



Arbitration CAS 2018/A/5876 Adnan Darjal v. Iraq Football Association (IFA), award of 21 January 2021

Panel: Prof. Philippe Sands QC (United Kingdom), Sole Arbitrator

Football

Elections to the executive committee of a national federation

Offer to arbitrate

De novo review

Time limit to appeal a decision

Nullity of a decision

Lack of evidence of misconduct and consequences on sanctions

1. There is no provision in the IFA Statutes or the IFA Disciplinary Code by which an IFA Appeal Committee decision can be challenged before the domestic courts in Iraq. The effect of Article 60(3) of the IFA Statutes and Articles 95 and 98(4) of the Disciplinary Code is that IFA Appeal Committee decisions can be appealed *only* to the CAS, to the exclusion of all other fora, including domestic courts. Therefore, the decision to pursue criminal proceedings in Iraq cannot vitiate an offer to arbitrate, as criminal proceedings are distinct from arbitral proceedings before the CAS.
2. By virtue of Article R57 of the CAS Code, CAS has “*full power to review the facts and the law*” and may “*issue a new decision which replaces the decision challenged or annul the decision and refer the case back to the previous instance*”. In circumstances where an appeal committee at first instance has failed to adequately address an appeal filed by a petitioner, the CAS panel is bound to review the decision by reference to the totality of circumstances brought to the attention of the appeal committee by the petitioner, including all the evidence submitted.
3. The relevant provisions of the IFA Statutes and the Disciplinary Code that deal expressly with appeals against decisions of the IFA Appeal Committee before the CAS are both silent in relation to the applicable time limit. This silence must be interpreted as an intention on the part of the drafters of those regulations that the default 21-day time limit is applicable for appeals against IFA Appeal Committee decisions to the CAS.
4. In absence of any good reason that can possibly necessitate the Chairman of the IFA Appeal Committee to exclude all other members of the committee from participating in the adoption of a decision, the issuing of such decision in the absence of four members of the Committee, and framing it in terms that give the impression that it was issued by the IFA Appeal Committee as a whole, is wholly misleading, inaccurate and fraudulent, as it amounts to forging the will of committee members. The decision is therefore falsified in the sense that it purported to be a decision of the IFA Appeal Committee as

a whole, and, as a result, is invalid, null and void.

5. **Allegations of forgery, falsification, deception and dishonesty require cogent evidence. In absence of any evidence of misconduct on the part of an individual, sanctions imposed on that individual by way of disciplinary decisions are to be treated as void *ab initio*, that is to say null and void and without any effect.**

I. PARTIES

1. The Appellant (“Mr Darjal” or “Appellant”) is a renowned former professional footballer who represented his country at international level and also captained it. Since his retirement as a player, he has, among other matters, served as coach of the Iraq national football team and Secretary General of the Iraq Football Association between 1990 and 1993.
2. The Respondent (the “IFA” or “Respondent”) is the national governing body for football in Iraq.

II. FACTUAL BACKGROUND

3. This Award contains a concise summary of the relevant facts and allegations based on the parties’ written submissions, correspondence and the evidence adduced. Additional facts and allegations found in the parties’ written submissions, correspondence and evidence may be set out, where relevant, in connection with the legal discussion that follows. While the Sole Arbitrator has carefully considered all the facts, allegations, legal arguments, correspondence and evidence submitted by the parties and treated as admissible in the present procedure, he refers in this Award only to the matters he considers necessary to explain his reasoning and conclusions.

A. Background Facts

4. This is one of three cases brought against the IFA in connection with the election of the IFA Executive Committee held on 31 May 2018 (the “Election”).
 - a. The first case (CAS 2018/A/5719) concerns a challenge by Mr Darjal against a decision of the IFA Electoral Appeal Committee dated 15 April 2019 by which his application to stand as a candidate for President of the IFA Executive Committee was rejected on the basis that he allegedly failed to meet the conditions set out in Article 33(2) of the IFA Statutes.
 - b. The second case (CAS 2018/A/5824) concerns a decision communicated to Mr Darjal and 10 other appellants on 24 June 2018, informing them that their challenge against

the results of the Election would not be submitted to the “*Appeals Committee*” for determination.

- c. The present case (CAS 2018/A/5876) concerns a challenge by Mr Darjal against a decision rendered by the IFA Appeal Committee on 30 July 2018 rejecting his appeal against a sanction imposed by the IFA Disciplinary Committee by which he was banned from carrying out football-related activities for a period of three years.
5. There is a large measure of overlap in the factual and legal matrix underpinning these three cases (the “three procedures”). The Sole Arbitrator, legal representatives and parties are common to all three procedures (save that in the second case, CAS 2018/A/5824, Mr Darjal is joined by 10 additional appellants). In accordance with CAS practice, the three procedures are each the subject of a separate Award addressing the legal and factual matters relevant to each case. The task has not, it must be said, been eased or made more efficient by the manner in which the cases have been pleaded. Shortly before the issuance of the present Award, the three cases were suspended for a period of seven months at the request of the Appellant, until 28 September 2020.
 6. These proceedings concern a decision rendered by the IFA Appeal Committee (the “Appeal Committee”) on 30 July 2018, which upheld a decision of the IFA Disciplinary Committee (the “Disciplinary Committee”) of 25 June 2018. That decision banned the Appellant from taking part in any football-related activities for a period of three years on the basis of Articles 9, 79, 80 and 121(3) of the IFA Disciplinary Code.
 - a. ***Decisions 29A and 32 of the IFA Disciplinary Committee***
 7. On 24 March 2018, the Appellant submitted his candidature for the position of President of the IFA Executive Committee in the Election. Following the rejection of his candidature, the Election went ahead without the participation of the Appellant on 31 May 2018. Consequently, there was only a single candidate for the position of IFA President (Mr Masoud). Unsurprisingly, he was elected for a second term. As explained above, the decision to reject Mr Darjal’s candidacy and the results of the Election are the subject of separate proceedings (CAS 2018/A/5719 and CAS 2018/A/5824).
 8. On 8 May 2018, the IFA commenced an investigation into alleged irregularities in the documents presented by the Appellant in support of his candidature for the Election.
 9. On 27 May 2018, the Secretary General of the IFA requested the Appellant to provide certain documents to the Disciplinary Committee no later than 10 June 2018.
 10. On 30 May 2018, the Chairman of the Disciplinary Committee (Mr Taha Abd Helatah) issued a decision provisionally suspending the Appellant from “*practising any sports or administrative work until the investigation opened in the disciplinary case sued against him is completed*”.
 11. On 25 June 2018, the Secretary General of the IFA (Dr Sabbah Redha Jebur) communicated a decision of the Disciplinary Committee, dated 25 June 2018, which has the effect of

“Preventing Mr. Adnan [Darjal] from administrative work for (3) years based on provisions of Article (9) of the Disciplinary Regulations and as indicated by Article (121/3) of the Regulations (“Decision 32”). There is a “summary of the findings” following Decision 32 which states that:

“2. Mr. Adnan Darjal worked for the Wakra Sports Club intermittently in the period from 28 February 2008 until 31 May 2014 in the capacity of the Coach of the club’s first team and did not perform other sporting, technical or administrative functions. He also did not engage in any employment-related activities since 31 May 2014.

3. When the Disciplinary Committee invited him to submit evidence demonstrating his claim that he was the head coach of the team of Al-Wakra in period 2014-2018, he did not submit any evidence.

4. The Disciplinary Committee was not persuaded by the information claimed and evidenced submitted by Mr. Adnan Darjal Matar nor did he provide answers to our enquiries contained in our letter no. 7/1045 dated 27 May 2018”.

12. Following a request from the Appellant, on 17 July 2018, the IFA Secretary General communicated the grounds of the Decision 32 to him (the “Grounds”). In summary, the Disciplinary Committee noted that by virtue of Articles 20(8) and 33(4) of the IFA Statutes, a member of the IFA Executive Committee must have no less than five years of experience in the administrative aspects of association football, of which at least three years must be within the 10 years immediately preceding the election in question. The Disciplinary Committee determined that:

“Mr. Adnan Darjal Matar Al-Robiye requested the management of Al Wakra Club to provide him with the letter no. (NWR/436/2018), dated 12 March 2018 containing false information and data relating to his administrative and professional experiences with the intention to cheat and deceive in legal relations. This follows that such act amounts to engaging in illegal activity associated with an IFA activity with the intention to mislead the IFA electoral committee and thus he breached articles (79) and (80) of the Disciplinary Code”.

13. The Disciplinary Committee went on to find that the Appellant provided false information to the committee for the purpose of misleading it, including a letter concerning his country of residency and another letter *“dated retroactively to 15 July 2014”*. The Disciplinary Committee held that the Appellant had failed to cooperate in good faith and rejected the Appellant’s assertion that he is a member of the General Assembly of Al-Zawra’a Sport Club (“Al-Zawra’a”).

14. In the Grounds, the Disciplinary Committee concludes that:

“63. The above violations are classified into two categories. The first category relates to the contents of the documents and information Mr. Adnan Darjal Motar Al-Robiye submitted in his candidature for which the present disciplinary procedure was opened. On the other hand, the second category relates to the violations committed by Mr. Adnan Darjal Motar Al-Robiye during the investigation phase of the present procedure and his noncooperation with the investigation of the Disciplinary Committee, in particular his persisting on misleading the committee hindering its fact

finding task. Therefore, the Disciplinary Committee has decided to separate these violations into two separate decisions.

64. *According to article 33 of the Disciplinary Code, the above sanctions shall be combined except for the sanction associated with the violation of article 121 para. 3 of the Disciplinary Code. This sanction shall be served concurring with the provision of the other sanctions”.*

15. Thereafter, the Disciplinary Committee purported to issue two decisions. The first decision (“Decision 29A”) provides as follows:

“On the occasion of its meeting, held on 21 June 2018 at Al Taji Club and based on the above, the Disciplinary Committee decided by majority as follows:

- a) Banning Mr. Adnan Darjal Matar Al-Robiye from taking part in any football-related activity for five years.*
- b) The ban shall apply as from the date of notification of the Disciplinary Committee’s no. (27/5/2018) issued on 31 May 2018”.*

16. The second is Decision 32, which is summarised in the Grounds as follows:

“On the occasion of its meeting, held on 25 June 2018 at the home of IFA and based on the above, the Disciplinary Committee decided by majority as follows:

- a) Banning Mr. Adnan Darjal Matar Al-Robiye from taking part in any football-related activity for three years.*
- b) The ban shall apply as from the date of notification of the Disciplinary Committee’s no. (27/5/2018) issued on 31 May 2018”.*

b. The Appeal Committee Decision

17. On 24 July 2018, the Appellant lodged an appeal to the Appeal Committee against the decision of the Disciplinary Committee communicated to him on 17 July 2018.

18. On 30 July 2018, the IFA Secretary General communicated a decision to the Appellant by which Decision 32 was confirmed and his appeal was rejected (the “Appeal Committee Decision”).

19. By way of these proceedings, on 20 August 2018, Mr Darjal submitted the present appeal to the CAS, challenging the Appeal Committee Decision.

B. The IFA Statutes, the Disciplinary Code and the IFA judicial bodies

a. The IFA Statutes

20. The Appellant and the IFA rely on the 2017 edition of the IFA Statutes (the “IFA Statutes”) in their written submissions.

21. By letter dated 13 May 2019, the Appellant requested that the CAS obtain from the International Federation of Association Football (“FIFA”) the IFA Statutes as ratified by the IFA Congress and sent to FIFA.
22. By letter dated 24 May 2019, FIFA sent the CAS Court Office a signed copy of the IFA Statutes and a copy of a letter dated 18 July 2017 by which it is confirmed that the IFA Statutes meet all FIFA requirements.
23. The Sole Arbitrator notes that the parties do not dispute that the IFA Statutes were validly adopted and are applicable to the present dispute. The validity of the IFA Statutes is further corroborated by FIFA’s letter dated 24 May 2019. Relevant extracts from the IFA Statutes are set out below.
24. Article 57 is headed “Judicial Bodies” and paragraphs 1 and 2 provide that:
 - “1. *The judicial bodies of IFA are:*
 - a) *the Disciplinary Committee;*
 - b) *the Ethics Committee;*
 - c) *the Appeal Committee.*
 2. *The judicial bodies shall consist of a chairman, a deputy chairman and a specific number of other members”.*
25. Article 60 is headed “Appeal Committee” and provides that:
 - “1. *The function of the Appeal Committee shall be governed by the Disciplinary Code of IFA and the Code of Ethics of IFA. The Appeal Committee shall pass decisions only when at least three of the members are present. In certain cases, as specified in the relevant regulations, the chairman may rule alone.*
 2. *The Appeal Committee is responsible for hearing appeals against decisions from the Disciplinary Committee and the Ethics Committee that are not declared final by the relevant regulations of IFA.*
 3. *Decisions pronounced by the Appeal Committee may only be appealed to the Court of Arbitration for Sport in Lausanne, Switzerland, or to a national, independent Arbitration Tribunal in accordance with the provisions in these Statutes”.*
26. Article 62 is headed “Arbitration” and provides:
 - “1. *Disputes in the Association or disputes affecting Leagues, members of Leagues, Clubs, members of Clubs, Players, Officials and other Association Officials shall not be submitted to Ordinary Courts, unless the FIFA regulations, these Statutes or binding legal provisions specifically provide for or stipulate recourse to Ordinary Courts.*
 2. *Such disputes as specified in par. 1 shall be taken to an independent Arbitration Tribunal recognised by IFA or AFC, or to the Court of Arbitration for Sport (CAS) in Lausanne, Switzerland”.*

27. Article 63 is headed “Jurisdiction” and provides:

- “1. *Recourse may only be made to an Arbitration Tribunal in accordance with art. 62 once all internal channels of IFA have been exhausted.*
2. *IFA shall have jurisdiction on internal national disputes, i.e. disputes between parties belonging to IFA. FIFA shall have jurisdiction on international disputes, i.e. disputes between parties belonging to different Associations and/or Confederations”.*

28. Article 64 is headed “Court of Arbitration for Sport” and provides:

- “1. *In accordance with the relevant provisions of the FIFA Statutes, any appeal against a final and binding decision passed by FIFA, AFC, or the Leagues shall be heard by the Court of Arbitration for Sport (CAS) in Lausanne, Switzerland, unless another Arbitration Tribunal has jurisdiction in accordance with art. 62. CAS shall not, however, hear appeals on violations of the Laws of the Game, and suspensions of up to four matches or up to three months (with the exception of doping decisions).*
2. *IFA shall ensure its full compliance and that of all those subject to its jurisdiction with any final decision passed by a FIFA body, by an AFC body, by the Arbitration Tribunal recognised by IFA or by the Court of Arbitration for Sport (CAS) in Lausanne, Switzerland”.*

b. IFA Disciplinary Code

29. The parties have each submitted a different version of the IFA Disciplinary Code. The Appellant relies on an Arabic document, with a certified English translation. In relation to this document, the IFA submits that:

“... the Appellant submitted a translated copy of an old Arabic version of IFA Disciplinary Code which in itself was originally translated from the English text of IFA Disciplinary Code which for all intents and purposes is a cut-and-paste of the FIFA Disciplinary Code. Such translation, submitted by the Appellant is translated by a Qatari translator who, firstly, is not even competent for ‘word for word’ translation and secondly, lacks any knowledge of the terminology and the legal systems of the IFA and FIFA with respect of both the source and target languages”.

30. The IFA relies on a document in English titled “*IFA Disciplinary Code, 2017 Edition*” which states that it came into force on 1 January 2018. The IFA submits that this English version is the original, which is derived from the FIFA Disciplinary Code, and was later translated into Arabic.

31. For the reason advanced by the IFA, the Sole Arbitrator has adopted and applied the version of the Disciplinary Code submitted by the IFA (the “Disciplinary Code”). Relevant extracts from the Disciplinary Code are set out below

32. Articles 40 to 43 fall under Part I of the Disciplinary Code (“Substantive Law”) in Chapter 1, Section 4 (“Determining the sanction”).

“Article 40 Time limit for appeal

The time limit for appeal is seven (7) days. It is not extendable.

Article 41 Appealable sanctions

- 1. All decisions passed by the judicial committees are capable of appeal.*
- 2. No decision of the judicial committees shall be appealed twice.*

Article 42 The start of the time limit for appeal

The time limit for appeal shall begin from the day after that on which notification of or announcement of the decision by IFA is made.

Article 43 The expiry of the time limit for appeal

The time limit for appealing the decisions of the judicial bodies shall expire after seven (7) days from the date of the notification of the decision and no party shall have the right for appeal after the expiry of the time limit for appeal”.

33. Articles 79 and 80 are found under Chapter 2 of Part I (“Special part”) within section 2 (“Disorderliness at matches and competitions”):

“Article 79 Forgery and Falsification

- 1. Anyone who, in football-related activities, forges a document, falsifies an authentic document or falsifies information or uses a forged or falsified document or information to deceive in legal relations will be sanctioned with a fine no less than IQD 5,000,000.*
- 2. If the perpetrator is a player, a suspension of at least five matches will be pronounced.*
- 3. If the perpetrator is an official, a players’ agent or a match agent, a ban on taking part in any football-related activity for a period of at least five months will be pronounced.*
- 4. Additional sanctions may also be imposed depends on the seriousness of the infringement.*
- 5. If the perpetrator does fall under the remit of IFA, the sanction may be imposed on the club or player or referee or any other body who for whom the infringement was committed provided it can be proven.*
- 6. A club that forges or falsifies a document relating to the registration of a player or the age, personal picture or ID number of a player shall be sanctioned with a transfer ban for two and consecutive periods and with a minimum fine of IQD 10,000,000.*

Article 80 Integrity and Deception

- 1. Any person, whether a player or an IFA official or an official of a club, makes a promises or offers to engage or engage in illegal activities or attempts to commit an illegal act in relation to the activities of IFA or its competitions shall be sanctioned with*
 - a) a minimum fine of IQD 5,000,000.*
 - b) a ban on taking part in any football-related activity for a period of at least four months.*

- c) *if the perpetrator is a player, a suspension of at least five matches.*
 - d) *a ban from dressing rooms and/or substitutes' bench.*
 - e) *The fine and sanction shall be doubled for repeated infringement.*
 - f) *The above sanctions may be combined if the infringement is serious.*
 - g) *If there is money involved the infringement, the money shall be confiscated and paid for the activities of IFA.*
2. *If the address of the perpetrator is unknown or his affiliation cannot be established, the judicial bodies shall investigate the matter and if a club involvement can be established, it shall be sanctioned with 12 point deduction”.*

34. Articles 94, 95, 97 and 98 fall under Part II of the Disciplinary Code (“Organization and procedure”) in Chapter 1, section 2 (“Authorities”):

“Article 94 Judicial bodies

The judicial bodies of IFA are the Disciplinary Committee, the Appeal Committee and the Ethics Committee.

Article 95 Court of Arbitration for Sport

Decisions passed by the Appeal Committee may be appealed against before the Court of Arbitration for Sport (CAS). However, recourse may only be made to CAS once all internal channels of IFA have been exhausted.

Article 97 Appeal Committee

1. *The Appeal Committee is composed of a chairman and a deputy chairman and three members.*
2. *The chairmen of the Appeal Committee shall be qualified to practice law.*
3. *The Appeal Committee shall pass decisions only when at least three members are present.*
4. *If the circumstances of the case necessitates, the chairman may rule alone.*

Article 98 Jurisdiction of the appeal committee

1. *The Appeal Committee is responsible for deciding appeals against any of the Disciplinary Committee’s decisions.*
2. *The Appeal Committee review the case de novo.*
3. *The Appeal Committee may annul the decision under appeal.*
4. *The decisions of the Appeal Committee are final and can only be appealed before CAS”.*

35. Articles 100 and 101 are contained in Part II, Chapter 1, section 3 (“Common rules for the judicial bodies”):

“Article 100 Meetings

1. *The committee meetings are deemed to be valid if at least three members are present.*
2. *The chairman conducts the meetings and delivers the decisions which this code empowers him to take. If the chairman is prevented from attending, the deputy chairman replaces him. If the deputy chairman is prevented from attending, the longest-serving.*
3. *The judicial bodies is authorized to consult the legal experts, the legal department of IFA and the legal advisors of IFA or the legal experts of FIFA and AFC in difficult cases.*

Article 101 Majority

Committee’s decisions must be passed by a majority (more than 50%) of the members present. If a vote is tied, the chairperson of the committee shall have the casting vote”.

36. Finally, Articles 121, 124 and 129 are set out in Part II, Chapter 2 (“Procedure”):

“Article 121 Collaboration by the parties

1. *The parties are obliged to collaborate to establish the facts. In particular, they shall comply with requests for information from the judicial bodies.*
2. *Whenever deemed necessary, the secretariat verifies the parties’ versions of the facts.*
3. *If the parties are dilatory in responding or fail to collaborate or provide false information with the purpose of deceiving the judicial bodies or obstructing the investigation, they shall be sanctioned in accordance with article 9 of this Code.*

Article 124 Decisions

1. *The Decision contains:*
 - a) *the names of the members of the committee;*
 - b) *the names of the parties;*
 - c) *a summary of the facts;*
 - d) *the grounds of the decision;*
 - e) *the provisions on which the decision was based;*
 - f) *the terms of the decision;*
 - g) *notice of the channels for appeal.*
2. *The decisions are signed by the general secretariat.*
3. *The judicial bodies may decide not to communicate the grounds of a decision and instead communicate only the terms of the decision. At the same time, the parties shall have seven days from receipt of the terms of the decision to request, in writing, the grounds of the decision, and that failure to do so will result in the decision becoming final and binding.*

4. *If a party requests the grounds of a decision, the motivated decision will be communicated to the parties in full, written form. The time limit to lodge an appeal, where applicable, begins upon receipt of this motivated decision.*

Article 129 Petition of appeal

1. *The appellant shall submit his petition of appeal in writing and shall be filed by fax, e-mail or delivered in exchange for confirmation of receipt.*
2. *The petition shall include the claim as well as the reasons and means of proof and be signed by the appellant or his representative”.*

c. The IFA Disciplinary Committee and the IFA Appeal Committee

37. By virtue of Article 119 of the Disciplinary Code, the Disciplinary Committee is charged with commencing proceedings when: (i) it is requested to do so by the IFA President, Secretary General, Technical Manager, Executive Committee or the Congress; (ii) there is an infringement recorded in official documents or reported in the media; (iii) there is a complaint by anyone; (iv) upon formal complaint by a party; or (v) upon receipt of official documents from government agencies.
38. Under the terms of Article 128 of the Disciplinary Code, an appeal may be lodged with the Appeal Committee against any decision of the Disciplinary Committee, unless the disciplinary measure imposed is: (i) a warning; (ii) a reprimand; (iii) a suspension of fewer than 3 matches or two months; (iv) a fine; or (v) decisions in connection with failure to respect FIFA and Asian Football Confederation (“AFC”) decisions.

III. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT

A. Written proceedings

39. On 20 August 2018, the Appellant filed his Statement of Appeal challenging the Appeal Committee Decision pursuant to Articles R48 and R49 of the Code of Sports-related Arbitration (the “Code”). By way of his Statement of Appeal, the Appellant requested: (i) that the present case be consolidated with procedure CAS 2018/A/5719 and the same Sole Arbitrator be appointed; (ii) that the CAS order the IFA to produce “*the full case file*” regarding Decision 32 and the Appeal Committee Decision, and to provide a copy of the IFA Statutes; and (iii) a stay of the time limit for the submission of the Appeal Brief until receipt of the requested documents.
40. By letter dated 28 August 2018, the CAS Court Office informed the parties that by virtue of Article R52(4) of the Code, consolidation of two procedures is only possible if the appeals are directed against the same decision. Instead, the parties were invited to confirm whether they agree to refer this case to the same Sole Arbitrator as procedure CAS 2018/A/5719 pursuant to Article R50(2) of the Code. The time limit for the filing of the Appeal Brief was suspended until further notice.

41. On 31 August 2018, the Appellant confirmed his agreement to refer this case to the same Sole Arbitrator as in procedure CAS 2018/A/5719 on the basis that *“the Parties to both cases are identical and the factual issues at stake are almost the same”*.
42. By letter of 2 September 2018, the IFA objected to: (i) the Appellant’s request for a stay to file the Appeal Brief and; (ii) the referral to this case to the same Sole Arbitrator as procedure CAS 2018/A/5719, on the basis that the two cases *“do not involve the same issues at all”*. The IFA expressed its preference for the case to be heard by a panel of three arbitrators and stated that *“the IFA will not voluntarily produce the case file”* concerning Decision 32 and the Appeal Committee Decision. The IFA also requested: (i) the termination of these proceedings pursuant to Article R49 of the Code on the basis that the Appellant had filed the Statement of Appeal out of time; and (ii) the CAS to obtain its own English translation of Articles 40 to 43 of the Disciplinary Code.
43. By letter dated 11 September 2018, the IFA informed the CAS Court Office that the IFA *“does not intend to pay its share of the advance costs in connection with these proceedings”*.
44. On 12 September 2019, the CAS Court Office informed the parties that the President of the CAS Appeals Arbitration Division had decided to lift the suspension of the time limit for the filing of the Appeal Brief.
45. On 15 September 2018, the Appellant filed his Appeal Brief in accordance with Article R51 of the Code in which he reiterated the request for CAS to order the IFA to produce *“the full case file”* regarding the Decision 32 and the Appeal Committee Decision. The Appellant also requested that FIFA provide a copy of the IFA Statutes and the Disciplinary Code.
46. By letter dated 23 September 2018, the IFA requested that the time limit for the filing of the Answer be fixed after payment by the Appellant of the advance of costs, pursuant with Articles R55(3) and R64.2 of the Code. This request was granted by the CAS Court Office on 24 September 2018. The IFA also stated that it *“intends to request the present proceedings be stayed pending the Al-Rusafa Investigation Court’s disposition of the Appellant’s complaint”*.
47. On 28 September 2018, the Appellant filed a new exhibit (a witness statement of the IFA Secretary General) pursuant to Article R44.1(2) of the Code and expressed his objection to the IFA’s request for a stay of the proceedings.
48. By letter dated 3 October 2018, the parties were informed that the President of the CAS Appeals Arbitration Division had decided, pursuant to Article R50(2) of the Code, and with due consideration of the parties’ positions, to submit these proceedings to the Sole Arbitrator appointed in the procedure CAS 2018/A/5719 and CAS 2018/A/5824. The parties were further notified that Professor Philippe Sands QC had accepted his appointment to serve as Sole Arbitrator in these proceedings in accordance with Article R54 of the Code. The parties were reminded that pursuant to Article R34 of the Code an arbitrator may be challenged if there are circumstances giving rise to legitimate doubts over his or her independence or impartiality.

49. On 11 October 2018, the CAS Court Office notified the parties that no challenge had been filed against the appointment of Professor Sands QC within the deadline prescribed by Article R34 of the Code.
50. By letter dated 17 October 2018, the CAS Court Office acknowledged receipt of the Appellant's payment of the total advance of costs of this procedure and notified the parties that the IFA should file its Answer within 20 days in accordance with Article R55 of the Code.
51. On 18 October 2018, the CAS Court Office notified the parties that Mr Andrew Smith had been appointed as *ad hoc* Clerk in this case in accordance with Article R40.3 of the Code.
52. By letter dated 21 October 2018, the IFA requested the suspension of the time limit to file the Answer pending determination by the Sole Arbitrator of the IFA's requests to: (i) stay the proceedings pending the disposition of criminal proceedings before the Rusafa Investigation Court in Iraq; (ii) terminate the proceedings pursuant to the IFA's letter of 2 September 2018; and (iii) bifurcate the procedure and decide the issue of jurisdiction by way of a preliminary award. The IFA's letter included lengthy written observations touching on: (i) the factual background; (ii) the interpretation of the Disciplinary Code; (iii) the procedure of the Rusafa Investigation Court; (iv) the IFA's request to stay the proceedings; (v) the jurisdiction of CAS to hear the appeal; (vi) the IFA's request to terminate the proceedings; and (vii) the IFA's requests for relief. The IFA stressed that these written observations did not represent the IFA's final position in these proceedings.
53. On 25 October 2018, the Appellant requested the Sole Arbitrator to: (i) reject the IFA's request for an extension to file the Answer; (ii) reject the IFA's request to stay the proceedings; (iii) decide on the issue of jurisdiction together with the merits; and (iv) authorise the filing of an additional exhibit (a witness statement of the Chairman of the Appeal Committee) pursuant to Article R56 of the Code.
54. By letter dated 1 November 2018, the IFA reiterated its request for an extension of time to file the Answer, proposing a 10-day extension.
55. On 2 November 2018, the Appellant objected to the IFA's request for an extension of time to file the Answer.
56. By letter of the same date (2 November 2018), the CAS Court Office, on behalf of the Sole Arbitrator, notified the parties that the time limit for the IFA to file the Answer had been extended by 10 days.
57. On 12 November 2018, the CAS Court Office notified the parties of the decision of the Sole Arbitrator to dismiss the IFA's requests that: (i) the proceedings be stayed pending the Rusafa Investigation Court's disposition of criminal proceedings; (ii) the proceedings be terminated; and (iii) the bifurcation of proceedings and determination of the issue of jurisdiction as a preliminary matter.

58. The IFA filed its Answer on 19 November 2018 in accordance with Article R55 of the Code, in which it is submitted *inter alia* that the appeal is time-barred and the CAS has no jurisdiction to determine it.
59. By letter dated 21 November 2018, the CAS Court Office reminded the parties of the terms of Article R56 of the Code by which in the absence of agreement between the parties, exceptional circumstances or an order of the Sole Arbitrator, the parties are not authorised to supplement or amend their requests or arguments, or to produce new exhibits or further evidence. The parties were also invited to notify the CAS Court Office whether they prefer a hearing to be held or for the Sole Arbitrator to issue an award solely based on the parties' written submissions.
60. On 21 November 2018, the Appellant informed the CAS Court Office of his preference for a joint hearing encompassing the three procedures.
61. On 26 November 2018, the CAS Court Office informed the parties that in the absence of any objection from the parties, the Sole Arbitrator's preference was to hold a joint hearing for the three procedures.
62. By letter of the same date (26 November 2018), the IFA objected to the proposal of a joint hearing, requesting that in the first instance the Sole Arbitrator render a preliminary award on jurisdiction and admissibility, either by holding a hearing or based on the written submissions of the parties. The IFA submitted that once these issues had been decided, it would "*accept holding a joint hearing for the legal and factual aspects of procedures CAS 2018/A/5719 and CAS 2018/A/5876 and the merits of CAS 2018/A/5824 provided the case reaches such phase*".
63. On 28 November 2018, the Appellant confirmed his preference to have a single hearing dealing with all aspects of the three procedures.
64. By letter dated 29 November 2018, the CAS Court Office informed the parties of the Sole Arbitrator's decision to hold a joint hearing dealing with all aspects of the three procedures.
65. On 5 December 2018, the IFA confirmed that it intended to call two witnesses in this case: Mr Zayed Khalaf Hamid Al-Musawi and Mr Waleed Yousuf Mohammed Tabra. The IFA also: (i) made further written observations in respect of the criminal proceedings before the Rusafa Investigation Court; and (ii) filed a new exhibit which it requested to be added to the case file.
66. By letter of the same date (5 December 2018), the Appellant provided his list of nine witnesses for the hearing, five of which would be called in relation to this case: Mr Taha Abd Helatah, Mr Qais Muhammad Aswad Ali al-Taie; Mr Odaj Jawad Al-Lami; Mr Khalid Ibraheem Al-Mahdawi; and Mr Mohammed Seleim.
67. On 23 December 2018, the IFA wrote to the CAS Court Office objecting to seven of the witnesses proposed by the Appellants in the three procedures, including all five witnesses the Appellant proposed to call in relation to this case.

68. On 28 December 2018, the Appellant objected to the content of the IFA's letter of 23 December 2018, stating *inter alia* that the IFA had put forward unsolicited comments on the Appellant's evidentiary motions.
69. On 30 December 2018, the IFA submitted its response to the Appellant's letter of 28 December 2018.
70. On 27 January 2019, the IFA filed further written observations, including one additional exhibit, concerning *inter alia* Decision 29A of the Disciplinary Committee and recent developments pertaining to the criminal proceedings before the Rusafa Investigation Court.
71. On 28 January 2019, the Appellant requested clarification with regard to: (i) procedural requests made in the Appeal Brief including for the production of documents; and (ii) the admissibility of the IFA's "*several unsolicited submissions*".
72. On 31 January 2019, the Appellant provided his observations on the IFA's letter of 27 January 2019.
73. On 12 February 2019, the IFA asserted that it had, in correspondence with the CAS Court Office sent on behalf of the Sole Arbitrator concerning the hearing date, been singled out for allegedly delaying the administration of justice and submitted that this was contrary to the principles of good faith and equal treatment of the parties.
74. Following a series of exchanges between the parties and the CAS Court Office, and having regard the availability of the Sole Arbitrator and the parties (and their representatives), a single hearing dealing with all aspects of the three procedures was scheduled for 30 and 31 May 2019.
75. On 24 February 2019, the IFA complained that a document which it had requested not to be communicated to the Appellant had been disclosed to the Appellant, which (the IFA contended) would "*binder its right of defense to such extent that it will henceforth refrain IFA from submitting into the files of the cases at hand any information and/or documents of confidential nature*".
76. On 1 March 2019, the Appellant confirmed his list of attendees for the hearing and requested that the hearing be held in public. Mr Mohammed Saleem Aal Musa was added to the list of witnesses to be called by the Appellant; Mr Seleim was no longer to be called as a witness.
77. By letter dated 11 April 2019, the Appellant filed written observations concerning the criminal proceedings before the Rusafa Investigation Court and submitted two new exhibits pursuant to Article R56 of the Code.
78. On 16 April 2019, the IFA objected to the admissibility of the two new exhibits filed by the Appellant on 11 April 2019 and made further written observations on the criminal proceedings before the Rusafa Investigation Court.
79. On 24 April 2019, the CAS Court Office notified the parties that Mr Remi Reichhold would replace Mr Andrew Smith as *ad hoc* Clerk, due to a scheduling conflict.

80. On 30 April 2019, the Appellant filed his list of witnesses including references to their witness statements, together with proposals for the timetabling of the oral evidence at the hearing.
81. On 5 May 2019, the IFA filed written observations regarding *inter alia*: (i) the scope of the Sole Arbitrator's powers of review; (ii) the irrelevance of certain witness testimonies which the Appellant was seeking to adduce (and requesting that certain witnesses be barred from giving evidence at the hearing); and (iii) the conduct of the hearing.
82. On 10 May 2019, the Appellant responded to various matters raised in the IFA's letter of 5 May 2019.
83. On 13 May 2019, the Appellant requested an update on various procedural requests that it had made, including for the production of documents by the IFA.
84. On 17 May 2019, the Appellant was invited to provide a clear and cogent explanation as to why the categories of documents listed in the Appellant's letter of 13 May 2019 were relevant and necessary for the just disposal of these proceedings.
85. By letter of the same date (17 May 2019), the CAS Court Office sent the parties the order of procedure which was returned signed, with some remarks, by the IFA and the Appellants on 21 and 27 May 2019, respectively.
86. On 20 May 2019, the Appellant provided written observations regarding the relevance and necessity of the documents listed in his letter of 13 May 2019, including seven new exhibits.
87. By letter dated 21 May 2019, the IFA alleged that there had been "*a serious case of meddling in the affairs of IFA and CAS's administration of justice committed by elements of the Government of the Republic of Iraq*" and made further reference to the criminal proceedings before the Rusafa Investigation Court in Iraq.
88. On 22 May 2019, the CAS Court Office notified the parties that the Sole Arbitrator had rejected the Appellant's request for the production of documents as formulated in his letter of 13 May 2019. This was primarily on the basis that the categories of documents sought were too wide and that in the view of the Sole Arbitrator these documents were not required for the just disposal of the proceedings. The Sole Arbitrator did, however, invite the IFA to comment on the allegations contained in the Appellant's letter of 20 May 2019 and to disclose any further documents (with English translations). The IFA was also invited to comment on the Appellant's request to admit into evidence the seven new exhibits attached to his letter of 20 May 2019 as an exceptional circumstance pursuant to Article R56 of the Code. The Sole Arbitrator emphasised that in coming to this decision, he was expressing no view on the merits of the three procedures.
89. On 23 May 2019, the IFA submitted its observations on the allegations contained in the Appellant's letter of 20 May 2019 and the admissibility of the Appellant's seven new exhibits.

90. On 27 May 2019, the parties were informed that the Sole Arbitrator had decided that the Appellant's seven new exhibits would be admitted to the case file without prejudice as to their weight and relevance.

B. The hearing

91. A hearing dealing with all aspects of the three procedures was held on 30 and 31 May 2018 in Lausanne, Switzerland (the "hearing"). The Appellant was represented by Mr Salvatore Civale and Mr Mario Vigna, assisted by Mrs Elena Raccagni. The IFA was represented by Mr Nezar Ahmed, assisted by Mr Rawan Raed Alnahi. Mr Mounir Al-Kudri attended the hearing as the interpreter for the Appellants. As the IFA had not made provision for their own interpreter, the Appellants helpfully made Mr Al-Kudri available to the IFA's witnesses. Mr Al-Kudri proved to be an invaluable resource and received praise on all sides for his diligent and accurate work.

92. The Sole Arbitrator heard opening and closing legal submissions from representatives for the Appellant and the IFA and also heard evidence from the following individuals in relation to the present case:

Witnesses for the Appellant

- a. Mr Adnan Darjal (Appellant);
- b. Mr Taha Abd Helatah (former Chairman of the Disciplinary Committee);
- c. Mr Khalid Ibraheem Al-Mahdawi (former Deputy Chairman of the Appeal Committee);
- d. Mr Mohammed Saleem Aal Musa (former member of the Appeal Committee); and
- e. Mr Odaj Jawad Al-Lami (former member of the Appeal Committee).

Witness for the IFA

- a. Mr Zayed Khalaf Hamid Al-Musawi (manager of the IFA International Relations Department); and
 - b. Mr Hussein Qasim Jeneen Alkharasani (IFA Media manager).
93. The Sole Arbitrator was assisted at the hearing by Mr Daniele Boccucci (Counsel to the CAS) and Mr Remi Reichhold (*ad hoc* clerk).
94. At the outset of the hearing, the Sole Arbitrator heard submissions from legal representatives as to the procedure to be adopted in relation to witnesses. Counsel for the Appellant requested to examine witnesses in chief prior to cross-examination by opposing counsel. As most of the witnesses in the three procedures had provided witness statements, the Sole Arbitrator determined that examination in chief would not be necessary or appropriate. The Sole Arbitrator reiterated that he had carefully read all witness statements in advance of the hearing and was familiar with the written testimonies. Providing an opportunity for examination in

chief would risk the hearing not being completed within the timetable as agreed by the parties. Moreover, adopting the approach suggested by counsel for the Appellant would also risk opening the door to examination in chief on new subject matters which would put the opposing party at a disadvantage. Therefore, the hearing proceeded as follows: (i) witness statements submitted by the parties stood in as the witnesses' evidence in chief; (ii) legal representatives were given the opportunity to cross-examine witnesses of the opposing party; and (iii) thereafter a period of re-examination was permitted on matters raised during cross-examination.

95. The Sole Arbitrator notified attendees at the hearing that, in accordance with Articles R57(2) and R59(7) of the Code, the Appellant's request, dated 1 March 2019, for the hearing to be held in public, had been rejected.
96. The hearing was conducted in a professional and cordial manner, subject only to two exceptions. First, at an early stage in the course of the proceedings it appeared that a video recording of the hearing had been uploaded to a public social media platform, in violation of the rules on confidentiality arising from Articles R57(2) and R59(7) of the Code. The Sole Arbitrator reminded attendees of the obligation of confidentiality and invited attendees to respect confidentiality rules and switch off and put away their mobile phones. Regrettably, despite this warning, it appeared that more video footage was making its way to social media platforms and instant messaging applications. As a result, the Sole Arbitrator issued a procedural direction pursuant to Article R57(1) of the Code by which all mobile phones in the hearing room were confiscated by the CAS Court Office for the duration of the first day of the hearing. Second, and subsequently, the Sole Arbitrator received reports that a small minority of participants intermittently engaged in physical altercations in the immediate vicinity of the hearing room. For the purposes of safeguarding the safety of attendees, and to ensure the smooth running of the hearing, the Sole Arbitrator, in accordance with Article R57(1) of the Code, issued a further procedural direction prohibiting participants from punching and hitting each other within the confines of the hearing room and its immediate vicinity.
97. At the close of the hearing, both parties confirmed that they had received a fair hearing and had been given the opportunity to fully present their cases, save that counsel for the Appellants re-iterated his preference with regard to examination in chief of witnesses.

C. Post-hearing written correspondence

98. By letter dated 3 June 2019, the IFA complained to the CAS Court Office that the Appellants in the three procedures had conveyed information to the Government of Iraq and the media that counsel for the IFA had "*offended, insulted and undermined the sovereignty of the Iraqi government as well as spread a message of sectarianism during the course of the hearing*".
99. On 5 June 2019, the CAS Court Office reminded the parties of the duty of confidentiality stemming from Article R59(7) of the Code. The CAS Court Office also communicated a request from the Sole Arbitrator for the parties to refrain from filing any further unsolicited submissions.

100. By letter of the same date (5 June 2019), the IFA made further allegations relating to purported breaches by the Appellants in the three procedures of the duty of confidentiality enshrined in Article R59(7) of the Code.
101. On 25 September 2019, the Appellant sought to introduce an additional exhibit in relation to which the CAS Court Office invited the IFA to comment.
102. On 29 September 2019, the IFA expressed its view that the Appellant's additional exhibit submitted on 25 September 2019 was inadmissible, referring *inter alia* to: (i) the period of four months that had elapsed since the close of the hearing; and (ii) the Sole Arbitrator's request of 5 June 2018 that the parties refrain from filing any further unsolicited submissions.
103. By letter dated 30 September 2019, the CAS Court Office informed that parties that the Sole Arbitrator had decided that the Appellant's additional exhibit filed on 25 September 2019 would not be admitted to the case file.
104. On 15 November 2019, the Appellant sought to submit an additional exhibit relating criminal proceedings in Iraq.
105. By letter dated 18 November 2018, the parties were notified that the additional exhibit submitted by the Appellant on 15 November 2019 would not be admitted to the case file.
106. On 23 January 2020, the IFA informed the CAS Court Office that Mr Nezar Ahmed "*is no longer affiliated or representing IFA*".
107. On 24 January 2020, the IFA informed the CAS Court Office that its email of 23 January 2020 should be disregarded and that Mr Nezar Ahemd is "*still acting as legal representative of IFA*".
108. On 12 February 2020, the Appellant informed the CAS Court Office that all members of the IFA Executive Committee had resigned in January 2020. The Appellant requested that that the CAS "*suspend the proceedings while we wait to understand who now represents the Iraq Football Association (IFA)*". The Appellant's letter attached an email from the FIFA Secretary General in which it is stated that on 10 February 2020, the Bureau of the FIFA Counsel decided that, in accordance with Article 8(2) of the FIFA Statutes, a "normalisation committee" would be appointed for the IFA. The mandate of the normalisation committee includes: "*running of IFA's daily affairs*" and "*organising and conducting the elections of a new IFA Executive Committee for a four-year mandate*".
109. On 17 February 2020, the IFA was invited to inform the CAS Court Office within seven days whether it agrees to suspend the proceedings.
110. On 24 February 2020, the CAS Court Office informed the parties that, in the absence of any objection from the IFA, the present procedure was suspended.
111. On 2 September 2020, the General Secretary of the IFA, Mr Mohammed Farhan Obaid, informed the CAS Court Office that "*the IFA Normalisation Committee has decided ... to terminate all type of relations*" with its counsel, Mr Nezar Ahmed.

112. On 6 September 2020, Mr Nezar Ahmed sent a six-page letter to the CAS Court Office, copied to the FIFA General Secretary. Mr Ahmed contended that he had been instructed by the IFA General Assembly to act on behalf of the IFA and that the Normalisation Committee “does not have the authority to revoke my mandate”. Mr Nezar Ahmed further alleged *inter alia* that the IFA “is at [the] moment under the full control and siege of none other than the Appellant- Mr. Adnan Darjal ([now] the Iraqi Minister of Youth and Sport) using the [Normalisation Committee] as a proxy to run the IFA affairs”.
113. On 25 September and 6 October 2020, the Appellant wrote the CAS Court Office requesting the resumption of these proceedings and for the Sole Arbitrator to render his Award.
114. On 28 September 2020, the CAS Court Office informed the parties of the resumption of the present procedure.

IV. SUBMISSIONS OF THE PARTIES

115. The parties have submitted a large volume of written argument, supplemented by numerous exhibits, oral submissions and witness testimony. What follows is a concise summary of the legal arguments advanced by the parties on the issues of jurisdiction, admissibility and the merits. This summary is not exhaustive and contains only those arguments the Sole Arbitrator considers necessary to give context to the decision he reaches in each of the sections below in relation to the jurisdiction of the CAS to hear the case, the admissibility of the appeal and the merits of the dispute. For the avoidance of doubt, the Sole Arbitrator has carefully considered all of the written and oral submissions of the parties, including the exhibits and witness testimony.

A. Jurisdiction

116. The Appellant’s submissions on the issue of jurisdiction may be summarised as follows:
- a. The jurisdiction of the CAS stems from Articles 60(3), 62 and 63 of the IFA Statutes. The dispute arose within the IFA and concerns a member of a club, namely the Appellant.
 - b. Paragraph 50 of the Appeal Committee Decision expressly recognises that it is “appealable” before the CAS.
 - c. Additionally, the jurisdiction of the CAS is confirmed by Articles 95, 98(5), 124(5) and 134(4) of the Disciplinary Code.
 - d. Moreover, in its correspondence addressed to the CAS concerning this matter, the IFA has not objected to the jurisdiction of the CAS to decide the case.
117. The IFA’s submissions on the issue of jurisdiction may be summarised as follows:

- a. The existence of a valid arbitration agreement must be determined according to Article 178(2) of the Swiss Private International Law Act, according to which an arbitration agreement is only valid if it is in compliance with the law chosen by the parties, the law applicable to the merits, or Swiss law.
- b. Under Swiss law, it follows from Article 1(1) and 2(1) of the Swiss Code of Obligations that an agreement is concluded only if the parties have, reciprocally and by mutual assent, expressed their common intent on essential points.
- c. In view of Article 62 of the IFA Statutes, the IFA's offer to arbitrate this matter before the CAS is not absolute, but rather a conditional offer the existence and performance of which depends upon the contingency that the Appellant does not submit the dispute to domestic courts.
- d. Since the Appellant had already submitted the dispute between the parties to a domestic court, the IFA's offer to arbitrate the same dispute before the CAS is no longer in existence. Accordingly, the CAS has no jurisdiction to determine the appeal.
- e. The Sole Arbitrator's scope for review is limited to Decision 32 on the basis that:
 - i. The Appellant only appealed Decision 32 to the Appeal Committee; he did not appeal Decision 29A. Therefore, the decision under appeal in these proceedings (the Appeal Committee Decision) only addressed Decision 32, not Decision 29A. As a result, the Appellant has failed to exhaust all internal channels of the IFA and the CAS has no jurisdiction to set aside Decision 29A. Moreover, the CAS' scope of review does not extend to separate decisions rendered by the IFA (*i.e.* Decision 29A).

118. In further written observations dated 31 January 2019, the Appellant argued that:

- a. The IFA's argument that the CAS cannot issue a decision concerning the non-existence of Decision 29A is "*misplaced and illogical*".
- b. The Appeal Committee Decision refers to both Decision 29A and Decision 32 (although it is contended by the IFA that the former does not exist).
- c. It follows from the principle of *de novo* review enshrined in Article R57 of the Code that the Sole Arbitrator has the power to determine whether Decision 29A was actually ever rendered.

119. In further written observations dated 16 April 2019, the IFA argued that:

- a. The Appellant failed to appeal against Decision 29A internally within the IFA and instead decided to seek redress before the Iraqi courts.
- b. The Appeal Committee Decision did not deal with Decision 29A "*in any material and binding way*".

- c. It follows, in accordance with Article R47(1) of the Code and Article 63(1) of the IFA Statutes, that the CAS has no jurisdiction to review any matter in connection with Decision 29A, let alone set it aside.
- d. In view of Article R57 of the Code, the Sole Arbitrator lacks the power to interfere with Decision 29A.

B. Admissibility

120. With regard to the applicable time limits, the Appellant's submissions may be summarised as follows:

- a. Article R49 of the Code provides that, in the absence of any indication under the rules of the federation or association concerned, the time limit for filing an appeal before the CAS shall be 21 days from receipt of the decision under challenge.
- b. The Appeal Committee Decision was rendered on 30 July 2018 and notified to the Appellant that same day.
- c. The Statement of Appeal was filed on 20 August 2018, within the applicable time limit.
- d. The IFA's suggestion that there is a seven-day time limit to submit an appeal by virtue of Article 40 of the Disciplinary Code is erroneous.
- e. The Disciplinary Code does not contain any specific time limit applicable to appeals before the CAS, in respect of a decision rendered by the Appeal Committee. Article 40 of the Disciplinary Code applies exclusively to *internal* remedies within the IFA, *i.e.* appeals against decisions rendered by the Disciplinary Committee to the Appeal Committee. In this regard, Part I of the Disciplinary Code makes no reference to the CAS, which is mentioned only in Part II.
- f. Furthermore, the inapplicability of Article 40 of the Disciplinary Code was recognised by the IFA in a letter to the CAS dated 19 August 2018, in which it acknowledged the Appellant's wish to appeal against the Appeal Committee Decision before the CAS and stated that: "*Such new appeal, if it has not already been filed, is expected to be filed on 20 August at the latest (i.e. tomorrow)*".
- g. Had the IFA considered the applicable time limit to be seven rather than 21 days, it would not have expected the appeal to be filed with the CAS on 20 August 2018 (*i.e.* 21 days after notification of the Appeal Committee Decision) but rather the IFA would have stated that the time limit to appeal had already expired.
- h. As to the filing of the Appeal Brief, Article R51 of the Code provides that this must be done "[w]ithin ten days following the expiry of the time limit for the appeal". However, in light of the period of suspension of that time limit, as communicated by the CAS Court Office on 28 August 2018, the Appeal Brief was filed on time.

121. The IFA's submissions on the applicable time limits may be summarised as follows:
- a. A time limit set out in the statutes and regulations of a federation takes precedence over the default 21-day time limit specified in Article R49 of the Code.
 - b. Pursuant to Articles 40 to 43 of the Disciplinary Code, the time limit for appealing a decision rendered by an IFA judicial body is seven days (beginning on the day after notification or announcement of the decision).
 - c. The Appeal Committee is one of the judicial bodies of the IFA, together with the Disciplinary Committee and the Ethics Committee. This is recorded in Article 57(1) of the IFA Statutes and Article 94 of the Disciplinary Code.
 - d. Article 43 of the Disciplinary Code is clear that the seven day time limit does not only apply to appeals against decisions of the Disciplinary Committee, by referring to appeals against "*decisions of the judicial bodies*", which encompasses the Appeal Committee.
 - e. Accordingly, the seven day time limit stipulated in Articles 40, 42 and 43 of the Disciplinary Code is applicable to both *internal* and *external* appeals, in respect of decisions rendered by the "*judicial bodies*" of the IFA.
 - f. The seven-day time limit is not extendable.
 - g. The Appellant received a copy of the Grounds of the Appealed Decision on 30 July 2018, meaning that the time limit for appealing the Appealed Decision to the CAS expired on 6 August 2018. The Appellant's appeal to the CAS, which was filed on 20 August 2018, was therefore filed late and is inadmissible.
 - h. As regards the Appellant's reliance on the IFA's letter of 19 August 2018, the IFA had inferred that the Appellant was proceeding on the assumption that the applicable time limit for filing his appeal with the CAS was 21 days from 30 July 2018. However, this correspondence did not constitute an express acknowledgement on the part of the IFA of the inapplicability of Articles 40 to 43 of the Disciplinary Code to the present case. On the contrary, in the same letter, it was stated that "*should the CAS decide in favour of setting these new proceedings in motion*", which was intended to be a reference to Article R49 of the Code, which empowers the President of the Appeals Arbitration Division not to initiate a procedure if a statement of appeal is filed late.
 - i. The Appellant requests the CAS "*to declare the nonexistence of decision no. 29A of 21 June 2018*". However, according to Swiss law, "*a request for declaratory relief is notably admissible when Appellant is threatened by an uncertainty concerning either its rights or those of third parties, and that such uncertainty can only be clarified with a declaratory award setting out the existence and content of the relationship*". The IFA Statutes and Disciplinary Code provide the Appellant with legal means to clarify whether or not Decision 29A existed by a way of an appeal against it before the Appeal Committee, "*but through his own fault he decided not to*

appeal". Therefore, it cannot be said that the alleged uncertainty surrounding Decision 29A "*can only be clarified with a declaratory award or his legal action to obtain the same is limited*". Thus, the CAS has no jurisdiction in relation to Decision 29A and the Appellant's request for declaratory relief is inadmissible.

C. Merits

122. With regard to the merits of the dispute, the Appellant's submissions can be summarised as follows:

- a. The IFA's investigation into the Appellant is unfounded and was carried out to prevent him from participating in the Election as a representative of Al Zawra'a during the voting process and attending the electoral meeting.
- b. As to Decision 29A:
 - i. The Appellant did not become aware of the purported Decision 29A until 17 July 2018 when he received the Grounds relating to Decision 32.
 - ii. Whereas the Decision 32 is signed by six members of the Disciplinary Committee, the Grounds are signed only by the IFA Secretary General, who has "*no judicial power within the IFA system and is therefore not entitled to issue any decision on behalf of the relevant judicial committees*".
 - iii. The General Secretary of Al-Zawra'a has stated that the club did not receive any communications from IFA bodies other than those relating to Decision 32 and the Appeal Committee Decision.
 - iv. The Chairman and Deputy Chairman of the Disciplinary Committee (Mr Helatah and Mr Qais Muhammad Aswad al-Taie respectively) have given testimony before the Rusafa Investigation Court confirming that the Disciplinary Committee did not issue Decision 29A.
- c. The Appeal Committee Decision is invalid, null and void on the basis that:
 - i. Whereas their names are indicated on the first page of the Appeal Committee Decision, three out of five members of the committee were not informed of the meeting to discuss the Appellant's case and did not take part in the decision-making process.
 - ii. It was not signed by the members of the Appeal Committee.
 - iii. Two members of the Appeal Committee resigned following "*this clear mismanagement within the IFA system of justice*".

- iv. Even assuming that the Appeal Committee Decision is actually signed by the Chairman of the Appeal Committee alone (*quod non*), the decision would still be invalid because there is no provision within the Disciplinary Code that allows the Appeal Committee to “*decide as a single judge*”. To the contrary, Articles 100 and 101 of the Disciplinary Code mandate that (i) meetings are only valid with the presence of half the members plus one; and (ii) decisions shall be taken by a simple majority (*i.e.* half the members plus one).
- d. Moreover, the Appeal Committee Decision is based on “*unfounded legal arguments*” on the basis that:
 - i. Allegations of falsified documents issued by Al-Wakrah Sport Club in Qatar (“Al-Wakrah”) are completely unfounded. All of the documents submitted by the Appellant to the IFA in support of his candidacy for the Election were genuine and the information contained therein was truthful.
 - ii. A letter sent from Al-Wakrah states that the Appellant had competences of an administrative nature and worked in the club “*in the period from 2008 to 2018 as a Technical & Administrative Manager for the first football team of the Club*”.

123. The IFA’s submissions on the merits of the dispute can be summarised as follows:

- a. Article 33(4) of the IFA Statutes require members of the IFA Executive Committee *inter alia* to have been active in football and have no less than five years’ experience in the administrative aspects of association football, of which at least three years shall be within the ten years immediately preceding their election.
- b. The Appellant left Iraq for Qatar in around 1995. After a two-week visit to Iraq in February 2018, the Appellant returned just six days before the expiry of the deadline for the submission of candidatures for the Election.
- c. The Appellant submitted his candidature for the Election on 25 March 2018. The materials included: (i) documents issued by Al-Wakrah; (ii) a nomination letter from Al-Zawra’a; (iii) a certificate of residence; and (iv) a written declaration confirming that the Appellant has not been found guilty of any criminal offences and that all documents submitted are authentic and correct.
- d. The Appellant has engaged in “*a pattern of persistent cheating and deceiving*”. For example, there is no record that the Appellant was a member of Al-Zawra’a and the Appellant has failed to submit documentation establishing his alleged affiliation with Al-Zawra’a.
- e. The Appellant’s employment with Al-Wakrah was terminated in March 2014 and he has not filed any evidence corroborating his claim that he worked as head coach and administrative manager of the first team from 2014 until 2018.
- f. There is concrete evidence that the Appellant had no employment relationship of any kind with Al-Wakrah since 12 March 2014 and the Appellant was employed by Al-

Wakrah on an intermittent basis only as the coach of the club's first team in the period from 2008 until 2014. This evidence includes:

- i. Internet searches, including on Wikipedia, Transfermarket and YouTube, reveal that the Appellant did not work at Al-Wakrah after 12 March 2014.
 - ii. On 12 March 2014, the Appellant made a statement on the official homepage of the Qatar Stars League, announcing his retirement as coach of the first team of Al-Wakrah.
 - iii. The Appellant also made statements to the media in November 2014 that he was abandoning the coaching profession.
 - iv. The Qatar Football Association has been unable to confirm whether the Appellant worked as a technical consultant at Al-Wakrah from July 2014.
 - v. The Appellant's contracts of employment show that he did not perform the administrative duties as set out in a letter received from Al-Wakrah.
 - vi. The IFA could not find any record of the Appellant's activities on the AFC database after 2014.
 - vii. It is not credible that the Appellant has worked for Al-Wakrah from 28 February 2008 until 31 May 2014 without remuneration.
 - viii. When the Disciplinary Committee requested proof that the Appellant worked for Al-Wakrah from 2014 to 2018, he requested the management of Al-Wakrah to provide a letter which was "*dated retroactively to 15 July 2014*". This letter is printed on the present-day letterhead of Al-Wakrah. It is not technologically possible to print a new letterhead on a document that has been stored electronically after conversion from the paper original (*i.e.* PDF, RIFF, JPEG, GIF).
 - ix. There were also discrepancies in the email addresses on the letters from Al-Wakrah. The email address printed on the letter allegedly dated 15 July 2014 did not exist before July 2016.
 - x. The Appellant has given an inconsistent account of his relationship with Al-Wakrah.
 - xi. The letter from Al-Wakrah submitted by the Appellant in support of his candidature "*was a replica of the letter the legal counsel of IFA sent to him (word by word)*".
- g. The three-year ban imposed on the Appellant is justified under the terms of Articles 9(j), 90 and 121(3) of the Disciplinary Code.

- h. The disciplinary proceedings did not have the aim of preventing the Appellant from attending the Elective Congress on 31 May 2018 and there is *“absolutely no link between the opening of the disciplinary procedure [...] and the Appellant’s filing of case CAS 2018/A/5719”*. In any event, the Appellant had no intention of attending the Elective Congress.
- i. On 17 July 2018, the Appellant was formally notified of the terms and reasons of Decision 29A and Decision 32 in accordance with Article 102 and 124 of the Disciplinary Code.
- j. Specifically, with regard to Decision 29A of the Disciplinary Committee:
 - i. The IFA did not *“forge”* Decision 29A. It was rendered by the Disciplinary Committee on 21 June 2018 after a two and a half hour meeting during which five cases were deliberated.
 - ii. The Chairman of the Disciplinary Committee (Mr Helatah) appeared on television that night and detailed the Committee’s deliberation. The Chairman and Deputy Chairman of the Disciplinary Committee further announced the decision to the media the next day.
 - iii. The Chairman of the Disciplinary Committee and his deputy gave false evidence about Decision 29A to the Rusafa Investigation Court.
 - iv. Footage of the meeting of the Disciplinary Committee was also aired on television on 21 June 2018.
 - v. The Disciplinary Committee issued a press release that was distributed by the IFA Media Department to 1,221 Iraqi and foreign media outlets, and posted on the official Facebook webpage of the IFA.
 - vi. The Appellant was aware of Decision 29A because he made a statement to the press on 22 June 2018 stating that *“I did not receive a formal notification from the Disciplinary Committee of its decision banning me from taking part in any sport-related activity for five years nor do I have any information about what the media are talking about”*. He also discussed Decision 29A at length on a television talk show on the same date.
 - vii. The Appellant’s mentor appeared on a television show on 23 June 2018 to complain about Decision 29A during which he *“had a copy of the entire case file and the reasons based on which the Disciplinary Committee rendered its decision”*.
 - viii. When the Appellant lodged his appeal to the Appeal Committee, he paid the fee for two appeals (*i.e.* in relation to Decision 29A and Decision 32). The Appellant informed the IFA that he was paying the fee in relation Decision 29A in advance, as he intended to appeal that decision upon receiving formal notification of it.

- ix. The Secretary General of the IFA confirmed that Decision 29A was validly issued in a letter dated 20 January 2019 to the Rusafa Investigation Court. The IFA interviewed three members of the Disciplinary Committee (Mr Qais Hamil, Mr Muhamed Abid Ali and Mr Jasib Naeem) and they confirmed that they decided to ban the Appellant from taking part in football-related activities for five years.
 - x. Even if the Appellant prevails in questioning the existence of Decision 29A, the IFA *“will simply submit the case, once more, to the Disciplinary Committee for consideration and formal decision”*.
- k. As to Decision 32 of the Disciplinary Committee:
- i. During the investigation phase relating to Decision 29A, the Appellant submitted a document that was retroactively dated to 15 July 2014 for the purposes of obstructing justice. As a result, the Disciplinary Committee held another meeting during which it banned the Appellant from taking part in all football-related activities for three years for obstructing justice (*i.e.* Decision 32) to be served concurrently with the Appellant’s five-year ban (*i.e.* Decision 29A).
 - ii. Following receipt of Decision 32, the Appellant held a four-hour meeting with the Chairman of the Disciplinary Committee (Mr Helatah) without the permission of the IFA. The Appellant and Mr Helatah thereafter met on several occasions and engaged in frequent phone conversations. As a result of these contacts, Mr Helatah *“finalized a plan to overturn Decision no. 32”*. The Appellant also *“enticed”* Mr Helatah *“by sponsoring a training camp for the team of Taji Club at Babylon Resort”*. Thereafter, on 13 July 2018, the Appellant and Mr Helatah jointly participated in a television programme (the Appellant by telephone).
 - iii. On 6 August 2018, Mr Helatah appeared on eight sports talk shows claiming that the Disciplinary Committee did not meet on 21 June 2018 and did not issue Decision 29A.
- l. In relation to the Appeal Committee Decision:
- i. The Appeal Committee Decision was legally rendered and signed by the Chairman of the Appeal Committee.
 - ii. By virtue of Article 60(1) of the IFA Statutes and Article 97 of the Disciplinary Code, the Chairman of the Appeal Committee may rule alone in certain cases. In view of these provisions, on 30 July 2018 *“the Chairman of the Appeal Committee decided to rule alone regarding the appeal filed by the Appellant”*.

- iii. The Chairman of the Appeal Committee set out his reasons for ruling alone in this case, namely: (i) the Appellant appealed Decision 32 before receiving the reasons; and (ii) the Appellant did not file an appeal brief challenging the substantive elements of the decision. This left the Chairman of the Appeal Committee with no choice but to confirm the decision under appeal. The circumstances of this case justify the decision of the Chairman of the Appeal Committee to rule alone.
- iv. On the same day, the IFA General Secretariat notified the Appellant of the terms of, and reasons for, the Appeal Committee Decision pursuant to Articles 102 and 124 of the Disciplinary Code.
- v. Pursuant to the requirements of Article 124(1) of the Disciplinary Code, the first page of the Appeal Committee Decision lists the names of all members of the committee irrespective of whether they took part in the decision-making process.
- vi. Even if the Appeal Committee Decision was irregularly issued (*quod non*), the Sole Arbitrator has the power under Article R57 of the Code to either refer the case back to Appeal Committee or decide the case in a full rehearing.
- vii. Setting aside the Appeal Committee Decision does not automatically lead to lifting the sanction imposed on the Appellant. In order to lift this sanction, the Appellant must persuade the Sole Arbitrator to annul Decision 32 of the Disciplinary Committee.
- viii. The Appellant's challenge to the Appeal Committee Decision did not meet the requirements of Article 129 of the Disciplinary Code because it was not a petition containing the claim as well as the reasons and proof.
- ix. As a result of the Appellant failing to file a "*substantiated appeal brief*", he "*did not place the Chairman of the Appeal Committee in a position to call the full house of the Appeal Committee to review his appeal since in the absence of a substantiated appeal brief, there is nothing to be reviewed or deliberated*". Therefore, the Chairman of the Appeal Committee "*had no other choices but to rule alone and confirm the findings of the Disciplinary Committee*".
- x. The Appeal Committee Decision should be confirmed by the Sole Arbitrator and not interfered with.

D. Requests for relief

124. As to the Appellant's motions for relief, paragraph 34 of the Appeal Brief requests the CAS to:

- “(iv) Uphold the appeal and set aside the Appealed Decision and any other relevant and consequent act adopted by IFA bodies with reference to the Disciplinary Case no. 413/20; Ascertain that the only Disciplinary Decision adopted by the IFA Disciplinary Committee is Decision No. 32 issued on 25 June 2018, which has been confirmed by IFA Appeal Committee with the Decision no. 12 issued on 30 July 2018; declare that the Appellant has not committed any violation of the IFA Disciplinary Code and lift all the sanctions imposed on him and/or take any other decision it may be suitable for the same purpose.*
- (v) Order Respondent to bear the costs of the present proceedings and to contribute to the Appellant’s legal expenses”.*

125. The IFA’s request for relief is set out in paragraph 270 of the Answer as follows:

“IFA respectfully requests the Court of Arbitration for Sport to issue an award:

- 1) holding the present appeal is belatedly filed;*
- 2) holding that the CAS has no jurisdiction to hear the present appeal;*
- 3) holding that the CAS has no jurisdiction to hear any matters in connection with the decision of IFA Disciplinary Committee no. 29A of 21 June 2018;*
- 4) rejecting the Appellant’s request for declaratory judgment that the only Disciplinary Decision adopted by IFA Disciplinary Committee is Decision No. 32 issued on 25 June 2018;*
- 5) confirming the Decision under Appeal;*
- 6) rejecting the appeal; and*
- 7) for the effect of the above, condemn the Appellant have to bear any and all the cost of the present arbitrations, as well as to pay to the Respondent any and all costs and expenses incurred in connection of this procedure, including – without limitation – legal fee, expenses and any eventual further costs”.*

V. JURISDICTION

126. Article R47 of the Code provides that:

“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.

An appeal may be filed with CAS against an award rendered by CAS acting as a first instance tribunal if such appeal has been expressly provided by the rules of the federation or sports-body concerned”.

A. Conclusion on the issue of jurisdiction

127. Article 60(3) of the IFA Statutes expressly provides for the mandatory jurisdiction of the CAS in relation to appeals against decisions of the Appeal Committee:

“Decisions pronounced by the Appeal Committee may only be appealed to the Court of Arbitration for Sport in Lausanne, Switzerland, or to a national, independent Arbitration Tribunal in accordance with the provisions in these Statutes”.

128. The position is further confirmed by:

- a. Article 95 of the Disciplinary Code, which provides that: *“Decisions passed by the Appeal Committee may be appealed against before the Court of Arbitration for Sport (CAS)...”.*
- b. Article 98(4) of the Disciplinary Code, which states that: *“The decisions of the Appeal Committee are final and can only be appealed before CAS”.*
- c. Paragraph 50 of the Appeal Committee Decision, which provides that: *“In accordance with article 60(3) of the IFA Statutes, this decision is subject to appeal before the Court of Arbitration for Sport, in Lausanne”.*

129. It is not in dispute that the appealed decision in this case was purportedly rendered by the Appeal Committee.

130. In view of the provisions set out above, the Sole Arbitrator cannot accept the IFA’s submission that the Appellant’s decision to pursue criminal proceedings in Iraq has somehow vitiated the IFA’s offer to arbitrate. There is no provision in the IFA Statutes or the Disciplinary Code by which an Appeal Committee decision can be challenged before the domestic courts in Iraq. The effect of Article 60(3) of the IFA Statutes and Articles 95 and 98(4) of the Disciplinary Code is that Appeal Committee decisions can be appealed *only* to the CAS, to the exclusion of all other fora, including domestic courts. In any event, the Iraqi proceedings concern the criminal liability of certain individuals who are not party to these proceedings. The criminal proceedings in Iraq are distinct from these proceedings.

131. The IFA also submits that the scope of the Sole Arbitrator’s jurisdiction *ratione materiae* is limited to reviewing the validity of Decision 32 because the Appellant failed to appeal Decision 29A to the Appeal Committee and is now out of time to do so. According to the IFA, as a result: (i) the CAS has no jurisdiction to set aside Decision 29A; and (ii) the appeal in relation to Decision 29A would be inadmissible because the Appellant failed to exhaust internal remedies as required by Article 95 of the Disciplinary Code and Article R47 of the Code.

132. The IFA accepts that *“the Appellant was not directly notified at that time of the terms of Decision no. 29A”*. The Appellant was notified of the terms of Decision 29A only when he received a document dated 17 July 2018 setting out the terms of, and reasons for, both Decision 29A and Decision 32.

133. In his petition of appeal to the Appeal Committee, dated 24 July 2018, the Appellant noted *inter alia* that:

“Your book referred to above may contain the reasons for the issuance of the decision of the Disciplinary Committee No. (32) on 25/6/2018, and also included in an unusual way to the existence of a second penalty No. (29/a) on 21/6/2018. We are not officially informed of this, on the one hand, and on the other hand, it is not permissible to include the causes of the decision in the same case. In particular, the head of the Disciplinary Committee, Mr. Taba Abd-Halatab, categorically denied the sentence contained in the reasons of the decision No. 29 / / 2018 by the Committee and this is fixed through his statements to the media and televised in this regard. In spite of this, we would like to inform you of our full reservation to this decision, while maintaining all legal defenses against it”.

134. By reason of the manner in which Decisions 29A and 32 were communicated to the Appellant, and the express terms of the Appellant’s petition of appeal (quoted above), the Sole Arbitrator determines that:

- a. The Appellant’s petition of appeal dated 24 July 2018 encompassed an appeal against both Decision 29A and Decision 32.
- b. The Appeal Committee should have, and failed to, address the Appellant’s petition of appeal in relation to Decision 29A.

135. By virtue of Article R57 of the Code, the Sole Arbitrator has “*full power to review the facts and the law*” and may “*issue a new decision which replaces the decision challenged or annul the decision and refer the case back to the previous instance*”. In circumstances where the Appeal Committee has failed to adequately address an appeal filed by a petitioner, Sole Arbitrator is bound to review the decision by reference to the totality of circumstances brought to the attention of the Appeal Committee by the petitioner, including all the evidence submitted. In the present case, the circumstances and evidence includes the “*the existence of a second penalty*” (*i.e.* Decision 29A).

136. It follows from the above that the Sole Arbitrator is satisfied, without any doubt, that the CAS has jurisdiction to determine this appeal, including in relation to the sanction purportedly imposed by Decision 29A.

VI. ADMISSIBILITY

137. Article R49 of the CAS 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 his decision after considering any submission made by the other parties”.

138. Article R51 of the CAS Code provides as follows:

“Within ten days following the expiry of the time limit for the appeal, the Appellant shall file with the CAS Court Office a brief stating the facts and legal arguments giving rise to the appeal, together with all exhibits and specification of other evidence upon which it intends to rely. Alternatively, the Appellant shall inform the CAS Court Office in writing within the same time limit that the statement of appeal shall be considered as the appeal brief. The appeal shall be deemed to have been withdrawn if the Appellant fails to meet such time limit...”

A. Conclusion on the issue of admissibility

139. The IFA argues that the Appellant’s appeal is time-barred on the grounds that:

- a. Article 43 of the Disciplinary Code provides for a seven-day time limit for *“appealing the decisions of the judicial bodies”* (which by virtue of Article 40 is not extendable).
- b. The Appeal Committee is one of the three *“judicial bodies”* defined in Article 57(1) of the IFA Statutes and Article 94 of the Disciplinary Code.
- c. The Appellant received the grounds of, and reasons for, Decision 29A and Decision 32 on 30 July 2018.
- d. The Appellant filed his appeal to CAS on 20 August 2018, 14 days after the expiry of the seven-day time limit.

140. The Appellant contends that the provisions of the Disciplinary Code apply only to *internal* IFA remedies, not *external* appeals to the CAS.

141. The Sole Arbitrator notes that Article 60(3) of the IFA Statutes, which deals expressly with appeals against decisions of the Appeal Committee to the CAS, does not specify a time limit for the filing of a Statement of Claim. The provisions of the Disciplinary Code relied upon by the IFA fall within Part I of the Disciplinary Code (*“Substantive Law”*), in Chapter 1 (*“General Part”*), Section 1 (*“Conditions for sanctions”*). There is no reference to the CAS in Part I of the Disciplinary Code.

142. By contrast, Article 95 of the Disciplinary Code, which falls under Part II (*“Organization and procedure”*), Chapter 1 (*“Organization”*), Section 2 (*“Authorities”*) makes express reference to the challenge of Appeal Committee decisions before the CAS:

“Decisions passed by the Appeal Committee may be appealed against before the Court of Arbitration for Sport (CAS). However, recourse may only be made to CAS once all internal channels of IFA have been exhausted”.

143. Whereas Article 43 of the Disciplinary Code refers to *“judicial bodies”* without qualification, the Sole Arbitrator is of the view that this provision, as drafted, refers only to *internal* appeals within the IFA. The positioning of Article 43 within Part I of the Disciplinary Code

(addressing the substantive law applicable to appeals) as opposed to Part II (governing the more general matters of “*organization and procedure*”) tends to confirm that the seven-day time limit is not intended to apply beyond the *internal* IFA dispute settlement mechanism.

144. The Sole Arbitrator is fortified in his conclusion by the view expressed by counsel for the IFA in a letter dated 19 August 2018. This states that the IFA was “*expecting*” the Appellant to file his appeal “*on 20 August 2018*” (*i.e.* within the default 21-day time limit imposed by Article R49 of the Code).
145. In the view of the Sole Arbitrator, it cannot be overlooked that both Article 60(3) of the IFA Statutes and Article 95 of the Disciplinary Code – which are the provisions that deal expressly with appeals against decisions of the Appeal Committee before the CAS – are both silent in relation to the applicable time limit. In view of the above, the Sole Arbitrator interprets this silence as an intention on the part of the drafters of the IFA Statutes and the Disciplinary Code that the default 21-day time limit is applicable for appeals against Appeal Committee decisions to the CAS.
146. The Appellant’s Statement of Appeal was filed on 20 August 2018. This is within the time limit imposed by Article R49 of the Code.
147. The Appellant’s Appeal Brief was filed on 15 September 2018, within the 10-day deadline imposed by Article R51 of the Code (bearing in mind the suspension of the time limit on 28 August 2018).
148. It is observed that there are no alternative legal remedies available to the Appellant under the IFA Statutes or Disciplinary Code. In these circumstances, the requirement under Article 63(1) of the IFA Statutes and Article R47 of the Code to exhaust all legal remedies is satisfied.
149. Accordingly, the Sole Arbitrator concludes that the appeal is admissible.

VII. APPLICABLE LAW

150. Article R58 of the Code provides as follows:

“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”.

151. The “*applicable regulations*” in this case are primarily the IFA Statutes adopted at the IFA Congress in Baghdad on 20 May 2017 and, by virtue of Articles 58 and 60 of the IFA Statutes, the Disciplinary Code.
152. There is no express choice of law in the IFA Statutes. The Sole Arbitrator therefore finds that Swiss law is subsidiarily applicable to the dispute. In accordance with the Private International

Law Act (PILA), which applies in these proceedings, mandatory provisions of Iraqi law that govern the status and organisation of the IFA may also be taken into account on the basis that the IFA has been established pursuant to the laws of Iraq and is registered in Baghdad.

VIII. MERITS

A. Witness testimony and oral evidence

153. At the hearing, the Sole Arbitrator heard evidence from the Appellant, four witnesses for the Appellant, and two witnesses for the IFA.

154. As is often the case, the witness testimony was most instructive, touching on matters that go to the heart of this appeal. Although most witnesses had submitted written testimony in advance of the hearing (except for Mr Darjal, Mr Musa, and Mr Alkharasani), the oral evidence laid bare a number of serious allegations which, surprisingly, had not featured with particular clarity in the voluminous written submissions, letters and exhibits filed by the parties. The witness testimony was, at times, deeply troubling, imbued with a capacity to unsettle, astonish and disturb.

155. What follows is a summary of the witness evidence and oral testimony.

a. *Mr Adnan Darjal*

156. In his oral testimony, Mr Darjal described his long and distinguished career in football both in Iraq and Qatar. He left Iraq in 1995, following a dispute with Uday Hussein (the son of Iraq's then President, Saddam Hussein), which led to Mr Darjal being imprisoned for a short period on two occasions. In the course of imprisonment he was subject to gross mistreatment. Mr Darjal stated that after his release he left Iraq and made his way to Qatar, where he was appointed technical and administrative director of Al-Wakrah. More than two decades passed before he felt able to return to Iraq, in 2017. Mr Darjal offered the following account and explanation:

“Before 2003 and after 2003 the political situation did not encourage me to return. I was following matters and my heart was broken because of the situation in Iraq. I did not want to come back and see for myself the dire situation in Iraq, what I had heard from my colleagues and what I saw on TV channels. But finally I decided that I have to go back. In October 2017, I participated in a programme on [...] channel, the presenter asked me: until when are you going to stay outside the country? When are you going to return? [...] At that moment, when he asked me the question, tears started to fall. I felt at that moment that the fact that we are outside the country makes us irresponsible. We have to take responsibility even if we are outside the country. So I decided to go back to my country. When I came back, I never expected it... it was like I was in a dream. I had been away for 22 years from my country and yet the love I saw from people amazed me. And through my visits to provinces in Iraq, including Al-Anbar province which is in the western part of the country, which was very much harmed by ISIL terrorist group. [...] I wanted to go to Anbar, the capital, to see how people were actually living. There was nobody in the streets. They were all in the stadium. When I entered into the stadium, there were more than

10,000 fans. They were all basically welcoming Adnan Darjal and saying ‘welcome Adnan’. [...] It was as though I had brought happiness and smiles to these people. When I walked the streets, people asked me to come back to the country, they said ‘we need you’. [...] One woman asked me: why did you leave us alone among these horrendous people? Until when will you be outside the country and we remain alone? I was unable to answer her, but tears were falling. So all this basically pushed me to come and participate in the elections and contribute to the reforms that were needed...”.

157. Mr Darjal went on to describe *inter alia* his professional experience during the period 2008 to 2018. He said that as technical director of Al-Wakrah he was responsible for “*many, many functions*” including a great number of administrative tasks. This encompassed the selection of coaches and players and the provision of medical apparatus. Mr Darjal also said that there had been four directors under his charge, for whom he was responsible.
158. Mr Darjal acknowledged that he obtained a certificate from Al-Wakrah describing his role, which was modelled on a template provided to him by counsel for the IFA. This was because the template described “*exactly the type of work*” he had been carrying out.
159. Under cross-examination by counsel for the IFA, Mr Darjal asserted that his role at Al-Wakrah involved administrative functions in that he was in charge of “*everything to do with football*”. When asked about his contract of employment, he acknowledged that it did not include all of the functions he was tasked with. Mr Darjal said that his relationship with Al-Wakrah stretches across a period of 22 years.
160. When questioned about the letter from Al-Wakrah dated 15 July 2014, Mr Darjal said that the letter was stored on a computer and printed in 2018 on paper with a new version of the club’s letterhead.
161. During the course of Mr Darjal’s oral testimony, and in response to questions from the Sole Arbitrator, counsel for the IFA submitted that the Appellant was lying about his role at Al-Wakrah and had failed to produce any or adequate evidence to show he had been anything more than a coach. However, under questioning from the Sole Arbitrator, counsel for the IFA accepted that a football coach has administrative functions.

b. *Mr Taha Abd Helatah*

162. Mr Helatah had been the Chairman of the Disciplinary Committee at the time Decision 29A and Decision 32 were purportedly adopted.
163. In a letter dated 24 July 2018 sent to Mr Darjal, Mr Helatah states that the Disciplinary Committee issued Decision 32 unanimously, but that the Committee “*did not issue any other decision in relation to you, except for the Decision No (32)*”. Mr Helatah goes on to state that:

“...all grounds requested by the Committee have been removed through the documents you sent, which were approved by Al-Wakrah SC upon ensuring their validity. If the case file is returned by IFA, the Committee will review the decisions and take an appropriate decision in this regard according to the norms and regulations”.

164. At the hearing, counsel for the IFA (Mr Nezar Ahmed) was invited to cross-examine Mr Helatah pursuant to the procedure described in paragraph 94 above. Before asking any questions, Mr Nezar Ahmed played a two-minute video clip, which featured Mr Helatah giving an interview on television to members of the press. During that interview, Mr Helatah can be heard to say:

“The Disciplinary Committee rendered several decisions today. The first of which was banning Captain Adnan Darjal from taking part in any football-related activity for five years according to articles 79, 80 and 121 of the Disciplinary Code. Further to the scrutiny of all the documents and information submitted to IFA, the General Secretariat and with the assistance of the experts of IFA and the electoral committee had found that these documents are unauthentic to be accepted as official documents as there are existed serious doubts about their validity and for many of these documents the doubts are formal. Therefore, we are as the members of Disciplinary Committee after deliberating the matter decided unanimously to ban Captain Adnan Darjal from taking any part in any football-related activity for five years, within, I mean, the Iraqi Football Association”.

165. After playing this video clip, Mr Nezar Ahmed proceeded with his cross-examination of Mr Helatah, which is reproduced immediately below.

Mr Nezar Ahmed: *Was that video interview given by you on 21st of June 2018? I want ‘yes’ or ‘no’ please.*

Mr Helatah: *This interview took place based on instructions of Mr Nezar. I had a phone conversation with you for more than one hour and you instructed me ...*

Mr Nezar Ahmed: *I asked one question please. Answer my question.*

Mr Helatah: *I didn’t have the dossier in my own hands and therefore I depended on what you said since you are an advisor for the IFA and I was confident... [inaudible] and I have a very good relationship with the President of IFA and therefore when I spoke to you, you told me that these documents... This statement was made in a stadium where there were 11 channels of the journalist who were present and, therefore, Mr Nezar should have revealed the whole interview, and not just part of it. I had said that the non-cooperation of Mr Adnan Darjal...*

Mr Nezar Ahmed: *I never asked him this question.*

Mr Helatah: *... and the fact he had not sent any replies to the letters that were sent to him...*

Sole Arbitrator: *Very good. But if I could ask the witness Mr Helatah to be responsive to the questions put by Mr [Nezar Ahmed]. We have a struggle with time.*

Mr Nezar Ahmed: *Did you say in that video that the Disciplinary Committee rendered today several decisions the first of which was banning captain Adnan Darjal from taking part in any football-related activities for five years according to articles 79, 80 and 121 of the Disciplinary Code? Yes or no?*

- Mr Helatah: *I told the decision to Mr Nezar and not the Disciplinary Committee.*
- Sole Arbitrator: *Sorry, the question was: did he say this, yes or no?*
- Mr Nezar Ahmed: *Yes or no, please.*
- Mr Helatah: *Yes, I did say that but I hadn't taken a decision.*
- Mr Nezar Ahmed: *It's fine. I will ask a question.*
- Mr Helatah: *Later on it appeared...*
- Sole Arbitrator: *Let's let Mr [Nezar Ahmed] continue. There will be a chance Mr Helatah for counsel for the Appellant to ask you questions in response afterwards.*
- Mr Nezar Ahmed: *Did you say in that video the following statement: we are, as the members of the Disciplinary Committee, after deliberating the matter, decided unanimously to ban captain Adnan Darjal from taking any part in any football-related activities for five year? Yes or no?*
- Mr Helatah: *[Starts to speak in Arabic]*
- Mr Nezar Ahmed: *I am not asking for an explanation.*
- Sole Arbitrator: *If he could first answer the question: did he say it?*
- Mr Helatah: *I said, and I repeat, that this was said after consulting ... I had not written down one single letter.*
- Mr Nezar Ahmed: *But you said it?*
- Mr Helatah: *Usually we made a declaration to the media before writing down something and a few moments later, the truth was revealed that Mr Adnan Darjal had replied to all the letters received.*
- Sole Arbitrator: *Thank you for that, but if you could just respond to Mr [Nezar Ahmed's] questions. Counsel for the other side will then have a chance.*
- Mr Nezar Ahmed: *Do you have any record that you can share with us today that on 21 June 2018, Nezar Ahmed called you? I have my cellphone by the way...*
- Mr Helatah: *Mr Arbitrator, I was in contact by phone with Mr Nezar on a daily basis. Sometimes until midnight and even until the early hours of the morning...*
- Mr Nezar Ahmed: *Do you have a record?*

- Mr Helatah: *... and since I had a lot of confidence, I depended on his words because I didn't have the file, but he claimed the file was in the hands of the Electoral Committee. And once I had certain information that that file was in the hands of IFA, I made a counter-statement that he should have revealed.*
- Mr Nezar Ahmed: *Ok. My question: do you have any record that Nezar Ahmed was talking with you everyday? Do you have the record?*
- Mr Helatah: *I have a phone in Baghdad. But I know that the court is very fair and I know what it has decided previously in favour of justice, especially the honourable Arbitrator here present. I have full trust that...*
- Mr Nezar Ahmed: *[To the Sole Arbitrator] I would like to request you to order him to produce the record of the calls...*
- Sole Arbitrator: *Let's come to that later. You put your questions to him. You said you only had two questions for him, so far you have had four.*
- Mr Nezar Ahmed: *How was Mr Nezar speaking to you? By which means?*
- Mr Helatah: *On the 29th the President of IFA, Mr Abdul Khaliq [Masoud] called me and told me that you have to be present tomorrow at the IFA headquarters. And indeed I arrived at headquarters at 10:30 in the morning. I found the President of IFA waiting for me. When I arrived he said that there were violations on the part of Mr Adnan Darjal regarding the elections and since you have the competence according to article 134 to prevent him from participating and attending the elections. I told him where is the dossier, the file, concerning Mr Adnan Darjal? He said you are going to get a call from outside the country, from a lawyer called Nezar, and indeed, I was still in the room of the President of IFA and about to leave the room and at the door Mr Nezar called me.*
- Sole Arbitrator: *Okay. Next question please. Final question Mr Nezar.*
- Mr Nezar Ahmed: *The last question. All the details about Mr Nezar calling you every day and then your meeting with the President and giving instructions, how come you didn't mention them in your written statement, or your testimony to the Rusafa ... why are you just saying this today?*
- Mr Helatah: *I was asked whether I had signed a decision that has been called, in brackets, Nezar's decision, which is Decision 29. I said we had signed only one decision, number 32. Regarding Decision 29, you have to ask Mr Nezar how this decision was issued.*
- Mr Nezar Ahmed: *But that is not even mentioned in your testimony.*
- Mr Helatah: *The judge didn't ask me to do so.*

- Sole Arbitrator: *Thank you. I am going to ask counsel for the Appellant, but only in relation to what Mr [Nezar] asked...*
- Mr Civile: *I start from three questions of Mr Nezar. I put three questions to him. Mr Nezar asked to the witnesses if he made the interview. And he replied yes. Mr Nezar asked: did you say in the video that the disciplinary committee took several decisions including one concerning Mr [Darjal] with the five-year ban. He said yes. And still again, the last question...*
- Sole Arbitrator: *I was here, I did see all of that...*
- Mr Civile: *So, three questions he replied yes. Why?*
- Mr Helatah: *[Starts to speak in Arabic]*
- Mr Civile: *Why did you make the interview? Why you spoke about the five-year ban? Why you spoke about the case of Mr [Darjal] in interview on TV?*
- Sole Arbitrator: *We've had your question, let's hear his answer.*
- Mr Helatah: *I said yes based on instructions from Mr Nezar. Because I didn't have the file. I don't know anything. So I depended on him because he is the advisor and the consultant of IFA and I have been working with him for three years. The problem is because he said the sanction ... one of the journalists who was present, he told me that I had said that Mr Adnan Darjal had never sent any answers and replies to the letters of IFA. I said not at all. All he has done is send replies to be provided to IFA. We saw it. But they had been hidden. I immediately cancelled the meeting and I said just as I made the declaration I will do another declaration. And I said I was misled because of the mutual high respect that I had in the President of IFA and Mr Nezar, since he is confident person, and despite information I received, Mr Nezar is the complainant. So he is the one filing the complaint and he is the judge at the same time.*
- Mr Civile: *So just to understand, in this video you said that there was a decision number 29 on 21 June. Did you sign it or not? You took this decision or not? Because it is not clear from the interview.*
- Mr Helatah: *None of the members of the committee signed this decision number 29. This is the draft decision, sent by Mr Nezar Ahmed, and I am a General in the ministry of interior and also a director of a club. I cannot write 10 pages in English and in Arabic and I am sure that you will know this requires other kinds of competencies, but it is God's will that revealed the truth. And therefore, I am here before the court. There is no more confidence between me and Mr Nezar.*
- Mr Civile: *You are saying that Mr Nezar sent this decision to you to be signed?*

- Mr Helatah: *When we went to IFA, once I received call from Waleed Tabra, who told me that the President of IFA and Mr Nezar wanted this decision to reach the CAS and therefore wanted it to be signed and in a matter of urgency. I went to IFA. But another member was already there when I arrived. The other person went to Waleed Tabra. He saw the two draft decisions sent by Mr Nezar just to be signed, as though we had no existence. In all honesty and faithfulness, due to the high pressure exerted on me by the President of IFA, and since the Vice President of the Committee is an employee in IFA, as well as the Secretary who works in the Referee Committee, he is in the IFA. Since they are all working within IFA, and since I have a lot of confidence in my colleagues, therefore we wanted to accelerate things. But a problem took place. As we were speaking in the room, somebody knocked on the door, the first Vice President of IFA, Mr Haydar Sharar, told me literally, you have to take the decision. Five minutes later, 12 persons marched into the room, who are fans of the Air Force Club, without any authorisation and there was some kind of heated ... that almost led to the directing a weapon on each other. Therefore I left IFA, the President of IFA contacted me, apologised, and he said bear with us, but we want a decision.*
- Sole Arbitrator: *Can I just ask, is Mr Helatah still the head of the Disciplinary Committee today?*
- Mr Helatah: *I presented by resignation.*
- Sole Arbitrator: *When did he resign?*
- Mr Helatah: *In July 2018.*
- Sole Arbitrator: *Why did he resign?*
- Mr Helatah: *Because of the misleading. Because facts and information was hidden from me. I am sure that all members of IFA are not concerned, but the President was informed. He and Mr Waleed Tabra and Mr Nezar Ahmed, they knew.*
- Sole Arbitrator: *What about Decision 32? What are his feelings today about Decision 32?*
- Mr Helatah: *I believe that the main objective of Decision 32 is for Mr Adnan to ratify the documents. And indeed, Sheikh Khalifa, who is the President of Al-Wakrah Club, contacted me once I had summoned Mr Adnan Darjal and I sat with him 6 hours. And during these 6 hours when I sat with him, I did not try to be friendly because I have responsibility in IFA. But I saw that there was a misleading process in order to pass these decisions and to deprive him from participating in the elections.*
- Sole Arbitrator: *Why did he think there was a desire to prevent him from participating in the elections?*
- Mr Helatah: *Mr Adnan Darjal is a big symbol in Iraq. I do not want to comment. He made a goal against South Korea. Iraq celebrated that goal until the early hours of the morning. And despite the war that was waged with Iran, it brought smiles and*

happiness. The only happiness we obtained was from captain Adnan [Darjal]. I blame myself for having taken hasty decision.

Sole Arbitrator: *But, he didn't quite answer my question which was: why are they trying to stop Mr Adnan? Why is someone trying stop Mr Adnan from becoming a candidate?*

Mr Helatah: *Mr Adnan Darjal has a long experience in administrative work. We are roughly the same age. I have witnessed that he has been a successful administrator. He has been very faithful with lots of pocket money. And, therefore, we would like, not me personally but people in general ... he was requested to become a candidate. And if Mr Adnan Darjal had won the election, happiness would prevail all around Iraq because he is a person, he is a name.*

Sole Arbitrator: *But it seems that not everyone likes Mr Darjal. It seems there were some people who did not wish 'happiness to prevail' according to Mr Helatah.*

Mr Helatah: *We are looking forward to and expecting good tides from you...*

Sole Arbitrator: *But, he is still not answering my question, which is...*

Mr Helatah: *If he participates in the election, he will win.*

Sole Arbitrator: *But, that is not my question. My question is: who is stopping him from being a candidate and why?*

Mr Helatah: *Mr Nezar Ahmed and the President of IFA blocked him.*

Sole Arbitrator: *Why?*

Mr Helatah: *Because if he participates in the election he will be a strong competitor to the President of IFA.*

Sole Arbitrator: *So it is a personal dispute in a sense... it is about power?*

Mr Helatah: *Yes. This is what I believe.*

c. Mr Khalid Ibraheem Al-Mahdawi, Mr Odaj Jawad Al-Lami and Mr Mohammed Saleem Aal Musa

166. Following the evidence of Mr Helatah, the Sole Arbitrator heard evidence from three former members of the IFA Appeal Committee, including the former Deputy Chairman. Somewhat surprisingly, counsel for the IFA stated that he did not have any questions for these three witnesses and stated: *"I waive my right to cross-examine them"*.

167. Bearing in mind the likely probative value of their testimony, and the great distance travelled from Iraq to attend the hearing, the Sole Arbitrator asked questions for the purpose of ascertaining the weight to be attached to their written accounts.

i. *Mr Al-Mahdawi*

168. In his witness statement dated 9 August 2018, Mr Al-Mahdawi states that he was (at the relevant time) Deputy Chairman the Appeal Committee. He was “*surprised of a decision by the Appeal Committee*” by which the Appellant was banned from administrative work for three years and then for five years. Mr Al-Mahdawi goes on to state that:

“I did not know about such a decision and did not see it or participated in making or signing it. Moreover, members of the Appeal Committee did not sign it, while the decision was issued under names of the Appeal Committee. In the light of the above, I tendered my resignation from membership of the Appeal Committee on 31/07/2018, as I did not know anything about such a decision and did not examine the related file”.

169. In his oral testimony, Mr Al-Mahdawi said that the Chairman of the Appeal Committee could not be the chairman because he was already a member of the IFA. As a result, Mr Al-Mahdawi worked “*as though I was the Chairman*”. Mr Al-Mahdawi’s response to the Sole Arbitrator’s questions are set out immediately below.

Sole Arbitrator: *Are you aware of a document that is known as Decision 32?*

Mr Al-Mahdawi: *The Decision which ratified the sanction against Mr Adnan Darjal based on his objection. The Disciplinary Committee should have referred that to us because we are the higher appeal committee and our decision is binding and it is a final decision. But we were surprised. We were surprised because this decision was issued as though we had issued it. Our names were on it and we had not issued that decision.*

Sole Arbitrator: *When did you first hear about the decision that was issued in your name?*

Mr Al-Mahdawi: *We heard about it when it was declared as being a decision issued by us. We had not.*

Sole Arbitrator: *Have you ever before had your names used in issuing a decision in which you have not participated? Was this the normal way of issuing an appeal decision?*

Mr Al-Mahdawi: *This is an unnatural practice.*

Sole Arbitrator: *Has it ever happened before? Yes, or no?*

Mr Al-Mahdawi: *No. It was the very first time.*

Sole Arbitrator: *How did you react when you found out about it?*

Mr Al-Mahdawi: *When we came to know that this was a falsified decision we resigned as a way of showing our objection for what is claimed to have been our decision, when in reality we haven’t seen it, we haven’t talked about it, we haven’t met for the purpose of that decision.*

Sole Arbitrator: *Can you explain your understanding of how this happened?*

Mr Al-Mahdawi: *Through forgery. Because that person who carried out...*

Sole Arbitrator: *Who was that person?*

Mr Al-Mahdawi: *... was referred to the Iraqi courts. Mr [inaudible] from IFA and somebody else.*

Sole Arbitrator: *On who's behalf was that person acting?*

Mr Al-Mahdawi: *The Secretary of IFA. He was condemned by the President of the court. He was sentenced with a fine of one million Iraqi Dinars. That decision then was appealed and the higher court that looks into appeals amended this accusation from a simple violation and listed it as a violation that deserves 15 years of imprisonment. And this higher court that looked into the appeal ...*

[Interruption from counsel for the IFA]

[Mr Al-Mahdawi asks not to be interrupted]

Mr Al-Mahdawi: *As a consequence, the court that looked into the appeal asked the competent judge who had sent him this appeal to refer it once again to the criminal court that looks into sanctions of 15 years of imprisonment.*

Sole Arbitrator: *What, if any – and I stress the words if any – was the role of the President of IFA in the adoption of Decision 32.*

Mr Al-Mahdawi: *The President of IFA, he is an administrative person in charge of all of IFA. No decision can be taken without his knowledge. When he came to know about our decision to resign, he tried to convince us to withdraw our resignations, but we refused.*

170. By way of re-examination, Mr Al-Mahdawi was asked by counsel for the Appellant whether the Disciplinary Code allows the Chairman of the Appeal Committee to rule alone and to sign a decision alone. Mr Al-Mahdawi said that this had never happened before and was not allowed.

ii. *Mr Al-Lami*

171. In his witness statement dated 9 August 2018, Mr Al-Lami states that he was a member of the Appeal Committee until his resignation on 31 July 2018. He too was surprised by the issuance of a decision without his signature by which the Appellant was banned from football-related activities for three years and five years. Mr Al-Lami adds that “*we did not know about such a decision*” and that “*we did not sign approval of any punishment and did not see any file on the subject*”. He notes that he resigned because “*our Committee used to operate professionally and neutrally away from any pressures and dictations*”.

172. In his oral testimony, Mr Al-Lami stated that the Disciplinary Committee refers appeals to the IFA Secretary General (Dr Sabah Redha Jebur) and the file would then be passed to the

Appeal Committee. Ordinarily, at least half of the Appeal Committee (plus one member) would meet and discuss the case after which Mr Al-Lami would draft the decision. The members would sign the decision and it is referred to the Secretary General, who will decide to ratify or reject the decision.

173. Mr Al-Lami stated that on 30 July 2018, he heard from colleagues that the Appeal Committee had met and issued a decision. He was “*surprised not to have been notified that a meeting had taken place*”. Mr Al-Lami said that he contacted three of his colleagues who all told him that there had been no such meeting. He later received a 29-page decision, ratified by the Secretary General, with a preamble stating that the Appeal Committee had convened a meeting at which he and Mr Al-Mahdawi were said to have been present. He described this as “*forging my will*” and that this had never happened before.
174. Mr Al-Lami further stated that when he presented his resignation at the IFA headquarters, the Secretary General and Mr Waleed Tabra sought to convince him to withdraw his resignation and offered him certain incentives.

iii. Mr Musa

175. Mr Musa, also a former member of the Appeal Committee, had not submitted any written testimony. At the hearing, the Sole Arbitrator asked Mr Musa if the testimony of Mr Al-Mahdawi and Mr Al-Lami was consistent with his understanding of events. Mr Musa answered: “*100%*”.

d. Mr Mohammed Seleim

176. Mr Seleim was initially on the Appellant’s list of witnesses; however, he did not attend the hearing to give oral evidence. However, there is a signed statement from Mr Seleim exhibited to the Appellant’s Statement of Appeal in which he states that he was a member of the Appeal Committee but did not know anything about a meeting of the committee to review Decision 32.

e. Mr Zayed Khalaf Hamid Al-Musawi and Mr Hussein Qasim Jeneen Alkharasani

177. The Sole Arbitrator heard evidence from two witnesses for the IFA: Mr Al-Musawi (the manager of the IFA International Relations Department) and Mr Alkharasani (the IFA Media manager).
178. Mr Al-Musawi was cross-examined on the issues of: (i) his access to the AFC administration system (ii) the powers of the IFA Secretary General; and (iii) his role in the IFA investigation into the Appellant. The evidence of Mr Al-Musawi did not shed much light on the matters in dispute between the parties. Likewise, the oral evidence of Mr Alkharasani, while relevant in relation to a separate appeal brought by the Appellant (CAS 2018/A/5824) did not touch on matters pertinent to the present case.

179. It should be noted that Mr Waleed Tabra, despite featuring on the IFA’s list of witnesses up until 5 May 2019, and in relation to whom a number of allegations have been made, did not attend the hearing.

B. Conclusion on the merits

a. The Appeal Committee Decision

180. It is striking that nowhere in the Appeal Committee Decision, which extends to more than 25 pages, does it give any indication that it was adopted by the Chairman of the Appeal Committee acting alone, as the testimony during the hearing made crystal clear was the case. To the contrary, the text of the decision strongly – and in a grossly misleading way – suggests that it was adopted by the Appeal Committee acting as a whole. In particular, the following aspects are deeply troubling:

- a. The names of all five Committee members appear on the front page under the words “*The composition of the Appeal Committee*”, despite the fact that most of them had no involvement in the decision.
- b. It is also stated on the first page that “*the Appeal Committee*” held a meeting in Baghdad on 1 July 2018, despite the fact that this was not true.
- c. The operative part of the Appeal Committee Decision inaccurately and misleadingly refers throughout to the findings of “*the Appeal Committee*”.
- d. The document is signed at the bottom by “*The Appeal Committee*” as a collective, although this was not the case.

181. In its Answer, the IFA asserts that the Chairman of the Appeal Committee reviewed the Appellant’s appeal petition “*alone without reverting to the other members of the Appeal Committee*”. The IFA relies on a four-page document entitled “*Terms and reasons of the decision of the Appeal Committee of 30 July 2018*” (the “*Terms and Reasons*”). In contrast to the Appeal Committee Decision, this document is signed by “*Sattar Jabar Zuair, Chairman, The Appeal Committee*”. Paragraph 1 of the Terms and Reasons provides that:

“In accordance with article 60 para. 1 of the Statutes of the Iraqi Football Association (IFA), which empowers the chairman of the Appeal Committee to rule alone without reverting to the members of the Appeal Committee if the circumstances of the case so necessities, the chairman of the Appeal Committee has decided to review the appeal lodged by Mr. Adnan Darjal Motar Al-Robiye (Appellant), dated 1 July 2018, against the decision of the Disciplinary Committee no. 32 of 25 June 2018 and rule alone without reverting to the members of the Appeal Committee in view of the following reasons: 1) The Appellant appealed the decision under appeal before receiving its reasons and this alone suffices to dismiss his appeal as a matter of form, and 2) the Appellant did not file an appeal brief challenging the substantive elements of the decision leaving the Appeal Committee or its chairman no choice but to confirm the decision under appeal. This development justifies the decision of the chairman of the Appeal Committee to rule alone due to the absence of issues requiring deliberation by the members of the Appeal Committee”.

182. On 24 July 2018, the Appellant duly filed his petition of appeal against Decisions 29A and 32, comprising four pages and setting out a number of reasons for which he contends both decisions are incorrect and/or invalid. In the view of the Sole Arbitrator, the appellant's petition of appeal meets the requirements of Article 129(2) of the Disciplinary Code, by which: *"The petition shall include the claim as well as the reasons and means of proof and be signed by the appellant or his representative"*. It follows that the reasons advanced in paragraph 1 of the Terms and Reasons, which purportedly prompted the Chairman to act alone, are not made out.
183. As indicated in the first sentence of the text quoted in paragraph 181 above, Article 60(1) of the IFA Statutes does indeed provide that: *"In certain cases, as specified in the relevant regulations, the chairman may rule alone"*. Those *"certain cases"* are expressly specified in Article 97(4) of the Disciplinary Code as follows: *"If the circumstances of the case necessitates, the chairman may rule alone"*.
184. The Sole Arbitrator recalls by virtue of Article 100(1) of the Disciplinary Code, Appeal Committee meetings must be attended by *"at least three members"*. Likewise, Article 101 provides that decisions of the Appeal Committee *"must be passed by a majority (more than 50%) of the members present"*. These provisions lay out the default position to be adopted in all cases, save where *"the circumstances of the case [necessitates]"* within the meaning of Article 97(4). A hypothetical example of a case necessitating the Chairman to act alone may be where an urgent decision is required and no other members can be reached, including by telephone, videoconference or any other similar method in accordance with Article 123 of the Disciplinary Code.
185. The Sole Arbitrator has carefully weighed up the oral testimony and written evidence of four members of the Appeal Committee: Mr Al-Mahdawi, Mr Al-Lami, Mr Aal Musa and Mr Seleim. As counsel for the IFA decided not to put any questions to three of these witnesses, their evidence stands largely unchallenged.
186. The Sole Arbitrator concludes without hesitation that Mr Al-Mahdawi, Mr Al-Lami, Mr Musa and Mr Seleim played no part in the adoption of the Appeal Committee Decision. To the knowledge of Mr Al-Mahdawi and Mr Al-Lami, the Chairman of the Appeal Committee had never before taken a decision alone, thereby excluding all other members of the Committee. The Sole Arbitrator notes that this was an *"unnatural practice"*, and considers that this amounted to *"forging [the] will"* of committee members. He concludes, on the basis of the testimony, that the decision was *"falsified"* in the sense that it purported to be a decision of the Appeal Committee as a whole.
187. Upon reviewing the circumstances of this case, the Sole Arbitrator can see no reason – and the IFA has failed to show any good reason – that could possibly have necessitated the Chairman of the Appeal Committee to exclude all other members of the committee from participating in the adoption of the Appeal Committee Decision.
188. This decision, concerning an appeal against two decisions by which the Appellant was banned from football-related activities for a cumulative period five years, should have been based on careful and detailed consideration by the Appeal Committee, in accordance with the quorum requirements of Articles 100 and 101 of the Disciplinary Code.

189. On the basis of all the evidence in these proceedings, the Sole Arbitrator is bound to conclude that the Appeal Committee Decision was motivated solely by a desire to prevent the Appellant from participating in the activities of the IFA. The issuing of the Appeal Committee Decision in the absence of four members of the Committee, and framing it in terms that give the impression that it was issued by the Appeal Committee as a whole, was wholly misleading, inaccurate and fraudulent. It is a clear, flagrant and egregious violation of *inter alia* Articles 97(4), 100 and 101 of the Disciplinary Code and Article 60(1) of the IFA Statutes.
190. It follows that the Appeal Committee Decision is invalid, null and void.

b. *Decision 29A of the Disciplinary Committee*

191. For the reasons explained in paragraphs 131-135 above, the Sole Arbitrator must also review Decision 29A. The Sole Arbitrator was somewhat concerned by the evidence of Mr Helatah, in particular his admission that he had publicly announced sanctions against the Appellant without any first-hand knowledge or direct evidence of misconduct on the part of the Appellant. However, the Sole Arbitrator accepts his evidence that: “None of the members of the committee signed this decision number 29”. This is corroborated by *inter alia*:
- a. The written testimony of another member of the Disciplinary Committee (Mr Qais Muhammad Aswad) dated 6 September 2018 and addressed to the Rusafa Investigation Court, in which he states that whereas the Disciplinary Committee issued Decision 32, “*The Committee did not issue any other decision, including the decision 29/A dated 21/06/2018...*”.
 - b. The written testimony of the Chairman of the Appeal Committee (Mr Sattar Jabar Zuair) to the Rusafa Investigation Court dated 8 October 2018 in which he states that “*With regard to decision 29/A dated 21/06/2018, I only gave my legal opinion thereon, in accordance with the regulations of Iraq Football Association, while I did not see any decision under No. 29/A, as it was not available, and it was not issued by the disciplinary committee. I gave my opinion on the decision 29/A based on priorities of Iraq Football Association No. 7/1451 dated 17/7/2018. With regards to the letter No. 7/1547 dated 29/07/2018, and its attachment decision of the disciplinary committee of Iraq Football Association, I have no idea about it and I did not sign it and the appeal committee did not meet about it*”.
 - c. The written testimony of the IFA Secretary General (Dr Sabbah Redha Jebur) to the Rusafa Investigation Court dated 25 September 2018 in which he states that he did not know anything about Decision 29A. He testified that he had merely been informed about the issuing of Decision 29A, but was not given any written text of the decision. The Secretary General’s written testimony goes on to state that: “*We met at the Iraq Football Association and rejected the decision related to five (5) years, where we considered that decision as malicious. So the Committee met once against and issued the decision No. 32 dated 25/06/2018 [...] There is nothing about the decision No. 29/A to be appealed and checked by the Appeal Committee*”.

192. On the basis of the evidence in these proceedings – or rather the complete lack of any evidence in support of the decision purportedly taken – the Sole Arbitrator is bound to conclude that Decision 29A of the Disciplinary Committee, insofar as it may or may not exist, is invalid, null and void.

c. *The Sole Arbitrator’s decision on the alleged misconduct of the Appellant*

193. Pursuant to Article R57 of the Code, the Sole Arbitrator has carefully considered the submissions and evidence advanced by the parties in relation to the alleged acts of misconduct, falsification and dishonesty on the part of the Appellant.

194. The IFA has not put before the Sole Arbitrator any convincing evidence of any breach by the Appellant of Articles 79, 80 and/or 121(3) of the Disciplinary Code, or any other applicable rule or provision. The allegations of falsified documents and letters appear to be based largely on guesswork and speculative internet searches. Allegations of this nature – in particular forgery, falsification, deception and dishonesty – require cogent evidence. There is no such evidence in this case. It follows that the sanctions imposed on the Appellant by way of Decision 29A, Decision 32 and the Appeal Committee Decision are unsupported by any evidence and were purportedly taken on a wholly erroneous basis. They are to be treated as void *ab initio*, that is to say null and void and without any effect. As a result Mr Darjal cannot be treated as having been banned from carrying out football-related activities.

d. *Concluding remarks*

195. By way of conclusion, the Sole Arbitrator makes two final observations. First, it is a matter of concern that the IFA was represented in these proceedings (until 2 September 2020) by an individual against whom a number of serious allegations were made by the Appellant. This had the effect of blurring the distinction between the role of counsel and that of witness. The IFA would undoubtedly have been better served by retaining the services of a legal counsel who was not so inextricably linked with the acts of grave impropriety alleged by the Appellant and which, to a considerable extent, the Sole Arbitrator has concluded as being established by the evidence on the record.

196. Second, throughout this arbitration the Appellant and the IFA have made submissions and observations relating to various criminal proceedings and investigations in Iraq, including one pertaining to a sum of money donated to the IFA in 2012. These submissions and observations have not been addressed in this Award because they are not relevant to the subject matter of the Appellant’s appeal. For the avoidance of doubt, the Sole Arbitrator expresses no view on the propriety or merits of any criminal proceedings that have been held in Iraq or elsewhere, and which might in some way be alleged to be connected to matters before the CAS. Matters of criminal liability do not fall within the scope of the Sole Arbitrator’s review.

ON THESE GROUNDS

The Court of Arbitration for Sport rules that:

1. The CAS has jurisdiction to determine this appeal.
2. The appeal filed by Adnan Darjal Motar Al-Robiye on 20 August 2019 against the Iraq Football Association, with respect to Decision 12 of the Appeal Committee of the Iraq Football Association dated 30 July 2018, is upheld.
3. Decision 12 of the Appeal Committee of the Iraq Football Association dated 30 July 2018, upholding Decision 32 of the Disciplinary Committee of the Iraq Football Association dated 25 June 2018, is invalid, null and void.
4. The purported Decision 29A of the Disciplinary Committee of the Iraq Football Association dated 21 June 2018 is invalid, null and void.
5. All of the sanctions imposed by the Iraq Football Association by virtue of the above-mentioned decisions are hereby void *ab initio* and as a result Adnan Darjal Motar Al-Robiye is not banned from carrying out football-related activities.
6. (...).
7. (...).
8. All further requests for relief are dismissed.