



Arbitration CAS 2021/A/8488 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

Conditions for the admissibility of documents presented by an appellant after the filing of its appeal brief

Lack of valid legal basis due to the annulment of a decision in a previous CAS award

1. **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 rely after the submission of the appeal brief and of the answer unless the Parties agree or the President of the CAS panel orders otherwise on the basis of exceptional circumstances.**
2. **If the decision relied upon in an appealed decision has been annulled by the CAS in a previous award, the formal basis for the appealed decision has disappeared and the appealed decision therefore lacks a valid legal basis.**

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. 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 to 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, the Board of Directors or the President of the Club decided to postpone the Club's 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 31 March 2021, 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 Tripartite Committee sent its report of the meeting of 27 March 2021 to the FIFA.
16. On 20 April 2021, the Club informed the FIFA that it had drawn up a new roadmap to be implemented in coordination with the SFA.

17. 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.
18. On 13 and 14 June 2021, the Tripartite Committee discussed the resolution of the internal matters of the Club.
19. 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.
20. 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.
21. 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.
22. 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".*
23. 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.
24. 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.
25. 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 amended Statutes and Electoral Code and the approval of the Independent Electoral Committee, the Electoral Appeals Committee and the Independent Judicial

Committee.

26. 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.
27. On 8 August 2021, the Tripartite Committee “assigned” an Electoral Committee to supervise the Electoral General Assemble 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 Al Mah and Mr Al Fadil Mohamed Bakhit.
28. On 31 August 2021, the Disciplinary Committee of the SFA rendered its decision on the referral submitted by the Tripartite Committee.
29. 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 regrading 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”.
30. 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.
31. 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.
32. 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 [Committee]*”.
33. 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*”

(the “Report of the Tripartite Committee”). 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”.

34. 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. 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 [...]”.

35. 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 operative of that 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”.

36. On 4 November 2021, the Elections Committee rendered a decision on the representatives of the Club at the General Assembly of the SFA held on 13 November 2021, which was subsequently appealed by the two Boards of Directors of the Club elected on 4 September 2021 in the Al-Merrikh Stadium and in the Al-Mawrada Park, respectively.

37. On 10 November 2021, the Electoral Appeal Committee of the SFA issued its decision on the aforementioned appeals by the two Boards of Directors of the Club (the “Appealed

Decision”).

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

“1. Annulment of the election commission’s decision to exclude the delegate chosen by the council headed by HAZAM MUSTAFA And his approval to attend the Electoral General Assembly of the [SFA] as a representative of Al-Merrikh Sports Club.

2. Endorsement of the decision of the Electoral Committee except otherwise”.

39. On the same date, the Appealed Decision was notified to the Club.

40. On 13 November 2021, the General Assembly of the SFA was held.

41. On 15 November 2021, the Court of Arbitration for Sport (the “CAS”) rendered an Order on Request for a Stay and for Provisional and Conservatory Measures in another CAS appeals arbitration procedure between the Parties relating to a decision rendered by the Appeals Committee of the SFA, which was registered by the CAS Court Office as *CAS 2021/A/8371 Al-Merrikh Sports Club v. Sudan Football Association*. The Order was notified to the Parties on the same date.

42. The operative part of this Order states – in its pertinent parts – as follows:

“The Application for a Stay and for Provisional and Conservatory Measures requested by Al-Merrikh Sports Club on 4 October 2021, in the matter CAS 2021/A/8371 Al-Merrikh Sports Club v. Sudan Football Association, is dismissed”.

43. On 22 November 2021, the CAS rendered an Order on Request for a Stay and for Provisional and Conservatory Measures in an – once again – different CAS appeals arbitration procedure between the Parties relating to a decision rendered by the Board of Directors of the SFA on 8 September 2021, which was registered by the CAS Court Office as *CAS 2021/A/8413 Al-Merrikh Sports Club v. Sudan Football Association*. The Order was notified to the Parties on the same date. The operative part of this Order reads – in its relevant parts – as follows:

“1. The Application for a Stay and for Provisional and Conservatory Measures requested by Al-Merrikh Sports Club on 31 October 2021, in the matter CAS 2021/A/8413 Al-Merrikh Sports Club v. Sudan Football Association, is granted.

2. The execution of the decision of the Board of Directors of the SFA on 8 September is stayed”.

III. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT

44. On 30 November 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 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. The Appellant further requested a one-month extension of the deadline to file its Appeal Brief.

45. On 3 December 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. The Parties were further invited to inform the CAS Court Office whether they agreed to submit the present proceedings to the same Panel that was attributed the pending proceedings *CAS 2021/A/8371* and *CAS 2021/A/8413*.
46. On 4 December 2021, the Appellant agreed to refer all three cases to the same Panel.
47. On 12 December 2021, the Appellant submitted an amended Request for Provisional Measures.
48. On 13 December 2021, the CAS Court Office informed the Parties, *inter alia*, that, in accordance with Article R50 para. 2 of the Code, the President of the CAS Appeals Arbitration Division had decided to submit the present proceeding to the same Panel as appointed in *CAS 2021/A/8371* and *CAS 2021/A/8413*.
49. On 16 December 2021, the CAS Court Office granted the Appellant's one-month extension request to file its Appeal Brief in the present procedure.
50. On 27 December 2021, the CAS Court Office informed the Parties that the Respondent did not provide any comment to the Appellant's request for provisional measures within the granted time limit and therefore advised the Parties that the President of the CAS Appeals Arbitration Division, or her Deputy, would render an Order on Provisional Measures in due course.
51. On 1 January 2022, the Appellant filed its Appeal Brief in accordance with Article R51 of the Code.
52. On 4 January 2022, the Appellant filed what it called a "*Supplementary report to the appeal Brief*".
53. On 11 January 2022, the CAS Court Office acknowledged receipt of the Appellant's letters dated 8 and 9 January 2022 and informed the Parties, *inter alia*, that the Appellant's request for a reduction of the advance of costs was denied and that all unsolicited and spontaneous comments and/or responses by the Parties were not accepted.
54. On 17 January 2022, the CAS Court Office acknowledged receipt of the Respondent's letters dated 13 and 16 February 2022 and asked the Respondent to clarify, within five (5) days, whether one of its requests should be understood as a request for Provisional Measures in the sense of Article R37 of the Code.
55. On 19 January 2022, the CAS Court Office asked further information on what it understood to be a request for Provisional Measures, more particularly, against which decision these provisional measures were sought.

56. On 21 January 2022, the CAS Court Office informed the Parties that it had not received any communications from the Respondent regarding against which decisions provisional measures were sought. In addition, the CAS Court Office reminded the Respondent to refrain from sending unsolicited submissions.
57. On 26 January 2022, the Respondent informed the CAS Court Office that it had not received the Appellant's Appeal Brief dated 1 January 2022.
58. On the same day, the CAS Court Office acknowledged that due to an administrative oversight, the Appeal Brief had not been notified to the Respondent. The Appeal Brief was notified that same day and the Respondent was invited 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.
59. On 1 February 2022, the Respondent uploaded its letter dated 13 January 2022 on the CAS e-Filing platform.
60. On 8 February 2022, the President of the CAS Appeals Arbitration Division issued an Order on the Request for a Stay and for Provisional and Conservatory Measures.
61. The operative part of the Order on the Request for a Stay and for Provisional and Conservatory Measures reads as follows:
- "1. The Application for a Stay and for Provisional and Conservatory Measures requested by Al-Merrikh Sports Club on 12 December 2021, in the matter CAS 2021/A/8488 Al-Merrikh Sports Club v. Sudan Football Association, is dismissed.*
- 2. The costs deriving from the present order will be determined in the final award or in any other final disposition of this arbitration".*
62. On 16 February 2022, 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. Further, the Parties were informed, on behalf of the President of the CAS Appeals Arbitration Division, 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 Markiyan Kliuchkovskiy, Attorney-at-Law in Kyiv, Ukraine

63. On 16 February 2022, the Respondent informed the CAS Court Office that “*all letters we have been sending to your esteemed court since 13 January, 2022 to this date, all our letters from that date (13 January, 2022) and onwards are our answer to (CAS 2021/A/8488)*”.
64. On 17 February 2022, the CAS Court Office acknowledged receipt of the Respondent letter and invited the Respondent to clearly indicate, within three (3) days, which document(s) had to be considered as “Answer” within the meaning of Article R55 of the Code.
65. On 20 February 2022, the Respondent informed the CAS Court Office that its letter dated 13 January 2022 and the documents attached thereto were to be considered as its Answer.
66. On 21 February 2022, the CAS Court Office informed the Parties that the Respondent’s letter of 13 January 2022 and its exhibits were uploaded to the CAS e-Filing platform on 1 February 2022. In addition, the noted that the Appellant’s “Supplementary report to the appeal brief” was uploaded to the CAS e-Filing platform on 4 January 2022 at 18:53 CET and therefore invited the Respondent to comment on the admissibility of the Appellant’s supplementary report within three (3) days.
67. On the same date, the Respondent objected to the admissibility of the Appellant’s supplementary report.
68. On 23 February 2022, the CAS Court Office acknowledged receipt of the Respondent’s letter dated 21 February 2022 and informed the Parties that, since the Respondent had objected to the admissibility of the Appellant’s “supplementary report” dated 4 January 2022 and in the absence of exceptional circumstances within the meaning of Article R56 para. 1 of the Code, the Panel had decided that said “supplementary report” was inadmissible.
69. On 28 February 2022, the CAS Court Office informed the Parties that none of them had requested a hearing and that the Panel considered itself sufficiently well informed to decide the present matter based on the Parties’ written submissions and that, consequently, it had decided to not hold a hearing in these proceedings.
70. On 11 March 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 by 18 March 2022.
71. On 13 March 2022, the Appellant informed the CAS Court Office, *inter alia*, that, in its opinion, the Respondent failed to file an Answer in this matter.
72. On 14 March 2022, the CAS Court Office informed the Parties that the Respondent filed an Answer in the present dispute and that the Appellant was provided of said Answer on 21 February 2022.
73. On the same date, the Appellant signed the Order of Procedure.
74. On 16 March 2022, the Respondent, for its part, signed and returned the Order of Procedure,

inter alia, confirming that they agreed that no hearing was held and that their respective right to be heard had been respected.

IV. THE PARTIES' SUBMISSIONS

75. 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 Position

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

- The "appointment", by the Tripartite Committee, and thus by the SFA's Board of Directors, of an Electoral Committee chaired by Dr Ali Al Baloulalzeirig is contrary to the Club's Statutes. Indeed, according to Article 24 of the Club's Statutes (2019 amended in 2021), 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 General Assembly held in Al-Mawrada Park that lead to the election of a Board of Directors chaired by Mr Hazim Mustafa Mohamed Ibrahim was held based on a version of the Club's Statutes 2019 – adopted on 27 March 2021 – not in line with FIFA's input and in violation of the separation of powers; with no electoral code approved by the General Assembly; with an Electoral Committee "appointed" but not elected; with an invalid list of voters and in absence of the necessary integrity checks for candidates as there was no Ethics Committee elected or approved by the General Assembly.
- The Tripartite Committee's decisions to appoint an Electoral Committee was, assumedly, aimed at achieving electoral purposes and interests.
- By appointing the Tripartite Committee and acting as it did, the SFA's Board of Directors intervened in the internal affairs of the Club and by acknowledging the election of a Board of Directors chaired by Mr Hazim Mustafa Mohamed Ibrahim, it violated its own Statutes, in particular Article 17 of the SFA Statutes.
- The Appealed Decision, for its part, in accepting, based on the Report of the Tripartite Committee, that Mr Hazim Mustafa Mohamed Ibrahim could validly represent the Club at the General Assembly of the SFA is not in compliance with the fundamental principles of good governance and does not respect the objectives set out in the SFA Statutes.

- Further, the Appealed Decision is contradictory as, on the one hand, it states that the Electoral Appeal Committee of the SFA was “*not interested in discussing everything raised by the two parties about the legitimacy of either of the two councils because [...] it is now in the court (CAS) which has not given its judgement or issuing provisional measure yet*” and, on the other hand, it obviously did not take into account the cases in progress at the CAS which are in direct relation with the decisions of the SFA and the Report of the Tripartite Committee in particular cases CAS 2021/A/8317 and CAS 2021/A/8413.

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

- “a) – *Annulment [of] the decision appealed against and it is all consequences.*
- b) – *SFA shall bear all the financial consequences*”.

B. The Respondent’s Position

78. The written submissions of the Respondent may be summarized as follows:

- The Club has been facing internal problems since the year 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 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’s Statutes. The membership lists that were used for the Club’s General Assembly held on 4 September 2021 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 its statutes, the SFA did not recognise this Board of Directors.

- The Electoral General Assembly of the Club approved by the Tripartite Commission and, subsequently, by the SFA's Board of Directors was held in full conformity of the Club's Statutes and the SFA's Statutes, especially Article 17 para. 2 of the SFA's 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.
- In view of the above, the Respondent asks the CAS to render a decision that allows the Board of Directors chaired by Mr Hazem Mustafa Mohamed Ibrahim to resume its work of managing the Club.

79. The Respondent, although not having submitted any formal requests for relief, may be understood as asking the Panel to dismiss the appeal and confirm the Appealed Decision.

V. JURISDICTION OF THE CAS

80. 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 the PILA, the CAS has the power to decide upon its own jurisdiction ("*Kompetenz-Kompetenz*").

81. 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".

82. Furthermore, Article 66 of the SFA 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.

[...]".

83. Moreover, 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)”.

84. According to Article 10 para. 6 of the Electoral Code of the SFA:

“The decisions of the Electoral Appeal Committee shall be final and binding”.

85. 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.

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

VI. ADMISSIBILITY

87. 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”.

88. In the present case, neither the SFA Statutes nor the Electoral Code of the SFA set out a time limit for an appeal against a decision of the Electoral Appeal Committee of the SFA. Thus, the time limit of 21 days set forth in Article R49 of the Code applies to the present proceedings.

89. The Appealed Decision was rendered and notified on 10 November 2021. The Appellant filed its Statement of Appeal on 30 November 2021.

90. 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.

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

VII. APPLICABLE LAW

92. 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”.

93. The Appealed Decision emanates from the Electoral Appeal Committee of the SFA 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.

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

VIII. MERITS

95. As a preliminary point, the Panel recalls that, for the reasons set out in the CAS Court Office letter dated 23 February 2022, *i.e.* that the Respondent had objected to the admissibility of the “supplementary report” and that there were no exceptional circumstances within the meaning of article R56 para.1 of the Code, it has decided that the “supplementary report” submitted by the Appellant was inadmissible. As a result, the requests for relief contained in said “supplementary report” are inadmissible as well. Thus, the Panel will only address the arguments brought forward by the Parties in relation to the requests for relief contained in the Appeal Brief dated 1 January 2022, *i.e.* (i) the annulment of the Appealed Decision and all of its consequences as well as (ii) the financial consequences of the present proceedings. In other words, the Panel will not examine the questions whether the Board of Directors of the Club, chaired by Mr Adam Abdallah Adam and allegedly elected on 4 September 2021 at Al-Merrikh Stadium, has validly or invalidly been elected and may or may not validly represent the Club.

96. For the sake of completeness, the Panel notes that, in any event, the Appellant has not submitted any evidence in relation to its submission according to which (i) the General Assembly held on 4 September 2021 in Al-Merrikh Stadium was validly convened and held and (ii) the Board of Directors of the Club chaired by Mr Adam Abdallah Adam was validly elected during that General Assembly.

97. As regards the Appealed Decision, the Panel finds that, contrary to what the Appellant argues, the Electoral Appeal Committee did not contradict itself when deciding that it was not up to that body to examine all the arguments brought forward by the parties in front of it, *i.e.* the Board of Directors of the Club chaired by Mr Adam Abdallah Adam and the Board of Directors chaired by Mr Hazim Mustafa Mohamed Ibrahim. The (final) decision on the legitimacy of these two boards was at the centre of pending proceedings before the CAS and,

at the same time, finding that, on the basis of the decisions taken so far by the Board of Directors of the SFA – that had not yet been annulled nor provisionally stayed by the CAS – the Board of Directors of the Club that had to be recognized was the one chaired by Mr Hazim Mustafa Mohamed Ibrahim. In fact, on the date of adoption of the Appealed Decision, *i.e.* 10 November 2021, the issue of Mr Hazim Mustafa Mohamed Ibrahim’s representative of the Club in the SFA’s General Assembly was the only decision that the Electoral Appeal Committee could validly take as it did not have jurisdiction to decide on the legality of one or the other Board of Directors of the Club.

98. However, the Panel notes that the formal basis relied upon by the Electoral Appeal Committee to justify the Appealed Decision has, in the meantime, disappeared.
99. Indeed, first, on 22 November 2021, the President of the CAS Appeals Arbitration Division rendered a decision in the procedure *CAS 2021/A/8413*, ordering that the execution of the decision of the Board of Directors of the SFA from 8 September 2021, officially rendered on 16 September 2021, was stayed. This was the decision by which the Board of Directors of the SFA had approved the Report of the Tripartite Committee recognizing the legitimacy of the Board of the Directors chaired by Mr Hazim Mustafa Mohamed Ibrahim.
100. Second, in the same proceedings *CAS 2021/A/8413*, the CAS rendered, on 10 June 2022, an award in which the Panel of the same composition ruled, *inter alia*, that the “*decision rendered by the Board of Directors of the Sudan Football Association on 16 September 2021*” is annulled. In the grounds of said award, the Panel held that the “*Club’s Board of Directors chaired by Mr Hazim Mustafa Mohamed Ibrahim has not been elected in compliance with the Club’s Statutes*” and that, accordingly, that Board of Director’s could not have been validly recognized by the Board of Directors of the SFA in its meeting held on 8 September 2021.
101. Given that the operative part of the Appealed Decision was exclusively based on the assumption that the decision, taken by the Board of Directors of the SFA in its meeting No. (21) on 8 September 2021 and rendered on 16 September 2021, was legally sound and that, as is clear from the award on the merits in the proceeding *CAS 2021/A/8413*, said assumption was wrong, it has to be concluded that the Appealed Decision lacks a valid legal basis as regards the recognition of the Board of Directors of the Club chaired by Mr Hazim Mustafa Mohamed Ibrahim (paragraph 1 of the operative part of the Appealed Decision).
102. As regards paragraph 2 of the operative part of the Appealed Decision, in which the Electoral Appeal Committee endorsed the decision of the Electoral Committee for the surplus, *i.e.* having refused to recognize the Board of Directors of the Club chaired by Mr Adam Abdallah Adam as validly representing the Club, the Panel notes that although the Appealed Decision does not contain an explicit argumentation to support this point, such support is indirectly be found in the fact that the Electoral Appeal Committee decided, on the basis of the decision taken by the Board of Directors of the SFA on 8 September 2021 and rendered on 16 September 2021, to recognize the Board of Directors of the Club chaired by Mr Hazim Mustafa Mohamed Ibrahim.
103. However, given that the decision relied on by the Electoral Appeal Committee in its Appealed

Decision has been annulled by the CAS, paragraph 2 of the operative part finds no legally valid support in the Appealed Decision.

104. In light of the above, the Panel finds that the Electoral Appeal Committee could not validly decide that the Board of Directors of the Club chaired by Mr Hazim Mustafa Mohamed Ibrahim was legitimated to represent the Club at the Electoral General Assembly of the SFA held on 13 November 2021. Hence, the Panel holds that the Appealed Decision must be annulled.
105. 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 on 30 November 2021 against the decision rendered by the Electoral Appeal Committee of the Sudan Football Association on 10 November 2021 is upheld.
2. The decision rendered by the Electoral Appeal Committee of the Sudan Football Association on 10 November 2021 is annulled.
3. (...).
4. (...).
5. All other and further motions or prayers for relief are dismissed.