



Arbitration CAS 2010/A/2135 Football Federation Islamic Republic of Iran (IRIFF) v. Branko Ivankovic & Fédération Internationale de Football Association (FIFA), award of 6 December 2010

Panel: Prof. Massimo Coccia (Italy), President; Mr Jahangir Baglari (Islamic Republic of Iran); Mrs Margarita Echeverria (Costa Rica)

Football

Failure to comply with a decision of a FIFA body

CAS Scope of review

Appropriateness and proportionality of the sanction

- 1. Under Article R57 of the CAS Code and according to CAS jurisprudence, a CAS panel has full power to review the facts and the law and may issue a *de novo* decision superseding, entirely or partially, the appealed one. However, this does not mean that a panel has an unlimited scope of review. In appellate proceedings a CAS panel's scope of review is formally and substantively limited by the scope of the procedure and decision of first instance as well as by the regulations governing it. Therefore, the CAS scope of review can be limited to verify whether the decision rendered by a federation's body has been complied with and not cover the merits of a dispute which led to a decision of a federation and to a subsequent CAS award which has become *res judicata* and is final and binding.**
- 2. Absent any factual or legal arguments showing compliance with a decision rendered by a FIFA body ordering a federation to pay outstanding amounts to a creditor, the federation must be considered as having not complied with the decision. Where no legal argument or evidentiary material were submitted to contest the appropriateness and proportionality of a fine imposed for non-compliance by the FIFA Disciplinary Committee, the sanction must be considered as appropriate.**

The Football Federation of the Islamic Republic of Iran ("IRIFF" or the "Appellant" or, sometimes, the "Federation") is the body in charge of governing football in the Islamic Republic of Iran. It has been a member of the Fédération Internationale de Football Association since 1945.

Mr Branko Ivankovic (the "Coach" or the "First Respondent" and, when referred to together with FIFA, the "Respondents") is a football coach of Croatian nationality, born on 28 February 1954 in Čakovec, Croatia. He was head coach of the Iranian national football team from 2002 to 2006. In his career he has also coached the German club "Hannover 96" and the Croatian clubs "NK Varteks",

“NK Segesta”, “NK Rijeka” and “NK Dinamo Zagreb”. He is currently head coach of the Chinese team “Shandong Luneng Taishan”.

The Fédération Internationale de Football Association (“FIFA” or “Second Respondent” and, when referred to together with Mr. Branko Ivankovic, the “Respondents”) is the world governing body for the sport of football, having its headquarters in Zurich, Switzerland.

On 23 September 2008, adjudicating a dispute related to the termination of the employment relationship between the IRIFF and the Coach, the FIFA Players’ Status Committee (the “FIFA PSC”) ruled as follows:

- 1. The claim of the Claimant/Counter-Respondent, IR Iran Football Federation is rejected.*
- 2. The claim of the Respondent/Counter-Claimant, Branko Ivankovic is accepted.*
- 3. The Claimant/Counter-Respondent, IR Iran Football Federation, has to pay the amount of USD 10,000 plus an annual interest of 5% as from 1 July 2006, within 30 days as from the date of notification of this decision.*
- 4. The Claimant/Counter Respondent, IR Iran Football Federation, has to pay the amount of USD 454,000 plus an annual interest of 5% as from 26 June 2007, within 30 days as from the date of notification of this decision.*
- 5. If the aforementioned sum and the relevant interest are not paid within the aforementioned deadline, the present matter shall be submitted upon the parties request to FIFA’s Disciplinary Committee for its consideration and decision.*
- 6. The Respondent/Counter-Claimant, Branko Ivankovic, is directed to inform the Claimant/Counter-Respondent, IR Iran Football Federation, 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.*
- 7. The costs of the proceedings in the amount of CHF 10,000 are to be paid by the Claimant/Counter-Respondent, IR Iran Football Federation to FIFA within 30 days of notification of the present decision to the following bank account with reference to case n. 06-00887/mdo: [...].*

On 27 October 2008, the parties were notified of such decision without the grounds.

On 8 November 2008, the Appellant sent a letter to FIFA requesting for the reasons of the FIFA PSC’s decision.

On 12 November 2008, FIFA informed the IRIFF that such request could not be granted since, according to article 15 of the Rules Governing the Procedures of the Players’ Status Committee and Dispute Resolution Chamber (the “FIFA Procedural Rules”), it was made after the required 10-day deadline.

On 16 November 2008, the IRIFF lodged an appeal to the Court of Arbitration for Sport (“CAS”) against the FIFA PSC’s decision, summoning only FIFA as respondent and not Mr Branko Ivankovic (case CAS 2008/A/1708 *Football Federation Islamic Republic of Iran v. FIFA*).

On 27 November 2008, the IRIFF filed its appeal brief. The IRIFF requested the CAS to set aside the FIFA PSC's decision, to declare that nothing was due to the Coach and that he had even to refund the IRIFF.

In its answer, filed on 3 March 2009, FIFA contested the jurisdiction of the CAS and claimed that it had no standing to be sued, because no relief was sought against FIFA by the IRIFF. FIFA underlined that the dispute concerned only the employment relationship between the IRIFF and the Coach and that FIFA was not affected by any outcome of such employment dispute.

On 4 November 2009, the appointed CAS panel issued its award on case CAS 2008/A/1708, ruling as follows:

- “1. The Appeal filed by Football Federation Islamic Republic of Iran against the FIFA Players’ Status Committee decision dated 23 September 2008 is dismissed in full.*
- 2. The decision of the FIFA Players’ Status Committee passed on 23 September 2008 is confirmed and upheld in full.*
- 3. The Football Federation Islamic Republic of Iran shall bear the costs of the proceedings, to be determined and served to the Parties by the CAS Court Office.*
- 4. Each Party shall bear its own legal costs and all other expenses incurred in connection with these arbitration proceedings.*
- 5. Any and all other prayers for relief are dismissed”.*

The reasons on which the CAS panel rendered the aforementioned award were as follows in the most relevant part:

- “110. The present appeal procedure relates to a dispute between the IRIFF and the Coach, pertaining to an employment-related dispute arisen between the two aforementioned parties, and was filed by the IRIFF as a result of the FIFA Decision.*
- 111. The Panel notes that the parties in the aforementioned FIFA PSC proceedings were the IRIFF and the Coach. FIFA was not a party to those proceedings and solely acted in its role as the competent deciding body in a dispute which did not concern FIFA’s relationship with the IRIFF.*
- 112. The Panel also notes that the appealed decision is not one with any disciplinary nature and the Statement of Appeal and Appeal Brief neither contain any request against FIFA nor any argument concerning FIFA. As FIFA argues in its defence, the entire arguments of the IRIFF are directed against the Coach, who has [sic] not called by the IRIFF as a party to the present proceedings. [...]*
- 114. It is a well established principle of law that an appeal can only be directed against a party which took part in the proceedings before the court of first instance. However, in the present appeal, the IRIFF has named as “Defendant FIFA Players Status Committee” [sic] and not the Coach.*
- 115. To decide on the merits of this appeal, in the absence of the Coach and without hearing him would be considered an abuse and violation of the principles of law. This would amount to a possible and eventual condemnation of a party unheard. [...]*

118. *Considering that the Coach is not a party in this appeal proceeding and the fact that FIFA has no standing to be sued, the Panel concludes that the appeal is rejected in full and for this reason, there is no need to consider the IRIFF's requests. Furthermore, all other prayers for relief are rejected*".

On 17 November 2009, the Coach sent a letter to the FIFA PSC and stated that the CAS award of 4 November 2009 had not been implemented yet. Therefore, he requested to forward the matter to the FIFA Disciplinary Committee (the "FIFA DC").

On 23 November 2009, the FIFA PSC informed the IRIFF of the First Respondent's correspondence and that, in line with Point 5 of the FIFA PSC's decision of 23 September 2008, the matter was going to be reported to the FIFA DC for consideration and decision on possible sanctions against the IRIFF.

On 30 November 2009, the IRIFF requested FIFA to provide the grounds of the FIFA PSC's decision of 23 November 2008, explaining that *"based on rules and legal principles, our perception regarding decision is the whole elements and parts of decision, including its ground"*.

On 21 December 2009, FIFA replied to the letter of the IRIFF and reminded that the CAS award of 4 November 2009 had dismissed in full their claim and, thus, confirmed and upheld in full the decision of the FIFA PSC. Consequently, *"the relevant decision of the Players' Status Committee has become final and binding for the parties as to its substance. In accordance with the general legal principle of 'res iudicata', the substance can thus not be considered anymore"*. Therefore, the FIFA PSC refused to comply with the IRIFF's request and informed the IRIFF that the matter was going to be submitted to the FIFA DC for consideration and decision on the disciplinary aspects of the lack of compliance.

On 29 December 2009, the FIFA DC opened a disciplinary procedure against the Appellant in respect of a violation of article 64 of the FIFA Disciplinary Code (also indicated as the "FDC").

On 30 December 2009, the IRIFF lodged a Statement of Appeal with the CAS against FIFA's letter of 21 December 2009, requesting the following:

"1. The Panel of Arbitration of CAS based on principles and elements of the justice and rights to order and obligate FIFA Players' Status Department to submit the decision in full with its ground which had been made on 23 September 2008 to Iran Football Federation;

2. The Decision of FIFA for submitting the case to FIFA Disciplinary Committee which was mentioned in FIFA letter dated 21 December 2009, to be halted till the final investigation".

On 14 January 2010, the CAS Court Office informed the IRIFF that no arbitration procedure could be initiated in this matter, since FIFA's letter of 21 December 2009 could not, *"in accordance with the well established jurisprudence of CAS, be considered as a decision having a legal effect"*, having the sole purpose of providing information over the status of the claim previously filed by the IRIFF and ruled upon first by the FIFA PSC and then by the CAS in its award of 4 November 2009.

On 19 January 2010, the IRIFF requested again, by letter sent to the FIFA DC, the full grounds of the decision adopted by the FIFA PSC on 23 September 2008. Furthermore, the IRIFF requested

also to hold a meeting in order to give full explanation of its claims and provide legal and official documents.

On 21 January 2010, the FIFA DC reminded the IRIFF that the CAS award of 4 November 2009 had dismissed the claims of the Appellant. As a result, the decision of the FIFA PSC was now final and binding for the parties as to the substance. Hence, it emphasised the following: *“the FIFA Disciplinary Committee is only competent insofar as to control the decision passed by the Players’ Status Committee on 23 September 2008 has been respected. Therefore, the Disciplinary Committee will not enter into the matter again”*.

On 3 March 2010, the FIFA DC communicated to the parties that the hearing was going to be held on 15 April 2010 at the headquarters of FIFA in Zurich, Switzerland (it was then rescheduled on 14 April 2010). Both parties expressed their will to attend such hearing.

In a letter dated 12 April 2010, the Coach informed the FIFA DC of his representative’s inability to participate to the forthcoming hearing session and filed a counterclaim of USD 532.381,99, adding a request for the calculation of 5% interest on capital, up to the date of the hearing before the FIFA DC, to the total amount already awarded by the FIFA PSC’s decision.

During the hearing of 14 April 2010, the IRIFF read a written statement in which it claimed the wrongfulness of the FIFA PSC decision and pleaded on the merits of the case in order to prove that the Federation had fulfilled all its contractual obligations to the Coach.

Furthermore, the IRIFF claimed that the decisions of the FIFA PSC, making reference in particular to the refusal of communicating the grounds of the decision, *“are against law, regulations and Statutes of FIFA in which they are mentioned in the Award (Decision) of Court of Arbitration for Sport dated 4 November 2009 under the parts of 103 and 105”*. On these grounds, the IRIFF finally requested to the FIFA DC to nullify the decision of the FIFA PSC and close the case.

On 14 April 2010, the FIFA DC rendered its decision (the “Appealed Decision”) stating as follows in the ruling part (*“dispositif”*):

- “1. The IRAN FF is pronounced guilty of failing to comply with a decision of a FIFA body in accordance with art. 64 of the FDC.*
- 2. Should the IRAN FF fail to settle its debt towards the creditor and to FIFA within a final period of grace of 90 days as from notification of this decision and subject to the creditor informing the FIFA Disciplinary Committee of the non-compliance with the decision of the Players’ Status Committee within the stipulated deadline, the IRAN FF will be ordered to pay a fine to the amount of CHF 25,000.*
- 3. Finally the debtor will be warned and notified that, in case of non-payment of the outstanding amount to the creditor and to FIFA within the period stipulated, the case will be submitted again to the FIFA Disciplinary Committee in order to take more severe sanctions against the Iran FF. These sanctions may lead, among others, to exclusion from a FIFA competition. This will occur if the creditor informs the Secretariat to the FIFA Disciplinary Committee of the non-payment informs the Secretariat to the FIFA Disciplinary Committee of the non-payment within the stipulated deadline and demands in writing that the case be submitted to the FIFA Disciplinary Committee- Once the creditor has filed this request, the submission will follow automatically.*
- 4. The costs of these proceedings are borne by FIFA.*

5. *The creditor is directed to notify the secretariat to the FIFA Disciplinary Committee of every payment received*".

The reasons on which the FIFA DC based the Appealed Decision were essentially the following:

- a. The allegations of the IRIFF could not be taken in consideration in these proceedings since they addressed again the merits of the dispute and, as already advised, the FIFA DC was only competent to impose a disciplinary sanction related to the non-execution of the decision of the FIFA PSC according to article 64 of the FDC;
- b. The FIFA DC regarded as appropriate to impose a fine amounting to CHF 25,000, considering the substantial amount of money due by the debtor. The fine was calculated between a range of CHF 5,000 and CHF 1,000,000, according to the combined application of article 64.1(a), and article 15.2 of the FDC. However, in view of the particular circumstances of the case, in accordance with article 64.1(b), the FIFA DC granted to the debtor a final deadline of 90 days after which the fine would be implemented.

The Appealed Decision was notified to all parties on 3 May 2010.

On 23 May 2010 the IRIFF lodged a Statement of Appeal with the CAS against the Appealed Decision (case CAS 2010/A/2135 *IRIFF v. Branko Ivankovic & FIFA*). It submitted the following motion for relief:

"Therefore, regarding all the above-mentioned details, we would like to kindly request you to nullify the Decision passed by Players' Status of FIFA, so that by final award of CAS, Iran Football Federation will be enabled to invest the fined amount on development and improvement of grassroots and the young talents of our nation in youth level, instead of paying off this large sum to Mr. Branko Ivankovic, who does not deserve it at all".

On 28 June 2010, FIFA submitted its Answer Brief, seeking the following requests for relief:

- "1. To reject the Appellant's request to annul the decision hereby appealed against.*
- 2. Secondly, to order the Appellant to bear all costs incurred with the present procedure and to cover all legal expenses of the Second Respondent related to the present procedure".*

On 28 June 2010, the Coach filed his Answer Brief concluding as follows:

"Above mentioned article was clearly, correctly and in one possible way interpreted by FIFA Payers' Status Committee on November 16th 2008, confirmed on CAS Ordinary Arbitration Division on November 4th 2009 and accepted by FIFA Disciplinary Committee on April 14th 2010. It leaves no reason to doubt that CAS Appeals Arbitration Division can decide anything else but stay in line with the decision of three legal bodies that precedes.

I am not going to pull out 'heavy artillery', such as 'astonished', 'surprising', or even 'insulting' that FFIRI has used in their Appeal letter or read between the lines. I have nothing but good memories from my time spend in Iran, great admiration of the common people and friends for the life everywhere around Iran and in FFIRI as well. Moreover I am proud of the biggest successes in recent history of Iranian Football that we achieved together. I strongly believe that we can remain friends and even work together again in the future. Anyone can see the

results of Iranian National Football Team before and after my era and understand immediately that I indeed deserved the bonus for the success we achieved and money we earned.

As soon as they accept that fact it will be better for all sides”.

On 28 July 2010 the Panel decided to grant a 15 days deadline to the Appellant and the Respondents to file their position with respect to the Panel’s scope of review. In this respect, the Panel drew the attention of the parties to the fact that, according to the available information, the merits of the case had already been addressed in the FIFA PSC decision of 23 September 2008 and in the CAS award of 4 November 2009, which, as it did not appear to have been appealed to the Swiss Federal Tribunal, might have become *res judicata*.

On 9 August 2010, the IRIFF filed a submission arguing that the previous CAS award of 4 November 2009 had been decided on a mere procedural basis (the lack of standing to be sued) and requested this Panel to address the merits of the case.

On 6 September 2010, the CAS Court Office wrote the following to the parties:

“I inform you that the Panel, being sufficiently informed after a thorough study of all the parties’ submissions and the available documentation, has determined that the Panel’s scope of review in this appeal arbitration procedure cannot be extended to include the merits of the dispute between the Appellant and Mr Ivankovic that led to the decision of the FIFA Players Status Committee of 16 November 2008 and the ensuing CAS award of 4 November 2009 (case CAS 2008/A/1708 Football Federation Islamic Republic of Iran v. FIFA). The Panel will set forth the reasons for this determination in the final award. As a consequence, the Panel wishes to instruct the parties that at the hearing of 29 September 2010 they will only be allowed to discuss matters strictly related to the disciplinary decision taken by the FIFA Disciplinary Committee on 14 April 2010”.

On 12 September 2010, the IRIFF wrote to the CAS stating again that the CAS award of 4 November 2009 had rejected the claims for procedural reasons and had not addressed the merits of the case. For this reason, the Appellant requested the Panel to nullify paragraphs 115, 118 and 119 of the said award and to interpret such decision in addressing the merits of the case.

On 13 September 2010, the CAS Court Office informed the Appellant, on behalf of the President of the Panel, that any application for interpretation of a CAS award “*must follow the procedure set forth by art. R63 of the Code of Sports-related Arbitration, i.e. a formal application to the President of the Appeals Division who would then review whether there are grounds for interpretation and, if so, would submit the request to the same Panel which has rendered the award CAS 2008/A/1708 Football Federation Islamic Republic of Iran v. FIFA, It follows that the Panel in the present case has no authority to render an interpretation of the previous award and will limit itself to dealing with the disciplinary matter and not the merits which led to the first FIFA decision and the previous CAS award*”.

On 28 September 2010, the IRIFF submitted a brief reiterating and detailing its arguments on the merits of its dispute with the Coach.

In conclusion, the IRIFF requests the Panel to annul the decisions of the FIFA PSC and of the FIFA DC, contending that the refusal to submit the grounds of the FIFA PSC’s decision of 23 September 2008 renders such act not even a “decision” according to the standards of the Iranian legal system,

and noticing in both decisions the lack of a thorough investigation on the merits of the case. The IRIFF reminds that the acceptance of its appeal would prevent the First Respondent from profiting of his baseless claims and of decisions that are contrary to fair trial and justice.

The First Respondent rejects the assertion of the Appellant and requests the Panel to stay in line with the three previous consistent decisions that have been issued on this matter.

Having verified the lack of compliance of the IRIFF with the decision of the FIFA PSC and the subsequent appeal award of CAS of 4 November 2009, the Second Respondent requests the Panel to reject the Appellant's claim and confirm the Appealed Decision.

LAW

CAS Jurisdiction

1. Article R47 para. 1 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 Appellant 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”.

2. Article 62 of the FIFA Statutes in force at the time of the IRIFF's appeal reads as follows:

“1. FIFA recognises the independent Court of Arbitration for Sport (CAS) with headquarters in Lausanne (Switzerland) to resolve disputes between FIFA, Members, Confederations, Leagues, clubs, Players, Officials and licensed match agents and players' agents.

2. 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”.

3. Article 63 of the FIFA Statutes in force at the time of the IRIFF's appeal reads as follows in the relevant part:

“1. 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.

2. Recourse may only be made to CAS after all other internal channels have been exhausted”.

4. Moreover, Article 64.5 of the FIFA Disciplinary Code provides that any appeal against a disciplinary decision adopted in relation to the failure to respect a financial decision of FIFA or CAS must be lodged with the CAS:

“Any appeal against a decision passed in accordance with this article shall immediately be lodged with CAS”.

5. The Appellant filed its Statement of Appeal on 23 May 2010 against the Appealed Decision dated 14 April 2010 and notified to the parties on 3 May 2010. Neither Respondent objected to the jurisdiction of the CAS. Moreover, all the parties signed the Order of Procedure.
6. The Panel notes that, in accordance with the above quoted Article 64.5 of the FIFA Disciplinary Code, there were no other internal legal remedies for the Appellant against the Appealed Decision.
7. Therefore, as all the requirements set forth in article R47 of the CAS Code are met, the Panel finds that the CAS has jurisdiction to decide the present dispute.

Applicable Law

- 8 Article R58 of the CAS Code provides the following:

“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”.

9. Article 62.2 of the FIFA Statutes provides the following:

“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”.

10. In the present case, the parties have not agreed on the application of any specific national law. It follows that the rules and regulations of FIFA shall apply primarily and Swiss law shall apply subsidiarily.

Timeliness of the Appeal

11. The appeal was filed by the IRIFF within the deadline provided by Article 63.1 of the FIFA Statutes and is thus admissible.

Scope of Review

12. Under Article R57 of the CAS Code, the Panel has full power to review the facts and the law and may issue a *de novo* decision superseding, entirely or partially, the appealed one. However, this does not mean that a CAS Panel has an unlimited scope of review. Quite to the contrary, in appellate proceedings a CAS Panel’s scope of review is formally and substantively limited by the scope of the procedure and decision of first instance as well as by the regulations governing it.

13. The Panel takes comfort from the fact that its opinion on the issue of scope of review is consistent with the opinion set forth by various CAS panels. In particular, the CAS award rendered in case 2007/A/1426 reads as follows at para. 61:
“It is true that pursuant to art. 57 of the CAS Code the Panel has the full power to review the facts and the law and to issue a decision de novo. However, when a CAS Panel is acting following an appeal against a decision of a federation, association or sports-related body, the power of such a Panel to rule is also determined by the relevant statutory basis and, therefore, is limited with regard to the appeal against and the review of the appealed decision, both from an objective and a subjective point of view (see recently CAS 2007/A/1433; CAS 2005/A/835; CAS 2006/A/1206)”.
14. More recently, the CAS panel which rendered the award in case 2009/A/1879 stated the following:
“la compétence du TAS à juger de novo doit être ‘fondée sur les règlements de la fédération intéressée’, limite à laquelle souscrit ce Tribunal. En tant qu’instance arbitrale privée, la compétence du TAS se trouve limitée par la compétence de la procédure arbitrale sur laquelle est fondé l’appel” (translation by the Panel: *“The power of the CAS to issue a de novo judgment must be ‘based on the regulations of the concerned federation’, limit which is followed by this Panel. Being a private arbitral instance, the jurisdiction of the CAS is limited by the scope of the arbitral procedure on which the appeal has been founded”*).
15. Therefore, as the authority of the FIFA DC is limited, pursuant to article 64 of the FIFA Disciplinary Code, to verifying whether anyone has failed to comply with a previous decision rendered by a body, a committee or an instance of FIFA or CAS, the Panel’s scope of review in this appeal is restricted to the same mandate, because an appeal may not, by definition, go beyond the formal and substantive scope of the procedure and decision of first instance.
16. This means, in particular, that this CAS Panel has no authority to deal with the merits of the dispute between the IRIFF and the Coach which led to the decision of the FIFA PSC of 23 September 2008 and to the subsequent CAS award of 4 November 2009. Indeed, the merits of that dispute are clearly outside of the scope of review of this Panel.
17. In other terms, this Panel may only deal with the event which gave rise to the disciplinary proceedings culminated in the Appealed Decision (*i.e.* whether the IRIFF complied or not with the decision taken by the FIFA PSC and confirmed by the CAS) and with the consequence thereof (*i.e.* whether the disciplinary sanction imposed on the IRIFF was appropriate, respectful of the applicable rules and proportionate to the violation).
18. As a consequence, the Panel must discard as inappropriate and not consider all the arguments and exhibits submitted by the Appellant with reference to the substance of the dispute decided by the FIFA PSC and upheld in full by the CAS award of 4 November 2009.
19. In this respect, the Panel finds that the various Appellant’s criticisms towards the CAS award of 4 November 2009 are also outside this Panel’s adjudicating authority. Indeed, the Panel observes that the IRIFF did not lodge an appeal with the Swiss Federal Tribunal against the

said CAS award. Therefore, the CAS award of 4 November 2009 has become by now *res judicata* and is final and binding.

20. To be more specific, the CAS award of 4 November 2009 can be considered *res judicata* only with regard to FIFA, since it was the only respondent in the case CAS 2008/A/1708. With regard to the Coach, as he was a party to the said FIFA PSC proceedings but not to the CAS arbitration – because he was never summoned therein by the IRIFF – he may not be concerned by the CAS award. However, as no appeal was filed with the CAS within the 21-day deadline vis-à-vis the Coach, the FIFA PSC’s decision of 23 September 2008 has become final and binding in the relationship between the IRIFF and the Coach.
21. In any event, the result is the same. The Panel has no authority to review the merits of the dispute between the IRIFF and the Coach, which has already been adjudicated by the FIFA PSC as well as by the CAS panel in case CAS 2008/A/1708. In this connection, it is utterly irrelevant that the CAS panel in that award decided the case on a procedural basis (the lack of standing to be sued of FIFA) and did not address the merits of the IRIFF’s contractual dispute with the coach because, in any event, the panel’s ruling confirmed and upheld the appealed FIFA PSC’s decision, which undoubtedly did address the merits of the dispute.
22. Also, the Panel may not deal with the issue of the appropriateness and legality of the FIFA’s refusal to provide the grounds for its decision of 23 September 2008 pursuant to art. 15 of the Rules Governing the FIFA Procedures, because such issue is also outside of the scope of this arbitration and, at any rate, it has already been submitted to, and decided by, the CAS panel which rendered the said award dated 4 November 2009 in case CAS 2008/A/1708 (see para. 90 of that award: “*Like the Panel in the case CAS 2008/A/1705, this Panel also concludes, based on the arguments highlighted above, that article 15 of the Rules Governing the FIFA Procedures does not infringe any fundamental legal principles which belong to public order*”).
23. In short, the IRIFF should have summoned the Coach as respondent in the previous CAS case 2008/A/1708; the fact that it did not was a serious procedural mistake, with the consequences of which the IRIFF must now live.
24. In conclusion, by majority vote, the Panel holds that it must limit itself to reviewing the disciplinary measure decided by the FIFA DC.

Merits

25. The FIFA PSC’s decision of 23 September 2008 (see *supra*), unaltered by the CAS award of 4 November 2009 (see *supra*), ordered the IRIFF to pay to the Coach: 1) USD 10,000 plus 5% interest p.a. as from 1 July 2006; 2) USD 454,000 plus 5% interest p.a. as from 26 June 2007; 3) CHF 10,000 as the costs of the proceedings of FIFA.
26. The Panel observes that the IRIFF provided no factual or legal arguments to show that it complied with such decision and that partial or total payment of the sums indicated therein has

occurred. As a consequence, the Panel must conclude that the Appellant did not comply with the decision of the FIFA PSC.

27. The Panel also remarks that the IRIFF submitted no legal argument or evidentiary material to contest the appropriateness and proportionality of the fine that the FIFA DC imposed on it with its Appealed Decision (see *supra*).
28. Unfortunately, the only arguments submitted by the Appellant, both in writing and at the hearing, were related to the substance of its contractual dispute with the Coach, which – for the reasons stated above – may not be reexamined by this Panel.
29. As a consequence, by majority vote, the Panel must confirm as appropriate and proportionate the sanction imposed by the FIFA DC and uphold in full its Appealed Decision, thus rejecting the appeal.

The Court of Arbitration for Sport rules:

1. The appeal filed by Football Federation of the Islamic Republic of Iran against the decision of the FIFA Disciplinary Committee dated 14 April 2010 is dismissed.
2. The decision of the FIFA Disciplinary Committee dated 14 April 2010 is upheld and hereby confirmed.
- (...)
6. All other requests, motions or prayers for relief are dismissed.