of the Players' Status Committee and the Dispute Resolution Chamber (hereinafter: the Procedural Rules), when submitting a claim, it is the claimant's responsibility to provide FIFA with the name and address of the respondent (s). This procedural requirement corresponds to general standards and is, for example, also applied by the CAS in its procedures (cf. art. R48 par. 1 of the Code of Sports-related Arbitration)".
- That said, "... in particular in the international and fast moving environment of modern football, it might be quite challenging for a claimant to find out the precise address and contact details of players and also of clubs, especially if, like in the case at stake, the club concerned does not belong to the top tier clubs at international level".
- Thus, "Obviously, whenever possible, the indications provided by the claimant are double-checked by means of the Transfer Matching System (TMS), from where it can normally, but not in all cases, be verified that a specific player is indeed registered with a certain club".
- Factually speaking, in this case, the Appellant Club has not explicitly contested having received the FIFA's notification and subsequent letters via the FFF, while the latter has confirmed, as is clear from the evidence, that it did forward the correspondence to the Appellant Club as requested by FIFA.
- In addition, it is not sustainable for the Appellant Club to invoke the fact that when forwarding FIFA's correspondence the FFF failed to point out that the Respondent's Club claim was also directed against the Appellant Club (i.e. not only against the Player), since a mere glance at the correspondence was sufficient to understand that the claim was also directed against the Appellant Club.
- Thus, it is clear that "... FIFA's proceedings have absolutely not violated Jeanne d'Arc's rights of defence, that the said French club was duly notified of the respective claim lodged against it by Sheriff and that it was invited to provide its position in respect thereof. The fact that Jeanne d'Arc did not reply to such claim can only be attributed to Jeanne d'Arc itself which, through its own fault, neglected to acknowledge that the relevant claim was directed against it".
- "Consequently, the DRC rightfully concluded that, in view of Jeanne d'Arc's lack of reply to the claim of Sheriff, the latter French club had tacitly renounced to its right of defence and accepted all the Moldavian

club’s allegations. Jeanne d’Arc’s claim that the challenged decision should be cancelled or at least set aside due to a lack of fair trial must therefore not be upheld”.

- On the merits of the appeal, contrary to the Appellant’s arguments, the FIFA DRC’s decision to hold the Appellant jointly liable with the Player for damages on the basis of art. 17 par. 2 of the FIFA Regulations was perfectly legal and in keeping with the practice of FIFA and the jurisprudence of the CAS in this connection.
- Furthermore, “... *the DRC, taking into account all elements on file as well as information contained in TMS, but also the circumstances of the particular matter, while using its power of discretion to determine the amount of compensation due to Sheriff, correctly deemed that the amount of USD 57,987 is reasonable and justified*”.
- With respect to the sporting sanction, “... *it is obvious that Jeanne d’Arc did not act with due diligence and should have further enquired about the contractual situation of the player with Sheriff, even more so when provided with the player’s letter dated 4 June 2011. Jeanne d’Arc can thus not argue that it did not know about the player had a valid contract with Sheriff when signing a contract with him*”.
- Thus, “... *the sporting sanction imposed on Jeanne d’Arc was justified and ... the French club has ... not provided the CAS with any well-founded arguments nor evidence which could reverse the presumption established under article 17 par. 4 of the Regulations*”, according to which “... *it shall be presumed, unless established to the contrary, that any club signing a professional who has terminated his previous contract without just cause has induced that professional to commit a breach*”.

IV. DISCUSSION OF THE CLAIMS

A. Jurisdiction of the CAS

82. 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 insofar as the statutes or regulations of the said body so provide or as the parties have concluded a specific arbitration agreement and insofar as the player has exhausted the legal remedies available to him prior to the appeal, in accordance with the statutes or regulations of the said sports-related body”.

83. Article 67 para.1 of the FIFA Statutes provides that: “*Appeals against final decisions passed by FIFA’s legal bodies and against decisions passed by Confederations, Members or Leagues shall be lodged with CAS within 21 days of notification of the decision in question*”.

84. Furthermore, none of the Parties have challenged the jurisdiction of the CAS which is confirmed by the signature of the order of procedure by all parties.

85. Accordingly, the CAS has jurisdiction over this Appeal.

B. Applicable Law

86. Article R58 of the CAS Code provides that:

“The Panel shall decide the dispute according to the applicable regulations and 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, the application of which the Panel deems appropriate. In the latter case, the Panel shall give reasons for its decision”.

87. Article 66 (2) of the FIFA Statutes provides that:

“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”.

88. The FIFA DRC Decision, against which the appeal was brought, was issued under FIFA's Rules and Regulations on the Status and Transfer of Players.
89. There is no dispute as to the applicability of the FIFA Regulations or regarding the additional applicability of Swiss law.
90. Consequently, the FIFA Regulations and, where necessary, Swiss law in addition, will be applied.

C. Issues of Admissibility

91. Having been filed within the 21-day deadline provided by Article R49 of the CAS Code, the appeal is admissible.
92. During the course of these proceedings, it was decided that the Player's counterclaim and his arguments submitted in a brief dated 30 August 2013 were inadmissible. Consequently, his entire submission of 30 August 2013 was not admitted on record.
93. The formal reason for not allowing the Player's counterclaim contained in that brief is that when adopting a revised version of its Code in 2010, the CAS excluded the right for a defending party to file a counterclaim or cross-claim in an Appeal procedure.
94. This change of rule/procedure was implemented by the CAS (i) deleting from the prior (2004) version of the CAS Code the phrase in Article 55 that had allowed counterclaims to be included with the Answer to an Appeal, and (ii) by underlining the existence of this change of rule in its official commentaries to the revision of the CAS Code.
95. CAS Panels have, since then, abided by that change of rule by rejecting counterclaims for lack of admissibility.

96. Thus, in application of the CAS Code currently in force and the CAS jurisprudence, and for reasons of equality of treatment among parties to CAS procedures, the Player's counterclaim is excluded in this case.
97. The Sole Arbitrator also notes that, in this case, the exclusion of the counterclaim clearly meets the requirements of due process because the Player was made aware of the FIFA DRC Decision in due time and he had the opportunity to file his own appeal against it.
98. The consequence of the Player's counterclaim being deemed inadmissible is that all his prayers for relief forming the counterclaim (and related arguments) are inadmissible. In substance, this means that his challenge of the FIFA DRC Decision in the present proceeding is of no avail.
99. With respect to the inadmissibility of his purely defensive arguments contained in his brief of 30 August 2013, their exclusion is justified by the requirements of Article R56 of the CAS code, which reads as follows, and by the fact that the brief in question was filed far beyond the fixed deadline for the Answer - without an extension of time having been applied for or allowed and without any explanations having been made or evidence adduced as to the reasons for the delay - and because the other parties did not agree to admit the brief:

"Unless the parties agree otherwise or the President of the Panel orders otherwise on the basis of exceptional circumstances, the parties shall not be authorized to supplement their argument, nor to produce new exhibits, nor to specify further evidence on which they intend to rely after the submission of the grounds for the appeal and of the answer".

D. The Merits of the Appeal

100. The first issue that needs examining and deciding is whether or not the DRC's notification/summons (hereinafter referred to as the "Service of Process") of the claim filed in front of it by the Respondent Club (hereinafter "the Claim") was validly made to the Appellant Club with respect to the manner/form in which the Service of Process took place.
101. In terms of the burden of proof in that respect, it is primarily the Appellant Club's burden to establish the facts it is alleging, i.e. that, in practice, it did not become aware of the Claim due to the manner/form in which the FIFA DRC chose to deal with the Service of Process. However, since so-called negative facts are difficult to prove, FIFA also had a duty to cooperate in clarifying the circumstances of its Service of Process and to adduce corresponding evidence.
102. Legally speaking, there is no doubt that the right to be served process in a fair and timely manner - which effectively allows a person to know he/she is subject to a claim/trial and to understand where and when he/she must appear in court for what reason - is an essential procedural right, which is recognized by the laws of all democratic Nations.
103. Proper and fair service of process is of course an important aspect of the human right to a fair trial (as established by international treaties on Human Rights), since without such service of

process a person will not even know he/she is subject to a trial and will therefore not be a position to defend his/herself.

104. At the same time, the right to proper and fair service of process forms part of the “right to be heard” and more generally of “due process”, which are components of Swiss national and international procedural public policy and of transnational procedural public policy. Due process forbids legal action against a person unless the person has been given notice thereof and an opportunity to be heard; and any person who is not validly served is not bound by the decision in the case.
105. In the present case, service of process took place, in effect, by means of the DRC’s letter of 18 May 2012, which was send via the FFF.
106. This was the letter whereby the FIFA purported to inform both the Player and the Appellant Club, via the FFF, that they were subject to a claim in front of the DRC, to provide them with a copy of the file and to give them the opportunity to defend themselves during those proceedings.
107. The letter concluded: “... *we should be grateful if the FFF informed its member club, Jeanne d’Arc de Drancy, as well as the above-mentioned player, Mr Amath Andre Dansokho Diedhiou, since the latter player – as stated above – appears to be part of the French club’s team, to provide use with their respective positions on the Moldovan club’s claim, along with any documentary evidence they deem useful in their support, duly translated into one of the four official FIFA languages (English, French, German or Spanish), if need be (cf. art. 9 of the Rules governing the procedures of the Players’ Status Committee and the Dispute Resolution Chamber), by 11 June 2012 ...*”.
108. Thereafter, FIFA did not attempt to communicate again with the Respondents or provide them with any information regarding the DRC proceedings until issuing a letter on 18 October 2012, which purported to inform the parties to the DRC proceedings that: “...*the investigation in the above-mentioned affair has been completed, i.e. no further documents will be admitted to the file, and that we will, consequently, proceed to submit the present matter to the Dispute Resolution Chamber for consideration and a formal decision. The date of the meeting of the aforementioned deciding body will be communicated to the parties concerned in due course ...*”.
109. Thus, in determining whether the Service of Process was undertaken in a manner that met the requirements of due process, it is essentially the circumstances surrounding the communication of FIFA’s letter of 18 May 2012, which are relevant.
110. In that connection, the main questions which arise here are whether (i) factually speaking, it is established that the Appellant Club was in effect not aware of the Service of Process, and (ii) if so, whether or not it was due to the Service of Process being inadequate.
111. In relation to the first question and in light of the evidence adduced, the Sole Arbitrator is satisfied beyond reasonable doubt, for a combination of the following reasons, that the

Appellant Club actually never took material notice of the content of FIFA's letter of 18 May 2012, which in effect constituted the latter's Service of Process signalling the existence of the Claim:

- Prior to the letter of 18 May 2012, the FIFA had written to the FFF on 16 January 2012 asking it to contact the Player to ask him for his complete address. This letter did not contain any information regarding the Claim or contain any questions for the Appellant Club.
- The FFF forwarded to the Appellant Club by email a copy of FIFA's letter dated 16 January 2012, together with a short cover message stating that the letter concerned the Player (*"Please find enclosed a letter which FIFA has sent to us regarding the player of the reference, who is a member of your club"*: emphasis added) and inviting the club to gather from the Player the required information.
- The subsequent letter of 18 May 2012 was not sent directly to the Appellant Club by FIFA but was sent via the FFF by fax, with the request that the latter forward it to the Appellant Club.
- The Appellant Club was not among the addressees of FIFA's letter, the addressees being only the FFF and the Player.
- When, on the same day, i.e. on 18 March 2012, the FFF forwarded to the Appellant Club by registered mail a copy of FIFA's letter (and enclosed documentation), the FFF included a **cover letter** which was addressed to the Player alone, i.e. not to the Appellant Club, and which only requested, as follows, that FIFA's letter and enclosures be remitted to the Player, without stating that the club was also concerned: *"Dear Sir, Please find enclosed, to be remitted to Mr Amath André Dansokho Diedhiou, player of your club, the present letter as well as its annexes which we received from FIFA"*.
- The Appellant Club submits that upon receiving the registered envelope from the FFF and because it was addressed to the Player, it simply deposited the envelope containing FIFA's letter and attached documents, without opening the envelope, in the "inbox" ("pigeonhole") reserved for the Player's team, so that the coach would give it to the player; i.e. the club merely transmitted the envelope without taking notice of the enclosed FIFA letter and documentation,
- The Appellant Club submits in that connection that the registered letter from the FFF was received/signed for by the club's administrative manager because its Secretary General, who only worked part time as a volunteer for the club, was absent; and submits more generally that it is a multisport amateur sports club with part-time employees and limited secretarial and other resources as well as reduced office hours.

112. The Sole Arbitrator finds that the foregoing chronology of events and facts are well established by the documentation on record, including the fact that the Appellant Club functions with limited resources due to its amateur status.

113. The Sole Arbitrator finds that it is not altogether clear from the evidence adduced that the envelope received by the Appellant Club from the FFF by registered mail on 18 May 2012 was only addressed to the Player and was therefore left unopened by the club.
114. However, the Sole Arbitrator finds that even if - contrary to what the Club alleges is remembered by its employees present at the time - the envelope was opened by a representative of the Appellant Club upon receipt before placing it in the "pigeonhole" of the Player's team, the evidence that the Appellant Club did not take notice of FIFA's letter of 18 May 2012 and attachments remains clear.
115. Indeed, in the circumstances and given in particular the content of the FFF's enclosed cover letter - which was addressed to the Player c/o the club and requested that the contents of the envelope be remitted to the Player - there is no reason why an employee of the Appellant Club would have begun reading the underlying FIFA letter and file before simply placing the entire envelope in the pigeonhole in question.
116. For the above reasons, the Sole Arbitrator finds it is established that the Appellant Club never took material notice of FIFA's Service of Process of the Claim, i.e. that it did not become aware that a claim against it was pending in front of the DRC at the outset of the proceedings.
117. The above conclusion leads to the second question of whether FIFA's Service of Process was nevertheless adequate and fair, meaning that the Appellant Club would be responsible for the lack of notice, or whether, in the circumstances of this case, the Service of Process was defective due to the form and manner in which it was delivered to the Appellant Club, meaning that the latter's right to be adequately and fairly informed of the Claim was not guaranteed as required by due process.
118. In relation to this second question and as a preliminary matter, a few clarifications are noteworthy.
119. First, a distinction must be made between the conditions under which the Respondent Club brought its Claim in front of the FIFA DRC, on the one hand, and the manner in which the latter then notified the Appellant Club of the Claim and of the corresponding DRC proceedings, on the other hand.
120. The Sole Arbitrator takes note of the fact that when claims are filed in front of the DRC, the claimants often fail to provide FIFA with sufficient or reliable information regarding the respondents' contact details/addresses and that this puts FIFA in a difficult situation. The Sole Arbitrator also takes note of the fact that FIFA tries to not be too formalistic in that respect and reject claims for that reason, but rather attempts to provide support in seeking the missing information.
121. The Sole Arbitrator understands FIFA's pragmatic approach in that respect.

122. Nevertheless, to the extent FIFA decides, legally speaking, to entertain the claims in question by opening an official corresponding proceeding in front of the DRC, i.e. deems such claims admissible despite the incomplete information, it becomes the DRC's duty, as the competent jurisdictional body, to ensure that the respondents are given adequate notice of the claim.
123. Moreover, it is not denied by FIFA, and its own long-established practice confirms, that *de facto* FIFA takes on the function of serving process upon the named respondents, i.e. of summoning the respondents to the proceedings in front of the DRC, as occurred in this case.
124. In other words, it is FIFA itself, and not the claimants, that summons the respondents in cases pending in front of its DRC; this also being the most logical and reliable manner of functioning for a worldwide sports organization such as FIFA.
125. The Sole Arbitrator also notes FIFA's submission that it has a long-standing and effective practice of usually summoning national clubs and players via their national football federations and clubs, respectively, rather than directly.
126. That said, the Sole Arbitrator notes that, in the present case, FIFA actually went further, by initially seeking the Player's personal address/fax number and by subsequently sending its letters/notifications directly to all the parties by fax whenever it had a fax number and/or directly to the parties' private addresses when it had those.
127. Thus, it is clear that FIFA itself appreciates the importance of serving process and communicating other notifications during DRC proceedings in the most effective way possible so as to reach the parties /intended recipients.
128. In that relation, the Sole Arbitrator understands that it is a big administrative burden for FIFA to systematically seek/double-check and use the addresses of individual national football clubs for service of process, rather than to simply serve process on clubs via their national federations as happened with the Appellant Club in the present case.
129. However, at the same time, as the worldwide administrator and given the data bases that exist as well as the speed/ease of electronic communications via Internet, it is no doubt possible, if not relatively easy, to obtain and double-check the current individual address of any national club, if necessary with the cooperation of the relevant national federation(s).
130. In the present case, the evidence adduced demonstrates that this would have been possible, i.e. that FIFA could have obtained the Appellant Club's individual address/fax number quite easily and addressed itself directly to that club by registered post and fax, as it in fact did when notifying its decision of 27 February 2013 to the parties.
131. Consequently, although FIFA may find it convenient to sometimes or often rely on national federations when summoning national clubs to proceedings in front of FIFA's jurisdictional

bodies – by serving process in such fashion, FIFA runs the risk of sometimes not meeting the requirements of due process.

132. In light of the above preliminary considerations and of the evidence on record, the Sole Arbitrator finds that in the circumstances of the present case, FIFA's Service of Process on the Appellant Club did not meet the requirements of due process for a combination of the following reasons:
- Without too much difficulty, FIFA would have been able to serve process directly/personally on the Appellant Club by registered post and email, as it subsequently did when notifying the DRC's decision of 27 February 2013 to the club directly by fax (on 9 April 2013), instead of doing so via the FFF.
 - In its letter of 16 January 2012, FIFA enquired with the FFF about the Player's personal address/fax number but not about those of the Appellant Club.
 - Although the subject reference in FIFA's letter of 18 May 2012 included the name of the Appellant Club, the letter was addressed only to the FFF and to the Player.
 - Accordingly, the FFF forwarded FIFA's letter of 18 May 2012 to the attention of the Player alone, with a covering letter addressed to the club asking it to transmit the underlying FIFA letter and its attachments to the Player, i.e. without stating that the Appellant Club was also concerned in any manner.
 - Although in a professional club with full time staff accustomed to handling formalities of this sort, the staff member receiving and handling the FFF's envelope and covering letter (if the FFF's envelope was opened at all before being put in the appropriate pigeonhole, which is not clear) might have nonetheless looked at and understood the meaning of the underlying FIFA letter of 18 May 2012 and its attachments, in the present case that did not happen and a part-time employee managing correspondence for many different branches of an amateur club cannot be expected in good faith to look beyond the instructions contained in a cover letter, which in this case simply requested the contents of the envelope to be given to the Player.
 - Although over the following five months, between May and October 2012, FIFA never heard back from the FFF, the Player or the Appellant Club regarding the Service of Process in question, it never made any attempt to double-check whether the Appellant Club had effectively received notice of the claim.
 - Instead, FIFA simply assumed that the Appellant Club was defaulting and proceeded to inform the respondent parties (again via the FFF) on 18 October 2012 that the investigation was completed and that the DRC would be rendering its decision.
133. For the above reasons, the Sole Arbitrator finds that the DRC's decision of 27 February 2013 was rendered at the term of proceedings in which the Appellant Club's right to be treated with due process, as guaranteed by Swiss law, was violated; and that therefore such decision shall be set aside to the extent of its holdings awarding the claims made by the Respondent Club against the Appellant Club. Thus, holdings n° 3 and 7 of the DRC's decision of 27 February 2013 will

be set aside entirely and its other holdings will be set aside only to the extent they are directed against the Appellant Club as co-respondent.

E. Procedural Consequences

134. Article R57 of the CAS Code states that: “[t]he Panel shall have full power to review the facts and the law. It may issue a new decision which replaces the challenged decision or annul the decision and refer the case back to the previous instance”.
135. In the circumstances of this case and in order to preserve the existence of two levels of decision, the Arbitrator finds it more appropriate to annul the DRC’s decision and refer the case back to the DRC. Consequently, the Appellant Club’s request that the CAS rule on the merits shall be dismissed.
136. That said, as mentioned above, the DRC’s decision is only annulled with respect to the Appellant Club, since the Player’s counterclaim has not been admitted.
137. Thus, unless for any reason the Respondent Club decided to withdraw its underlying claim against the Appellant Club, the DRC of FIFA must serve process on the Appellant Club again in a manner which meets due process and give it a full opportunity to be heard in a fair manner throughout the renewed proceedings, before making a new decision on the merits of the Respondent Club’s claim against the Appellant Club. Furthermore, the DRC’s new decision on the merits must be entirely based on the allegations made and evidence adduced by the parties in the renewed proceedings, without regard to the content of its decision of 27 February 2013 which is being annulled.

ON THESE GROUNDS

The Court of Arbitration for Sport rules that:

1. The appeal of filed by Jeanne d'Arc Drancy Club on 26 April 2013 against the decision issued by the FIFA Dispute Resolution Chamber on 27 February 2013 is partially upheld.
2. Holdings n° 3 and 7 of the decision of the FIFA Dispute Resolution Chamber of 27 February 2013 are entirely set aside and the remaining holdings of that decision are set aside to the extent they are directed against Jeanne d'Arc Drancy Club.
3. The legal proceedings concerning the claim filed by FC Sheriff Tiraspol against Jeanne d'Arc Drancy Club in relation to the contractual dispute involving the player Mr. Amath André Dansokho Diedhiou are referred back to the FIFA Dispute Resolution Chamber as specified under section E of the reasons of this award.
4. The counterclaim of Mr. Amath André Dansokho Diedhiou is not admitted.
5. (...).
6. (...).
7. All other requests for relief are rejected.