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MEDIA RELEASE

FOOTBALL

PUBLICATION OF THE REASONED CAS AWARD IN THE MATTER YVES JEAN-BART V. FIFA

Lausanne, 23 February 2023 – As announced on 14 February 2023, the Court of Arbitration for Sport (CAS) upheld the appeal filed by the former President of the Haitian Football Federation (FHF), Yves Jean-Bart, against the decision of 18 November 2020 issued by the Adjudicatory Chamber of the FIFA Ethics Committee imposing a lifetime suspension and a fine of CHF 1 million for violation of the FIFA Code of Ethics.

The reasoned arbitral award is now published on the CAS website in its original language (French). In particular, the award states the following:

- 1) Yves Jean-Bart's counsel filed 66 written testimonies during the CAS proceedings, from 66 different witnesses, of which 21 were heard and questioned during the hearing on 23, 24 and 25 March 2022. These numerous and concordant oral and written testimonies established the non-existence of sexual abuse allegedly committed on young players by Yves Jean-Bart.
- 2) Only one person, presented by FIFA as a victim of Yves Jean-Bart's actions, appeared at the CAS hearing and stated that she had never witnessed the sexual abuse allegedly committed by Mr. Jean-Bart. This person added that Yves Jean-Bart had attempted to sexually abuse her during her first game with the U15 national team which took place abroad. However, it is established that Mr. Jean-Bart was not present at that match.
- 3) Other witnesses stated that they were not direct witnesses and had only heard about sexual abuse of players, thus contradicting their initial written testimonies. None of the testimonies heard by the CAS were sufficiently precise and convincing to establish Yves Jean-Bart's guilt.
- 4) The protection of the witnesses was at all times guaranteed by the CAS, so as to avoid any reluctance in the event of external pressure or possible threats. In this context, only the CAS arbitrators verified the identity of the persons concerned and present at the hearing and gave the parties the opportunity to question and cross-examine them, in accordance with the conditions set out in article 6 paragraph 1 of the European Convention on Human Rights (ECHR). All witnesses who wished to do so were able to testify from a secure and secret location, without video, by encrypted telephone, with a voice modified by distortion, and in the presence of a trusted person from CAS (to identify the witness and ensure the proper conduct of the testimony process). These measures are regularly used by CAS in sensitive matters (sexual abuse and harassment,



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corruption, manipulation of sports competitions, etc.) in order to guarantee the safety of witnesses who feel threatened or in danger.

- 5) The questions put to the protected witnesses were submitted to the Arbitral Panel and parties in advance to ensure that the witnesses could not be identified.
- 6) All witnesses heard by CAS were warned that false testimony could result in criminal sanctions.
- 7) In a letter denouncing Yves Jean-Bart's actions, FIFPro admitted that it wanted to help FIFA on the basis of various oral testimonies and rumours, but also admitted that it had no direct evidence. The same is true for an article published by Human Rights Watch on its website based on oral testimonies of unidentified persons or on rumours, which cannot constitute satisfactory evidence.

During appeal proceedings, CAS can review both the facts and the application of the law. However, it must be noted that the task of investigating and proving the existence of the facts of the case rests with the parties and not with the Tribunal, even when the alleged facts are extremely serious. The role of the CAS Panel was to verify the merits of the decisions under appeal, based on an assessment of the evidence presented by the parties to the proceedings and of the contradictory testimonies heard during the hearing. Even though the CAS has the ability to order certain investigative measures under certain conditions, it remains an adjudicating authority and not an investigating authority.

In the case at stake, the facts presented in an attempt to establish the existence of sexual abuse were inconsistent, contradictory or even inaccurate. The CAS Panel could therefore not uphold them and confirm sanctions on the basis of circumstantial evidence alone.

The CAS Panel in charge of the matter was fully aware of the seriousness of the alleged facts and the possibility that some witnesses might feel threatened. It took all possible steps to facilitate the search for evidence and the establishment of the facts. The arbitrators also deliberated at length after the hearing before unanimously concluding that there was insufficient evidence to convict Yves Jean-Bart of a violation of Articles 23 and 25 of the FIFA Code of Ethics: anonymous or indirect testimony or rumours cannot be sufficient to convict a person, otherwise fundamental principles of law would be violated. As Yves Jean-Bart's guilt could not be proven (nor his innocence), his appeal was upheld.