



Arbitration CAS 2021/A/8371 Al-Merrikh Sports Club v. Sudan Football Association (SFA), award of 10 June 2022

Panel: Mr Jacques Radoux (Luxembourg), President; Mr Hendrik Kesler (The Netherlands); Mr Markiyan Kliuchkovskyi (Ukraine)

Football

Governance

Competence to impose a sanction

Qualification of a decision as a disciplinary measure

Predictability of disciplinary sanctions

1. **In order to impose a sanction to a direct or indirect member, the relevant body of a sport Federation which imposed said sanction must have an attributed competence to do so.**
2. **A decision that has been characterized as a “*punishment*” or a “*penalty*” must be qualified as a disciplinary measure.**
3. **For a sanction to be imposed, a sports regulation must prescribe the misconduct with which the subject is charged, i.e., *nulla poena sine lege* (principle of legality), and the rule must be clear and precise, i.e., *nulla poene sine lege clara* (principle of predictability).**

I. PARTIES

1. Al-Merrikh Sports Club (the “Club” or the “Appellant”) is a professional football club with its registered seat in Omdurman, Republic of Sudan. The Club is affiliated to the Sudan Football Association.
2. The Sudan Football Association (the “SFA” or the “Respondent”) is the national sports governing body for the sport of football in the Republic of Sudan. It has its registered seat in Khartoum, Republic of Sudan, and is an affiliated member of the Confédération Africaine de Football (the “CAF”) and the Fédération Internationale de Football Association (the “FIFA”).
3. The Appellant and the Respondent will be referred to collectively as “the Parties”.

II. FACTUAL BACKGROUND

4. Below is a summary of the main relevant facts and allegations based on the Parties’

submissions, pleadings and evidence adduced as well as on the FIFA's *amicus curiae* brief dated 15 February 2022. Additional facts and allegations found in the Parties' submissions, pleadings and evidence may be set out, where relevant, in connection with the legal discussion that follows. While the Panel has considered all the facts, allegations, legal arguments, and evidence submitted by the Parties in the present proceedings, it refers in its Award only to the submissions and evidence it considers necessary to explain its reasoning.

5. On 3 October 2020, the Club held its ordinary general assembly.
6. On 12 October 2020, the President of the SFA contacted the FIFA about the necessity to hold a meeting to discuss the dismissal of the Club's executive body and the appointment of a "normalisation committee".
7. On 19 October 2020, the FIFA informed the SFA that the latter had no statutory or regulatory basis to replace the Club's executive body by a normalisation committee or any *ad hoc* committee of the sort.
8. On 20 October 2020, the SFA decided – *inter alia* – that the mandate of the Club's executive body had expired and that a so-called Tripartite Committee (the "Tripartite Committee") should be appointed to decide upon the Club's new executive body.
9. On 13 December 2020, following up on the videoconference call organised between the FIFA, the SFA and the Club on 30 November 2020, the FIFA suggested the Club set up a roadmap and coordinate with the SFA in order to solve the internal matters of the Club.
10. On 13 February 2021, the Appellant updated the FIFA on the status of the joint review of its Statutes with the SFA and mentioned that it needed "*to extend the time period scheduled for the first quarter of 2021 AD*" so that the Club could implement the road map in a proper manner, in accordance with the Club's Statute.
11. On 19 March 2021, the Appellant reiterated its request to the FIFA to extend the time limit to implement the roadmap.
12. On the same date, Club's Board of Directors/or the President of the Club decided to postpone the General Assembly scheduled for 27 March 2021 for "*legal and logical*" reasons.
13. On 27 March 2021, despite the announced postponement of the Club's General Assembly, some members of the Club's Board of Directors as well as some members of the Club held a meeting, considered by them as General Assembly, in order to implement the roadmap proposed by FIFA.
14. On 27 May 2021, the FIFA, having been informed that the situation of the Club's executive body had not yet been resolved, requested the SFA to solve the issue of duality of executive power within the Club.
15. On 13 and 14 June 2021, the Tripartite Committee discussed the resolution of the internal matters of the Club.

16. On 17 June 2021, the President of the Club, Mr. Adam Abdallah Adam, requested the SFA General Secretary to provide him with several documents regarding the SFA's roadmap and the meeting held on 27 March 2021.
17. On 20 June 2021, the President of the Club informed the Chairman of the Tripartite Committee that he would not be in a position to discuss the proposed roadmap without the documents requested on 17 June 2021.
18. On 24 June 2021, the SFA notified the Club of the decision taken by the Tripartite Committee during its meeting on 13 and 14 June 2021.
19. The operative part of that decision reads, in its pertinent parts, as follows:

“[...] in accordance with the provision of Article (106) of the disciplinary regulations of the Sudanese Football Association for the year 2018

 1. *Referring Mr. Adam Abdullah Makki, to the Disciplinary Committee for violating Article (66) of the Disciplinary Regulations*
 2. *The Association must not deal with Mr. Adam Abdullah Makki as president of the Al-Merrikh Club, Khartoum*
 3. *Dealing with the elected Al-Merrikh Club Council remains as an institution in accordance with the rules regulating meetings in terms of quorum, recording of facts and issuing decisions*
 4. *And to address all relevant authorities on the Governor of Khartoum State – Minister of Youth and Sport, Khartoum State – Director General of Police Forces”.*
20. On 31 August 2021, the Disciplinary Committee of the SFA rendered its decision on the referral submitted by the Tripartite Committee. The operative part of this decision provides as follows:

“1 – To drop the violations contained in the complaint submitted by the Tripartite Committee versus the defendant, Mr Adam Abdallah Adam President of Al-Merrikh Club.

2 – Cancelling the penalty issued by the Tripartite Committee against the President of Al-Merrikh Club to the effect that the association is not to deal with him, as this punishment is considered at the heart of the jurisdiction of the judicial committee only.

3 – Considering the decisions issued by the Board of Directors of the Federation in a meeting on the two days 13 and 14/6/2021 regarding the development of the road map regarding dealing with the crisis of the Al-Merrikh Club is valid and enforceable unless contested at the higher appellate bodies (FIFA – Sports Arbitration Committee CAS) and until decisions are issued in the appeals submitted by the defendant to these higher appellate bodies, the decisions of the Sudanese Football Association Board of Directors shall remain valid and effective”.
21. On 19 September 2021, after an appeal by the Tripartite Committee against the Disciplinary

Committee decision, the Appeal Committee of the SFA rendered its Decision (the “Appealed Decision”).

22. The operative part of the Appealed Decision reads as follows:

“1 – Accepting the appeal in terms of form.

2 – Confirming the decision of the Disciplinary Committee with regard to rescinding the violations.

3 – Revocation of the decision issued by the Disciplinary Committee, which decided to cancel the penalty issued by the Tripartite Committee delegated by the Board of Directors of the [SFA] for lack of jurisdiction”.

23. The Appealed Decision was notified to the Club on 29 or 30 September 2021.

III. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT

24. On 4 October 2021, in accordance with Articles R47 *et seq.* of the Code of Sports-related Arbitration (the “Code”) (2021 edition), the Appellant filed its Statement of Appeal with the Court of Arbitration for Sport (“CAS”) against the Respondent with respect to the Appealed Decision. In its Statement of Appeal, the Appellant appointed Mr Hendrik W.Kesler, Attorney-at-Law in Enschede, the Netherlands, as arbitrator.
25. On 14 October 2021, the CAS Court Office notified the Statement of Appeal to the Respondent and invited the Appellant to file its Appeal Brief within the deadline stated in Article R51 of the Code.
26. On 24 October 2021, the Appellant filed its Appeal Brief in accordance with Article R51 of the CAS Code.
27. On 3 November 2021, CAS Court Office acknowledged receipt of the Appellant’s Appeal Brief and invited the Respondent to submit its Answer within the deadline set out in Article R55 of the Code, highlighting that if it failed to do so, the Panel may nevertheless proceed with the arbitration and deliver an award.
28. On 5 November 2021, the President of the Appeal Arbitration Division, appointed Mr Markiyani Kliuchkovskiyi, Attorney-at-Law in Kyiv, Ukraine, as arbitrator *in lieu* of the Respondent.
29. On 9 November 2021, the CAS Court Office informed the Parties that the President of the CAS Appeals Arbitration Division, in accordance with Article R50 para. 2 of the Code, had decided to refer the present proceeding and the proceeding registered under *CAS 2021/A/8413 Al-Merrikh Sports Club v. Sudan Football Association* to the same Panel.
30. On 24 November 2021, the CAS Court Office informed the Parties that it had not received an Answer by the Respondent within the given deadline or any other communication in that regard. Having pointed out that unless the Parties agree or the President of the Panel orders

otherwise on the basis of exceptional circumstances, Article R56 para. 1 of the Code provides that the Parties shall not be authorized to supplement or amend their requests or their argument, to produce new exhibits or to specify further evidence on which they intend to reply, after the submission of the appeal brief and of the answer, the CAS Court Office invited the Parties to state whether they would prefer a hearing to be held in the present matter.

31. On 5 December 2021, the Respondent informed the CAS Court Office that it preferred a hearing to be held in the present proceedings.
32. On 8 December 2021, the Appellant stated that it did not request such hearing.
33. On 12 December 2021, the Respondent reiterated its wish to have a hearing held in the proceedings CAS 2021/A/8371 and CAS 2021/A/8413.
34. On 4 January 2022, the CAS Court Office, on behalf of the President of the CAS Appeals Arbitration Division, informed the Parties that the Panel appointed to decide this appeal was constituted as follows:

President: Mr Jacques Radoux, Référendaire to the Court of Justice of the European Union, Luxembourg

Arbitrators: Mr Hendrik W. Kesler, Attorney-at-Law in Enschede, the Netherlands

Mr Markiyany Kliuchkovskiy, Attorney-at-Law in Kyiv, Ukraine
35. On 19 January 2022, the CAS Court Office informed the Parties that the Panel had decided to hold a hearing in the present matter.
36. On 1 February 2022, the CAS Court Office, on behalf of the Panel, informed the FIFA that it was given the opportunity to submit an *amicus curiae* brief regarding the resolution of the Club's internal matters, the roadmap as well as its implementation, either through the Club itself or through the SFA, in order to offer special perspectives, arguments or expertise in the present dispute as well as in the proceeding CAS 2021/A/8413.
37. On 3 February 2022, the CAS Court Office sent to the Parties an Order of Procedure, requesting them to return a signed copy of it to the CAS Court Office.
38. On the same date, the Appellant signed the Order of Procedure.
39. On 6 February 2022, the Respondent provided the CAS Court Office with its list of attendees for the hearing on 17 February 2022.
40. On 8 February 2022, the CAS Court Office invited the Appellant to comment on the admissibility of the witnesses called by the Respondent in its letter of 6 February 2022 in accordance with Article R56 para. 1 of the Code.
41. On 10 February 2022, the Respondent, for its part, signed and returned the Order of

Procedure.

42. On the same date, the Appellant objected to the admissibility of the witnesses called by the Respondent.
43. On 11 February 2022, the CAS Court Office, on behalf of the Panel, informed the Parties that the Respondent's witness evidence was rejected in the light of the disagreement between the Parties and in absence of exceptional circumstances pursuant to Article R56 para. 1 of the Code.
44. On 15 February 2022, the FIFA submitted its *amicus curiae* brief which was accompanied by the relevant exhibits.
45. On the same date, the CAS Court Office communicated these documents to the Parties and informed them that they could provide their respective positions on this *amicus curiae* brief during the hearing on 17 February 2022.
46. On 17 February 2022, a hearing was organised from Lausanne, Switzerland. Due to COVID-19 restrictions, the hearing was entirely held via video-conference (Cisco WebEx). The Panel was assisted by Mr Björn Hessert, Counsel to the CAS, who was physically present at the CAS Court Office in Lausanne, Switzerland. The Panel was joined by the following participants:

For the Appellant:

Dr Mudathir Kheiry, Vice-President

For the Respondent:

Dr Amir Abdulrahman, President of the SFA Tripartite Committee and former SFA Board of Directors Member;

Mr Ali Assad, a former Member of Al-Merrikh Sports Club Board of Directors elected in 2017;

Mr Muhammad Ahmed Suleiman, Vice-President, Vice-President of the SFA Legal Affairs Committee, Member of the SFA's Board of Directors;

Mr Hassan Ali Issa, interpreter.

47. At the outset of the hearing, the Parties acknowledged that they had no objection to the composition of the Panel. At the closing of the hearing, the Parties expressly stated that they had sufficient opportunity to present their factual and legal arguments. Additionally, all Parties confirmed that their respective rights to be heard and to be treated equally had been respected in the present procedure.

IV. THE PARTIES' SUBMISSIONS

A. The Appellant's Position

48. The following summary of the Parties' positions and submissions is illustrative only and does not necessarily include each and every contention put forward by the Parties. The Panel, however, has carefully considered all of the submissions made by the Parties, even if no explicit reference is made in what immediately follows.

49. The Appellant's submissions may be summarized as follows:

- It follows from a combined lecture of Articles 22 and 56 of the Sudan Football Association Statutes ("SFA Statutes"), that neither the Tripartite Committee nor the Board of Directors of the SFA are competent to impose a sanction such as the one inflicted by the Tripartite Committee in its decision taken during the 13 and 14 June 2021 meeting, *i.e.* that the SFA shall not deal with Mr. Adam Abdallah Adam as president of the Club.
- Further, Article 65 of the SFA Statutes does not foresee the disciplinary sanction or measure of "not dealing with" a natural person. Such sanction or measure is not to be found in the SFA's Disciplinary Regulation (2018 edition; "SFA DR") either.
- Article 62 para. 2 and 3 of the SFA Statutes does not attribute disciplinary powers to the Board of Directors of the SFA to impose a sanction like the one at hand. The SFA's Disciplinary Committee is the only competent body within the SFA to pronounce the sanctions set out in the Statutes and the Disciplinary Regulations. By no means was the Tripartite Committee competent to impose a disciplinary measure like "not dealing with" Mr Adam as president of the Club.
- According to Articles 1, 3 and 76 of the SFA DR, the Disciplinary Committee has the competence to impose sanctions in relation to the violation of the provisions of the SFA Statutes if such competence is not attributed to another body. In the present case, the Board of Directors of the SFA appointed the Tripartite Committee to execute the roadmap in accordance with the powers conferred to the Board of Directors. However, the Board of Directors does not have the disciplinary powers to impose a sanction like the one imposed by the Tripartite Committee and therefore could not delegate such power. Thus, contrary to what the Appeal Committee held in the Appealed Decision, the SFA Disciplinary Committee was competent according to the SFA Statutes and the SFA DR to annul the sanction "not to deal with" Mr Adam Abdallah Adam as president of the Club.

50. In its Appeal Brief, the Appellant submits the following requests for relief:

- a) – Annulment [of] the decision appealed against.*
- b) – Annulment [of] the Tripartite Committee's decisions and [all it's] consequences.*
- c) – SFA shall bear all the financial consequences".*

B. The Respondent's Position

51. The Respondent has not filed any written submission within the deadline set out in this regard. Its pleadings may be summarized as follows:

- The SFA was aware of problems within the Club and, as suggested by the FIFA, was ready to set up and implement a roadmap to solve these issues. The Club had given its consent to the roadmap and a General Assembly was convened for 27 March 2021. However, shortly before the General Assembly, the then President of the Club, Mr Adam Abdallah Adam, decided, without the consent of the members of the Club's Board of Directors, to postpone this General Assembly.
- However, a large number of the Club's members as well as several members of the Club's Board of Directors did convene and held the General Assembly in order to adhere to the roadmap that had been set out.
- Mr Adam Abdallah Adam refused to cooperate with the Tripartite Committee and frequently took individual decisions which were not endorsed by a majority of the members of the Club's Board of Directors. As a consequence, the members of that Board considered that he was not respecting to Club's Statutes. Therefore, at the General Assembly held on 27 March 2021, amended Statutes were adopted and the independent committees had been newly elected.
- Mr Adam Abdallah Adam having continued to refuse to collaborate with the Tripartite Committee and having discredited the SFA, the Tripartite Committee, during its meeting held on 13 and 14 June 2021, decided, in accordance with Article 106 of the SFA DR, *inter alia*, to refer Mr Adam Abdallah Adam to the Disciplinary Committee for violating Article 66 of the Disciplinary Regulation and that the SFA was not to deal with Mr Adam Abdallah Adam as president of the Club. The decision "not to deal with someone" as president of a club is within the SFA's Board of Directors competence according to Article 38 para. 15. of the SFA Statutes as such decision does not fall within the jurisdiction of any other body of the SFA. Indeed, the decision not to deal with Mr Adam Abdallah Adam may not be qualified as a "sanction" and, thus, the SFA's Board of Directors was competent to adopt it. That decision was taken in reaction to Mr Adam Abdallah Adam's behaviour and the request to "not deal with" that person as president of the Club came, according to the SFA, initially from the Club's Board of Directors. No unlawful sanction was taken by the Tripartite Committee or the SFA's Board of Directors as the imposition of a disciplinary sanction was referred to the SFA's Disciplinary Committee and Appeal Committee.
- In response to a question from the Panel, the SFA pointed out that the fact that the SFA Appeal Committee, in the Appealed Decision, qualified the decision to "not deal with Mr Adam Abdallah Adam as President" of the Club as a "punishment" or "penalty" does not change anything to the fact that said decision was not a "sanction" within the meaning of the applicable rules but a decision which falls within the SAF's Board of Directors discretion under Article 38 para. 15 of the SAF's Statutes.

52. The Respondent therefore requested the Panel to dismiss the appeal and confirm the Appealed Decision.

V. JURISDICTION OF THE CAS

53. The question of whether or not the CAS has jurisdiction to hear the present dispute must be assessed on the basis of the *lex arbitri*. As Switzerland is the seat of the arbitration, pursuant to Article R28 of the Code, and none of the Parties are domiciled in Switzerland, the provisions of the Swiss Private International Law Act (“PILA”) apply, pursuant to its Article 176 paragraph 1. In accordance with Article 186 of PILA, the CAS has the power to decide upon its own jurisdiction (“*Kompetenz-Kompetenz*”).

54. 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 CAS if the statutes or regulations of the said body so provide or if the parties have concluded a specific arbitration agreement and if the Appellant has exhausted the legal remedies available to it prior to the appeal, in accordance with the statutes or regulations of that body”.

55. In addition, Article 64 para. 5 of the SFA’s Statutes states as follows:

“Decisions pronounced by the Appeal Committee may be appealed to the National Arbitration Tribunal for Sport or to the Court of Arbitration for Sport (CAS) in Lausanne, Switzerland, as specified in these Statutes”.

56. Furthermore, Article 66 of the SFA’s Statutes reads as follows:

“1. Disputes in the SFA or disputes affecting Leagues, members of Leagues, Clubs, members of Clubs, Players, Officials and other SFA Officials shall not be submitted to Ordinary Courts unless specifically provided for or stipulate recourse to ordinary courts in these Statutes, FIFA regulations.

2. Such disputes shall be submitted to the National Arbitration Tribunal for Sport (NATS) recognized by SFA or the Court of Arbitration for Sport (CAS) in Lausanne, Switzerland.

[...]”.

57. Moreover, Article 68 para. 1 of the SFA’s Statutes states as follows:

“In accordance with the relevant provisions of the FIFA Statutes, any appeal against a final and binding decisions passed by FIFA, CAF or SFA could be appealed to the Court of Arbitration for Sport (CAS) in Lausanne, Switzerland unless the National Arbitration Tribunal for Sport (NATS) has jurisdiction in accordance with art. (66). CAS shall not, however, hear appeals on violations of the Laws of the Game, suspensions of up to four (4) matches or up to three (3) months (with the exception of doping decisions)”.

58. In the present case, it is undisputed that there is no National Arbitration Tribunal for Sport in the Republic of Sudan. Further, the Appealed Decision qualifies as a “*decision of a federation*” in the meaning of Article R47 of the Code, and the Appellant has exhausted all internal legal

remedies available to it. Finally, the Panel notes that the jurisdiction of the CAS has been expressly confirmed by both Parties' signature of the Order of Procedure.

59. It follows that the CAS has jurisdiction to hear this dispute.

VI. ADMISSIBILITY

60. Article R49 of the Code provides as follows:

“In the absence of a time limit set in the statutes or regulations of the federation, association or sports-related body concerned, or in a previous agreement, the time limit for appeal shall be twenty-one days from the receipt of the decision appealed against. The Division President shall not initiate a procedure if the statement of appeal is, on its face, late and shall so notify the person who filed the document. When a procedure is initiated, a party may request the Division President or the President of the Panel, if a Panel has been already constituted, to terminate it if the statement of appeal is late. The Division President or the President of the Panel renders her/his decision after considering any submission made by the other parties”.

61. In the present case, neither the SFA Statutes nor the SFA DR (2018 edition) set out a time limit for an appeal against a decision of the SFA Appeal Committee. Thus, the time limit of 21 days set forth in Article R49 of the Code applies to the present proceedings.
62. The Appellant received notification of the Appealed Decision on 29 or 30 September 2021 and filed its Statement of Appeal on 4 October 2021.
63. By doing so, the Appellant manifestly respected the 21-day period set out in Article R49 of the Code. The Statement of Appeal further complies with all the other requirements set forth by Article R48 of the Code.
64. In the light of the foregoing, the Panel finds that the appeal is admissible.

VII. APPLICABLE LAW

65. Pursuant to Article R58 of the Code, in an appeal arbitration procedure before the CAS:

“The Panel shall decide the dispute according to the applicable regulations and, subsidiarily, to the rules of law chosen by the parties or, in the absence of such a choice, according to the law of the country in which the federation, association or sports-related body which has issued the challenged decision is domiciled or according to the rules of law that the Panel deems appropriate. In the latter case, the Panel shall give reasons for its decision”.

66. The Appealed Decision emanates from the SFA judicial body and, thus, the applicable regulations are the SFA Statutes and DR. The Parties not having made any choice of rules to be applied to the dispute, the subsidiarily applicable law, is the law of the Republic of Sudan, as the SFA has its registered seat in that country.

67. The Panel will therefore apply the various regulations of the SFA, in particular its SFA Statutes and SFA DR (2018 edition), and, subsidiarily, Sudan law.

VIII. MERITS

68. In light of the submissions made by the Parties, the only issue to be examined by the Panel in the present proceedings is whether or not the SFA Statutes or SFA DR contain a legal basis for the decision, taken by the Tripartite Committee and confirmed by the Appealed Decision, according to which the SFA was not to deal with Mr Adam Abdallah Adam as president of the Club.
69. The Appellant submits that the SFA Disciplinary Committee is the only competent body within the SFA to impose sanctions in relation to the SFA Statutes. Accordingly, the SFA's Board of Directors does not have jurisdiction to impose disciplinary measures. Therefore, the SFA Disciplinary legitimately lifted the sanction imposed upon Mr Adam.
70. The Respondent, in turn, submits that the SFA's Board of Directors is, on basis of Article 38 para. 15 of the SFA's Statutes, competent to decide to "not deal with" a person in a certain function and could thus delegate such competence to the Tripartite Committee. It has to be recalled that, according to said provision, the *"Board of Directors shall pass decisions on all cases that do not come within the sphere of responsibility of the General Assembly or are not reserved for other bodies by law or under these Statutes"*.
71. In the light of the foregoing, the Panel has to examine whether the Board of Directors of the SFA has a reserved competence to impose a sanction not to deal with an individual direct or indirect member.
72. Concerning the competence of the SFA's different bodies to impose disciplinary measures, it can be observed that, pursuant to Article 9 of the SFA Statutes, the General Assembly *"shall decide whether to admit. Suspend or expel a Member"* and that, according to Article 14 of the SFA Statutes, the *"General Assembly is responsible for suspending Member. The Board of Directors may, however, suspend a Member that seriously and/or repeatedly violates its obligations as a Member with immediate effect. The suspension shall last until the next General Assembly, unless the Board of Directors has lifted it in the meantime"*. Pursuant to the definitions set out in the SFA Statutes, a Member is a *"legal person that has been admitted into membership of SFA by the General Assembly"*. Further, according to Article 40 of the SFA's Statutes, the *"General Assembly may dismiss a person of a body. The Board of Directors may place the dismissal of a person of a body on the agenda for the General Assembly. The Board of Directors may also dismiss a person of a body provisionally"*. Article 22 of the SFA Statutes enumerates the bodies of the SFA and contains no reference to the Board of Directors of a Member or a club. It follows from these provisions, that the General Assembly was not competent to deal with the case of Mr Adam Abdallah Adam and to impose a sanction on the latter.
73. Given that the sanction at hand was neither a provisional "suspension" of a Member in the sense of the SFA's Statutes nor a "dismissal of a person from a body [of the SFA]", the SFA's

Board of Directors had no attributed competence on basis of Articles 14 and 40. Hence, it remains to be examined whether another body of the SFA, *i.e.* the judicial bodies, would have been competent to deal with the case of Mr Adam Abdallah Adam.

74. In this regard, the Panel observes that the SFA has, according to Article 61 of the SFA Statutes, three (3) judicial bodies: the Disciplinary Committee, the Ethics Committee and the Appeal Committee. It follows from Articles 62 para 2., 63 para 2. and 64 para. 3 of the SFA Statutes, that these bodies may only pronounce the “*sanctions described in these Statutes*”, the “*Disciplinary Code of SFA*” and the “*Code of Ethics of SFA*”. It has to be pointed out that, pursuant to Article 62, para.3 of the SFA’s Statutes, the provisions of paragraphs 1 and 2 of the same Article “*are subject to the disciplinary powers of the General assembly and the board of directors with regard to the suspension and expulsion of members*”. Hence, except for the suspension and expulsion of Members, the General Assembly and the SFA’s Board of Directors must be considered to have no disciplinary powers as these are expressly attributed, *inter alia*, to the Disciplinary Committee.
75. This finding is corroborated, first, by Article 71 para. 3 of the SFA DR, according to which the “*Judicial Committees of the [SFA] have the right to punish serious violations of the objectives of the Statute of the [SFA] if the club, the member association or the sports body failed to pursue such violations or fails to prosecute them in accordance with the basic objectives of the law contained in the Statute*”. In addition, Article 76 of the SFA DR stipulate that the “*Disciplinary Committee is the body authorised to impose the penalty on any violation of the statute, regulations, circulars, decisions and directives issued by the [SFA] or that do not fall under the jurisdiction of any of the body*”.
76. Thus, in view of the above, the Panel finds that the SFA’s Board of Directors, and in consequence the Tripartite Committee, did not have jurisdiction to impose a sanction on Mr Adam Abdallah Adam.
77. Moreover, and in any event, the Panel finds that the applicable SFA Statutes and SFA DR do not provide legal basis for the imposition of a sanction “not to deal” with a direct or indirect member.
78. In this regard, the Panel notes that Article 65 of the SFA Statutes refers to the following disciplinary measures:
- “1. for natural and legal persons: a) a warning; b) a reprimand; c) a fine; d) the return of awards.*
- 2. for natural persons: a) a caution; b) an expulsion; c) a match suspension; d) a ban from the dressing rooms and/or the substitutes bench; e) the banned from entering a stadium; f) a ban on taking part in a football-related activity; g) social work.*
- [...]”.*
79. A similar list of penalties is to be found in the SFA DR.
80. Article 8 of SFA DR sets out that natural person and a legal person may receive the following penalties: “*1. Drawing attention; 2. Warning; 3. Fine, 4. Withdrawal of prizes*”.

81. In addition, Article 9 of the SFA DR – concerning the penalties applicable only to a natural person – contains the following list: “1. *Warning*; 2. *Expulsion*; 3. *Suspension from participating in matches*; 4. *Prohibition from entering the dressing room and/or sitting on the bench*; 5. *Prohibition from entering the stadium*; 6. *Prohibition from carrying out any activity related to football*”.
82. As is clear from these provisions, a sanction, like the one at hand, consisting of “not dealing with” a person is not foreseen in the exhaustive list of sanctions provided in the SFA Statutes and/or DFA DR.
83. However, according to consistent CAS case law, “for a sanction to be imposed, a sports regulation must prescribe the misconduct with which the subject is charged, i.e., *nulla poena sine lege* (principle of legality), and the rule must be clear and precise, i.e., *nulla poene sine lege clara* (principle of predictability)” (see, for example, CAS 2019/A/6226 and CAS 2017/A/5086).
84. Indeed, as stated in another CAS award:

“The purpose of disciplinary sanctions is to influence the behaviour of its members, in particular to encourage them not to engage in certain unwanted activity by threatening to sanction them. In order to achieve this goal, there must be clarity for all stakeholders on what constitutes misconduct. Furthermore, equal treatment of all members is only possible if there is legal certainty with respect to the contents of the rule. In order to protect the aforementioned interests, criminal law follows the principles of nullum crimen, nulla poena sine lege scripta et certa, pursuant to which no sanction may be imposed unless there is an express provision describing in sufficient clarity and specificity, not only the misconduct but also the applicable sanction” (CAS 2017/A/5272 and CAS 2020/A/7019 & 7035).
85. In the Panel’s view, in accordance with the principle *nulla poena sine lege*, neither the SFA’s Board of Directors – and in consequence the Tripartite Committee – nor the SFA’s judicial bodies, i.e. the Disciplinary Committee, the Ethics Committee and the Appeal Committee, can impose a sanction that is not provided for in the above-mentioned lists of possible sanctions. Thus, a sanction consisting of “not dealing with” Mr Adam Abdallah Adam “as president of the [Club]” finds no legal basis in the relevant provisions.
86. Finally, the Panel does not concur with the Respondent’s view that the decision of the Tripartite Committee not to deal with Mr Adam may not be qualified as a disciplinary measure. In this regard, the Panel notes that, in its Appealed Decision, the Appeal Committee has expressly characterized the decision to “not deal with” Mr Adam Abdallah Adam as president of the Club as “punishment” (introductory paragraph), respectively, “penalty” [sub 3) of the operative part]. The characterisation of the decision of the Tripartite Committee as a sanction is in line with the decision of the SFA Disciplinary Committee in which it held that “*the penalty issued by the Tripartite Committee against the President of Al-Merrikh Club...*”. Therefore, the Panel has no doubts that the decision “not dealing with” Mr Adam must be qualified as a disciplinary measure.
87. In light of the above, the Panel finds, first, that the SFA’s Board of Directors and in consequence the Tripartite Committee, did not have jurisdiction to impose a sanction on Mr Adam Abdallah Adam and, second, that a sanction consisting of “not dealing with” an individual

as president of a club has no legal basis in the relevant provisions. Therefore, the Panel holds that the Appealed Decision, in finding that the Disciplinary Committee lacked jurisdiction to cancel the sanction imposed by the Board of Directors on Mr Adam Abdallah Adam “of not dealing with him as president of the Club”, lacks the necessary legal basis. As a result, the Panel finds that the Appealed Decision must be annulled.

88. Any other and further claims for relief are dismissed.

ON THESE GROUNDS

The Court of Arbitration for Sport rules that:

1. The appeal filed by Al-Merrikh Sports Club against the Sudan Football Association against the decision rendered by the Appeal Committee of the Sudan Football Association on 19 September 2021 is upheld.
2. The decision rendered by the Appeal Committee of the Sudan Football Association on 19 September 2021 is annulled.
3. (...).
4. (...).
5. All other and further motions or prayers for relief are dismissed.