



Arbitration CAS 2021/A/8413 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 Kliuchkovskiy (Ukraine)

Football

Governance

Exceptions of incompetence

Scope of review of the CAS

1. **Exceptions of incompetence have to be raised in *limine litis*. In the absence of submission of an Answer, a Respondent cannot argue at the hearing that an Appellant has not exhausted all internal legal remedies available.**
2. **In accordance with Article R57 para. 1 of the Code, a CAS panel has the power to review the appealed decision *de novo*. However, this power of the panel is limited to the matter in dispute before it and cannot go further than what was at dispute before the previous instance.**

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 Statutes.
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 the FIFA.
14. On 31 March 2021, the Chief Member Association Officer of the FIFA informed the Club that, in the light of the postponement of the General Assembly initially scheduled for 27 March 2021, it would be for the SFA to approve a new roadmap.
15. On the same date, the SFA, via its Tripartite Committee, informed the FIFA, *inter alia*, that the General Assembly held on 27 March 2021, which was comprised of 743 members out of the total of 892 members, approved the statutes and elected the judicial committees and the elections committee of the Club and had appointed 6 members of the Board of Directors whose term ended on 4/10/2020 to manage the Club's affairs and call for a general assembly

- to elect a new board of directors within a period not exceeding 45 days from the date of approval of the statutes.
16. Still on the same date, the Appellant, represented by Mr Adam Abdallah Adam informed the FIFA that the Club would cooperate with the President of the SFA to draw up a roadmap to include FIFA's comments on the statutes document.
 17. Also on 31 March 2021, the FIFA acknowledged receipt of the Appellant's letter dated 19 March 2021 regarding the postponement of some of the milestones of the roadmap agreed upon the Parties and advised the Appellant that it was "*for the SFA to provide a possible approval of the new proposed roadmap insofar as your club is an affiliated member of the SFA*".
 18. On 20 April 2021, the Appellant, represented by Mr Adam Abdallah Adam, informed the FIFA, *inter alia*, that it had drawn up a new roadmap that was to be adopted in a General Assembly that was supposed to held on 10 April 2021, but that had been postponed following a request in such way by the Police Administration.
 19. 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.
 20. On 13 and 14 June 2021, the Tripartite Committee discussed the resolution of the internal matters of the Club.
 21. On 16 June 2021, the FIFA was informed that the Respondent had decided the following course of action: 1) recognizing the Club's Statutes 2019 amended in 2021 and approved on 27 March 2021; 2) the current elected Board of Directors, chaired by Mr Adam Abdallah Adam, shall run the Club's affairs; 3) the SFA's Board of Directors shall appoint a neutral committee in charge of verifying the Club's membership and submits the lists to the Electoral Committee of the SFA within one month from the date of forming membership committee; 4) the SFA Electoral Committee elected by the General Assembly on 6 February 2021 shall supervise the electoral process of the Club exceptionally; 5) the Electoral General Assemble of the Club shall convene on 5 September 2021 at the latest; 6) the Tripartite Commission shall supervise the implementation of this decision and for accomplishing its mission it shall have the power of the SFA's Board of Directors mentioned in the Statutes of the SFA (2017 edition); 7) in the event that the above mentioned General Assembly does not take place on the specified date 5 September 2021, the mandate of the Club's Board of Directors shall end, and the SFA shall form a committee to run the affairs of the Club and holding elections.
 22. On 17 June 2021 – according to the President of the Club, Mr Adam Abdallah Adam – he requested the then SFA General Secretary to provide him with several documents regarding the SFA's roadmap and the meeting held on 27 March 2021.
 23. On 19 June 2021, the Club, represented by Mr Adam Abdallah Adam, contacted the FIFA and filed a complaint against the SFA's intervention in the "Club's internal affairs".

24. 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.
25. On 24 June 2021, the SFA notified the Club of a decision taken by the Tripartite Committee during its meeting on 13 and 14 June 2021.
26. 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”.*
27. On 6 July 2021, the Secretary General of the SFA provided the Executive Director of the Governor’s Office of the Khartoum State with a list of the Board of Members in charge of managing the Club’s internal affairs.
28. On 7 July 2021, with the cooperation of the police, the Club’s headquarters were handed over to the aforementioned Board of Members in accordance with the decision of the Minister of Youth and Sports in Khartoum State.
29. On 31 July 2021 – according to the President of the Club, Mr Adam Abdallah Adam, – the Club held an Extraordinary General Assembly in which its members decided – *inter alia* – on the adoption of the Club’s amended statutes and electoral code and the approval of the Independent Electoral Committee, the Electoral Appeals Committee and the Independent Judicial Committee.
30. On 5 August 2021, the Electoral Committee of the SFA informed the Secretary General of the SFA that it would refrain from supervising the General Assembly of the Club supposed to be held on or before 5 September 2021.
31. On 8 August 2021, the Tripartite Committee “*assigned*” an Electoral Committee to supervise the Electoral General Assembly of the Club in accordance with the roadmap. This Committee was composed of the following members: Dr Ali Al Baloulalzeirig (Chairperson), Abdulrahman Bashir Arabi War; Dr Hatim Aleili; his eminence Osama ALMah and Mr Al Fadil Mohamed Bakhit.

32. On 4 September 2021 – according to Mr Adam Abdallah Adam – the Club’s General Assembly, held in the Al-Merrikh Stadium, elected a new Board of Directors chaired by Mr Adam Abdallah Adam.
33. On the same date, another General Assembly was held, under the supervision of the Tripartite Committee, in the Al-Mawrada Park that also elected a – different – new Board of Directors of the Club. In that General Assembly, Mr Hazim Mustafa was elected as President of the Club.
34. On 5 September 2021, the SFA informed the FIFA, *inter alia*, that as foreseen in the roadmap, the Electoral General Assembly of the Club had convened on 4 September 2021 “*under the supervision of the electoral committee appointed by [the SFA]*” and that the General Assembly resulted in the election of a “*new Board of Directors composed of 15 members (attached) which is the approved by the Tripartite Commission*”.
35. The Tripartite Committee also established a report for the SFA’s Board of Directors called “*Report of the Tripartite Committee assigned by the Association to solve Al- Merrikh crisis*”. In its relevant parts, this report reads as follows:

“Al Merrikh was established according to the road map on 4/9/2021 under the supervision of the Elections Committee that was formed and in the presence of the chairman of the Legal Committee and Members Affairs of the association Prof Muhammad Jalal, and it was established according to the statute of the association and Al Merrikh while the report of the electoral committee indicated that the elections met all the legal conditions and resulted in the election of 15 individuals, including officers, without consents.

[...]

A report was prepared by the delegated [T]ripartite [C]ommittee to the [FIFA], explaining the procedure carried out by the Election Commission for Al Merrikh under the supervision of the Association.

[...]

Finally, and after reaching the end of the road map, we hope that the council will recognize the elected council on 4/9/2021 according to Article (17) paragraphs (3,4) of the Statutes of the [SFA] for the year 2017 AD and deal with the elected council only through the association”.

36. On 16 September 2021, the SFA informed the Chairman of the Tripartite Committee of the decision, taken by the Board of Directors of the SFA on 8 September 2021, to approve the “*Report of the Tripartite Committee assigned by the Association to solve Al- Merrikh crisis*” (the “*Appealed Decision*”). The letter of the SFA reads – in its relevant parts – as follows:

“[...] referring to what is mentioned in the above subject and your request to be informed of the decision of the Board of Directors of the Association in its meeting No. (21) dated 08/09/2021 regarding the report of the [T]ripartite [C]ommittee in charge of resolving Al-Merrikh Club crisis. I would like to inform you that the Board of Directors has approved the report and dissolved the Tripartite Committee [...]”.

37. The Appealed Decision was notified to the Club on 10 October 2021.

III. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT

38. On 18 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.
39. On 27 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.
40. On 20 October 2021, the CAS Court Office informed the Parties that it had encountered difficulties to deliver its correspondence to the Parties and invited them to opt for the CAS e-Filing service.
41. On 5 November 2021, the President of the Appeal Arbitration Division, appointed Mr Markiyanyan Kliuchkovskiy, Attorney-at-Law in Kyiv, Ukraine, as arbitrator *in lieu* of the Respondent.
42. On 7 November 2021, the Appellant filed its Appeal Brief in accordance with Article R51 of the Code.
43. On 9 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.
44. On 30 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. The CAS Court Office also advised the Parties that, in accordance with Article R56 para. 1 of the CAS Code, further submissions shall not be authorized, unless the Parties agree or the President of the Panel orders otherwise on the basis of exceptional circumstances. Furthermore, the CAS Court Office invited the Parties to state, by 9 December 2021, whether they would prefer a hearing to be held in the present matter.
45. On 8 December 2021, the Appellant stated that it did not request such hearing.
46. On 12 December 2021, the Respondent informed the CAS Court Office that it wished for a hearing to be held in this procedure as well as in another procedure before the CAS between the Parties which was docketed as CAS 2021/A/8371.
47. On 13 January 2022, the CAS Court Office 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

48. On 19 January 2022, the CAS Court Office informed the Parties that the Panel had decided to hold a hearing in the present matter.
49. 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.
50. 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. The same day, the Appellant signed the Order of Procedure. The Respondent, for its part, signed the Order of Procedure on 10 February 2022.
51. On 15 February 2022, the FIFA submitted its *amicus curiae* brief which was accompanied by the relevant exhibits.
52. 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.
53. 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. 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, 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.

54. 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

55. 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.

A. The Appellant's Submissions

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

- Contrary to what the FIFA had suggested in its correspondence dated 27 May 2021, *i.e.* that the matter must be assessed under the applicable regulations of the Club and the SFA, the SFA's Board of Directors, in its decision of 14 June 2021, violated the roadmap set out by the FIFA by accepting:
 - an amended version of the Club's Statutes that (i) is not in line with FIFA's input, (ii) violates the principle of good governance and (iii) was not approved by an official General Assembly;
 - contrary to Articles 85 of the Club's Statutes, a new Board of Directors of the Club only run by 8 elected members instead of the 14 "*elected and appointed*" members;
 - contrary to Articles 17 and 18 para. 2 of the Statutes of the SFA ("SFA Statutes") and Article 12 of the Club's Statutes, to "appoint" a Membership Committee of the Club;
 - contrary to Article 17 of the SFA Statutes and Article 29 of the Club's Statutes, the supervision of the electoral process in the Club by the SFA's Electoral Committee.
- The "appointment" of an Electoral Committee – chaired by Dr Ali Al Baloulalzeirig – by the Tripartite Committee, and thus by the SFA's Board of Directors, is contrary to the Club's Statutes. Indeed, according to Article 30 of the Club's Statutes, the Electoral Committee should be elected by the General Assembly of the Club. In the present case, this was obviously not done as the Tripartite Committee appointed the Electoral Committee once the SFA's Electoral Committee had refused to supervise the electoral process in the Club.
- The Appealed Decision, by which the SFA's Board of Directors approved the Tripartite Committee's report, should not be recognised as it is contrary to Article 17 of the SFA Statutes. More specifically:

- according to Article 17 para. 2 of the SFA Statutes, the members bodies shall be either elected or appointed and the member's Statutes shall provide for a procedure that guarantees the complete independence of the election or appointment. In the present case, the Club's Statutes clearly provide that the Appellant's Electoral Committee has to be elected by the General Assembly of the Club. This has, however, not been done in the present case.
- according to Article 17 para. 3 of the SFA Statutes, any member's bodies that have not been elected or appointed in compliance with para. 2 of the same Article, even on an interim basis, shall not be recognised by the SFA;
- according to Article 17 para. 4 of the SFA Statutes, decisions passed by bodies that have not been elected or appointed in compliance with para. 2 of the same Article, shall not be recognised by the SFA.
- In view of the above, it is clear that the Tripartite Committee's report and roadmap violate Article 17 of the SFA Statutes and Articles 13, 24/6, 30/1, 34, 37, 38/3, 41/1 and 55 of the Club's Statutes and should thus not have been approved.
- In contrast, the General Assembly of the Club held on 4 September 2021 at Al-Merrikh Stadium, which led to the election of a Board of Directors chaired by Mr Adam Abdallah Adam, has been held in compliance with Article 17 para. 2 of the SFA Statutes. This Board of Directors of the Appellant should thus be recognized by the SFA in accordance with Article 17 para. 3 and 4 of the SFA Statutes.
- In its Appeal Brief, the Appellant submits the following requests for relief:
 - "a) Annulment [of] the decision appealed against.*
 - b) SFA should recognized the Club Board of Members leaded by Mr Adam [Abdallah Adam].*
 - c) SFA shall bear all the financial consequences".*

B. The Respondent's Submissions

57. The Respondent has not filed any written submission within the deadline set out in this regard.
58. Its oral pleadings at the hearing may be summarized as follows:
- The Club has been facing internal problems since 2017. The SFA intervened after a certain number of members of the Club's Board of Directors approached the SFA to help find a solution to the Club's internal crisis. The mandate of the elected Board of Directors – chaired by Mr Adam Abdallah Adam – having come to an end on 7 October 2020 but without possibility to hold a General Assembly due to the Covid-19 pandemic, a General Assembly was convened for 27 March 2021.
 - Although Mr Adam Abdallah Adam had, without a decision of the Club's Board of Directors, decided to postpone that General Assembly, some members of the Club's Board of Directors as well as a big number of members of the Club met and held a

General Assembly during which, *inter alia*, an Electoral Committee, chaired by Dr Ali Al Baloulalzeirig, was elected. That General Assembly was held with the approval and under the supervision of the SFA. According to the roadmap set up by the SFA's Board of Directors, via the Tripartite Committee it appointed, an Electoral General Assembly was to be held, at the latest, by 5 September 2021. That Electoral General Assembly was held, under the supervision of the SFA, on 4 September 2021 and led to the election of a new Board of Directors of the Club, chaired by Mr Hazim Mustafa Mohamed Ibrahim.

- Contrary to what the Appellant argues, the Electoral Committee, chaired by Dr Ali Al Baloulalzeirig, has not been “appointed” by the Tripartite Committee but was approved by the latter following a proposal by the Club. Thus, there is no violation of Article 17 para. 3 of the SFA Statutes. The membership lists that were used for the Club's General Assembly held on 4 September 2021 in the Al-Mawrada Park and approved by the SFA have been checked by a neutral Membership Committee. In contrast, no records were delivered about the memberships (and their validity) of the members that attended the General Assembly held on the same day at Al-Merrikh Stadium and that led to the election of a Board of Directors chaired by Mr Adam Abdallah Adam. Thus, according to Article 17 para. 3 of the SFA Statutes, the SFA did not recognize this Board of Directors.
- The Electoral General Assembly approved by the Tripartite Commission and, subsequently, by the SFA's Board of Directors was held in full conformity with the Club's Statutes and the SFA Statutes, especially Article 17 para. 2 of the SFA Statutes. All electoral procedures were respected, and the Club's independency was preserved as its Board of Directors participated at the holding of the Electoral General Assembly held on 4 September 2021.

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

V. JURISDICTION OF THE CAS

60. 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, cf. 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 para. 1. In accordance with Article 186 of PILA, the CAS has the power to decide upon its own jurisdiction (“*Kompetenz-Kompetenz*”).

61. Article R47 para. 1 of the 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”.

62. According to Article 66 of the SFA Statutes:

“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.

[...]

4. As long as within the territory of the Republic of the Sudan no Arbitration Tribunal has been installed and recognized by the General Assembly of SFA, any dispute of national dimension may only be referred in the last instance to the Court of Arbitration for Sport (CAS) in Lausanne, Switzerland”.

63. In addition, Article 68 para. 1 of the SFA 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)”.

64. 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 para. 1 of the Code.

65. Although the Respondent has argued, during the hearing, that the Appellant has not exhausted all internal legal remedies available, the SFA did not raise this issue in *limine litis* and did not point out what legal remedies would still have been available to the Appellant.

66. In this regard, the Panel observes that the SFA Statutes, in particular Article 62 of the SFA Statutes concerning the Disciplinary Committee, Article 63 of the SFA Statutes concerning the Ethics Committee and Article 64 of the SFA Statutes concerning the Appeal Committee, does not contain any indication that there is an internal legal remedy against a decision, like the Appealed Decision, rendered by the SFA’s Board of Directors. The same observation has to be made regarding the relevant provisions of the SFA Disciplinary Regulation (2018 edition; “SFA DR”), *i.e.* Articles 76 (General Jurisdiction), 78 (Powers of the Chairman of the Disciplinary Committee when taking a decision individually), 79 (Powers of the Appeal Committee) and 80 (Competences of the Chairman of the Appeals Committee when taking decisions individually) of the SFA DR.

67. Finally, and in any event, the Panel notes that the jurisdiction of the CAS has been expressly confirmed by the Parties’ signature of the Order of Procedure.

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

VI. ADMISSIBILITY

69. 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”.

70. In the present case, neither the SFA Statutes nor the SFA DR set out a time limit for an appeal against a decision of the SFA’s Board of Directors. Thus, the time limit of 21 days set forth in Article R49 of the Code applies to the present proceedings.

71. The Appellant received notification of the Appealed Decision on 10 October 2021 and filed its Statement of Appeal on 18 October 2021.

72. 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.

73. In the light of the foregoing, the Panel finds that the appeal is admissible.

VII. APPLICABLE LAW

74. 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”.

75. The Appealed Decision emanates from the SFA’s Board of Directors and, thus, the applicable regulations are the SFA Statutes and regulations. 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.

76. The Panel will therefore apply the various regulations of the SFA, in particular its Statutes, and, subsidiarily, Sudan law.

VIII. MERITS

77. As a preliminary point, the Panel notes that Article R57 para. 1 of the Code provides as follows:

“The Panel has full power to review the facts and the law”.

78. Article R57 para. 1 of the Code generally grants CAS panel the power to review the appealed decision *de novo*. However, this power of the panel is limited to the scope of the dispute of the previous instance. Indeed, if, according to Article R57 para. 1 of the Code, the Panel has full power to review the facts and the law, it is clear from constant CAS case law, that these powers are limited to the matter in dispute before it and cannot go further than what was at dispute before the previous instance (cf. CAS 2006/A/1206 para. 25; CAS 2010/A/2090 para. 7.22; CAS 2019/A/6483).

79. Against this background, the Panel notes that, in its Appealed Decision, the SFA’s Board of Directors, *inter alia*, approved the Tripartite Committee’s report according to which the Board of Directors chaired by Mr Hazim Mustafa Mohamed Ibrahim had been elected in compliance with the SFA Statutes and the Club’s Statutes. However, in the Appealed Decision, the SFA’s Board of Directors did not reject or refuse the recognition of the Board of Directors chaired by Mr Adam Abdallah Adam, elected on 4 September 2021 in Al-Merrikh Stadium. In fact, this point was not even addressed in the Tripartite Committee’s report.

80. Hence, the question of the recognition of the Club’s Board of Directors chaired by Mr Adam Abdallah Adam was not the object of the Appealed Decision and therefore the Appellant’s request sub 2), *i.e.* “SFA should recognized the Club Board of Members led by Mr Adam [Abdallah Adam]”, falls outside the scope of the present appeal and falls outside of the Panel’s mandate. In accordance with the CAS jurisprudence mentioned above, the Panel finds that its power of review in this matter is limited in the sense that the matter in dispute before it cannot go further than the object of the dispute before the SFA’s Board of Directors. Thus, the Panel holds that the Appellant’s request sub 2) is inadmissible.

81. In view of the above and in light of the submissions made by the Parties, the main question to be examined by the Panel is whether the Electoral General Assembly of 4 September 2021 that led to the election of a Board of Directors chaired by Mr Hazim Mustafa Mohamed Ibrahim was held in compliance with the Club’s Statutes.

82. With a view to answering that question, it is worth recalling that Article 17 of the SFA Statute provides as follows:

“1. Each Member shall manage its affairs independently and with no influence from third parties (i.e. political interference).

2. The Members’ bodies shall be either elected or appointed. The Members’ statutes shall provide for a procedure that guarantees the complete independence of the election or appointment.

3. *Any Members' bodies that have not been elected or appointed in compliance with the provisions of Para. (2), even on an interim basis, shall not be recognized by the Association.*

4. *Decisions passed by bodies that have not been elected or appointed in compliance with Para. (2) shall not be recognized by the Association”.*

83. As is clear from Article 17 of the SFA Statutes, those Statutes allow for members' bodies to be either elected or appointed, depending on what is foreseen in the members' statutes. However, what can be observed from the wording and economy of this provision is that the independence of the members of the SFA is of paramount importance. As both Parties rightly pointed out, this fact has also been highlighted by the FIFA, in particular in its letter to the SFA dated 19 October 2020, in which the FIFA concluded that there *“is no statutory/ legal basis for the SFA to replace the executive body of a club, Member of the SFA, by a normalisation committee or any other committee of the sort”* and that the *“potential dismissal of [Al-Merrikh’s] executive committee would undoubtedly contravene SFA statutes”*.

84. As regards the Club's Statutes, the Panel notes that according to the undisputed submissions of the Appellant, Article 29 of the Club's Statutes (2019 version) that has become Article 30 of the Club's Statutes (2019 version amended on 31 July 2021):

“Elections of the club shall be supervised by the Electoral Committee of the club and conducted in accordance with the Electoral Code of the club”.

85. According to Article 24 para. 6 of the Club's Statutes (2019 version amended on 31 July 2021), the *“Independent Election committees [...] are committees responsible for organizing, managing and supervising the electoral process. They include election committees and appeal committees”*.

86. Pursuant to Article 24 para. 8 of the same statutes, the *“club's bodies are either elected or appointed by the club without any external influence and in accordance with the procedures described in this statute”*.

87. Article 55 para. 2 of the Club's Statutes (version 2019 amended on 31 July 2021) reads as follows: *“The [Election] committees consist of the Election Committee and the Electoral Appeals Committee, which shall then be elected by the General Assembly in accordance with the electoral code of the club”*.

88. It follows from the Club's Statutes, that the Electoral Committee has to be elected by the General Assembly and may not be appointed, might it be by the Club's Board of Directors or anybody else. In this regard, it must be added that the Respondent has not even alleged that the Club's General Assembly held on 27 March 2021 had amended the Club's Statutes in such a way that the Electoral Committee could be appointed.

89. Instead, the Respondent has argued that the Electoral Committee that supervised the electoral process during the General Assembly held on 4 September 2021, which led to the election of a Board of Directors of the Club chaired by Mr Hazim Mustafa Mohamed Ibrahim, was *“not appointed”* by the Tripartite Committee but elected by the Club's General Assembly held on 27 March 2021.

90. In this regard, the Panel notes, first, that it is clear from the Respondent's letter to FIFA dated 16 June 2021, that the SFA's Board of Directors, via the Tripartite Committee, had assigned the SFA's Electoral Committee, elected by the General Assembly on 6 February 2021, to supervise the electoral process in the Club. Such assignment would however not have been necessary if there had been a validly elected Electoral Committee of the Club.
91. Second, as is clear from its letter dated 8 August 2021, the Tripartite Committee, once the SFA's Electoral Committee had refused, on 5 August 2021, to supervise the electoral process in the Club, "*assigned*" another Electoral Committee to supervise the Electoral General Assemble of the Club. The Panel considers that in the absence of any indication, in that letter or anywhere else, that that electoral committee, chaired by Dr Ali Al Baloulalzeirig, had been elected by the Club's General Assembly. The term "*assigned*" can only be understood as "*appointed*".
92. Third, the fact that the Electoral Committee in dispute had not been elected by the Club's General Assembly is corroborated by the SFA's letter to FIFA dated 5 September 2021, in which it is stated that the Electoral General Assembly of the Club had convened on 4 September 2021 under the supervision of the electoral committee "*appointed by [the SFA]*".
93. Fourth, a similar corroboration is to be found in the "Report of the Tripartite Committee assigned by the Association to solve Al-Merrikh crisis" which states that Al Merrikh's Board of Directors was established according to the roadmap on 4 September 2021 under the supervision of the "*Elections Committee that was formed*".
94. Fifth and most importantly, the Appellant argued, without being contradicted by the Respondent, that it is clear from the attachment to the SFA's letter to the FIFA, dated 31 March 2021, that the Electoral Committee elected during the Club's General Assembly held on 27 March 2021 was chaired by Dr Ali Al Baloulalzeirig, but that the rest of the composition of that Electoral Committee does not correspond to the one that subsequently supervised the electoral process that led to the election of a Board of Directors of the Club chaired by Mr Hazim Mustafa Mohamed Ibrahim.
95. In view of these elements, the Panel concludes that the Electoral Committee in dispute has, contrary to the Club's Statutes, not been elected by the Club's General Assembly. Instead, it had been appointed by the Tripartite Committee. In consequence, the Club's Board of Directors chaired by Mr Hazim Mustafa Mohamed Ibrahim has not been elected in compliance with the Club's Statutes.
96. Thus, the Panel finds that, by recognising the Board of Directors chaired by Mr Hazim Mustafa Mohamed Ibrahim, the SFA violated its own Statutes, in particular Article 17 para. 3 of the SFA Statutes, according to which "*[a]ny Members' bodies that have not been elected or appointed in compliance with the provisions of Para. (2), even on an interim basis, shall not be recognized by the Association*".
97. The Panel does however deem appropriate to point out that the Club's Statutes provide some mechanisms and legal remedies that, if used properly, could have helped resolve the internal

issues of the Club and that should have been used before seeking assistance from the SFA and putting the latter in a position in which its actions could be considered as a third-party intervention in the sense of Article 17 para. 1 of the SFA Statutes.

98. In view of all the above findings and given that the Appellant's first request was directed against the Appealed Decision as such, the Panel holds that the Appealed Decision is to be annulled in its entirety.
99. 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 the Al-Merrikh Sports Club against the decision rendered by the Board of Directors of the Sudan Football Association on 16 September 2021 is partially upheld.
2. The decision rendered by the Board of Directors of the Sudan Football Association on 16 September 2021 is annulled.
3. (...).
4. (...).
5. All other and further motions or prayers for relief are dismissed.