



Arbitration CAS 2020/A/7266 Perak Football Association v. Jeon Hyoseok, award of 17 May 2021

Panel: Mr Hendrik Willem Kesler (The Netherlands), Sole Arbitrator

Football

Admissibility of an appeal

Condition to validly file a statement of appeal by email

Remedy of the default to validly file a statement of appeal by email

Excessive formalism

1. According to Article 31 second sentence of the CAS code, in the absence of the statement of appeal being uploaded to the CAS e-filing platform within the first subsequent business day of its transmission by electronic mail at the official CAS email address, the filing **by email alone** is not valid. While any difficulties successfully logging in to the CAS e-filing platform cannot be held against the appellant, any such alleged issues should be reported forthwith and established by the appellant on or before the time limit of upload of the statement of appeal on the CAS e-filing platform.
2. The mere fact that the CAS Court Office acknowledged receipt of the statement of appeal filed by email does not cure the appellant's default of failing to timely upload the statement of appeal to the CAS e-filing platform. Likewise, the appellant's inexperience with CAS proceedings does not cure its default, nor does the fact that it sought instructions from the CAS Court Office to ensure that the proceedings would go "*smoothly*". The content of Article R31 CAS Code is unequivocal and clear, also to inexperienced users. Moreover, by no means can the payment of the CAS Court Office fee or the advance of costs cure a procedural default since such payments are preconditions for the CAS to proceed with a case.
3. The upload of the statement of appeal to the CAS e-filing platform is not a mere administrative formality, but indeed a condition for the validity of the filing of such submission. This principle makes it possible to rule out the reproach of excessive formalism.

I. PARTIES

1. Perak Football Association (the "Appellant" or the "Club") is a professional football club with its registered office in Perak, Malaysia. The Club is affiliated with the Football Association of Malaysia (the "FAM"), which in turn is affiliated with the *Fédération Internationale de Football*

Association (“FIFA”).

2. Mr Jeon Hyoseok (the “Respondent” or the “Player”) is a professional football player of South Korean nationality.
3. The Club and the Player are hereinafter jointly referred to as the “Parties”.

II. FACTUAL BACKGROUND

4. Below is a summary of the main relevant facts, as established on the basis of the written submissions of the Parties and the evidence examined in the course of the proceedings. This background information is given for the sole purpose of providing a synopsis of the matter in dispute. Additional facts may be set out, where relevant, in connection with the legal discussion.
5. On 17 February 2020, the Player lodged a claim against the Club before the FIFA Dispute Resolution Chamber (the “FIFA DRC”), submitting that the Club had terminated their employment contract without just cause. The Player claimed compensation for breach of contract in the amount of USD 172,500 net from the Club, an additional amount of USD 30,000 due to the alleged egregious nature of the breach, plus interest, and that sporting sanctions be imposed on the Club.
6. The Club rejected the Player’s claim in full.
7. On 4 June 2020, the FIFA DRC rendered its decision (the “Appealed Decision”), with the following operative part:
 - “1. *The claim of the [Player] is partially accepted.*
 2. *The [Club] has to pay to the [Player] outstanding remuneration in the amount of USD 20,000, plus 5% interest p.a. as from 14 January 2020 until the date of effective payment.*
 3. *The [Club] has to pay to the [Player] compensation for breach of contract in the amount of USD 106,900 and CHF 710, plus 5% interest p.a. on the amount of USD 106,900 as from 17 February 2020 until the date of effective payment.*
 4. *Any further claim of the [Player] is rejected.*
 5. *The [Player] is directed to inform the [Club], immediately and directly, preferably to the e-mail address as indicated on the cover letter of the present decision, of the relevant bank account to which the [Club] must pay the amounts mentioned under points 2. and 3. above.*
 6. *The [Club] shall provide evidence of payment of the due amount in accordance with points 2. and 3. above to FIFA to the e-mail address [...], duly translated, if need be, into one of the official FIFA languages (English, French, German, Spanish).*

7. *In the event that the amounts due plus interest in accordance with points 2. and 3. above are not paid by the [Club] **within 45 days** as from the notification by the [Player] of the relevant bank details to the [Club], the [Club] shall be banned from registering any new players, either nationally or internationally, up until the due amount is paid and for the maximum duration of three entire and consecutive registration periods (cf. art. 24bis of the Regulations on the Status and Transfer of Players [i.e. the “FIFA RSTP”]).*
8. *The ban mentioned in point 7. above will be lifted immediately and prior to its complete serving, once the due amounts are paid”.*

8. On 24 June 2020, the grounds of the Appealed Decision were communicated to the Parties.

III. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT

9. On 15 July 2020, the Club filed a Statement of Appeal with the Court of Arbitration for Sport (“CAS”) against the Appealed Decision by email, also providing the CAS Court Office with a CAS e-filing registration form.
10. On 16 July 2020, the CAS Court Office acknowledged receipt of the Statement of Appeal filed by the Club, but noted that the Club had not paid the CAS Court Office fee and granted the Club an additional deadline to make the required payment, failing which the CAS Court Office would not proceed.
11. On the same date, 16 July 2020, the CAS Court Office provided the Club with the login details to the CAS e-filing platform.
12. On the same date, 16 July 2020, the Player enquired whether the Club *“actually appealed in a timely manner”*.
13. On 22 July 2020, the Club informed the CAS Court Office that it had paid the CAS Court Office fee on 17 July 2020, i.e. within the deadline set by the CAS Court Office in its letter dated 16 July 2020. The Club also enquired as follows:

“Additionally, the Appellant would like to know whether the Brief of the Appeal should be sent through email or uploaded to the Documents Library in CAS E-filing dashboard?”

If all cause papers are required to be uploaded to the Documents Library, the Appellant requests to disregard the documents sent through email on 15th July 2020 along with the E-filing form. The Appellant made some changes to the Statement of Appeal thus replacing the previous one.

Kindly instruct us on the deadline to upload/file the following papers:

1. *Brief of Appeal*
2. *Statement of Appeal and related documents”.*

14. On the same date, 22 July 2020, the CAS Court Office informed the Club as follows:

"I acknowledge receipt of your email of today, the content of which is duly noted.

I note that, up to date, you have not uploaded your Statement of Appeal on the CAS e-filing platform and the CAS Court Office has not received the original of the Statement of Appeal by courier within the prescribed deadline in accordance with Article R31 of the CAS Code. I further note that the time limit for appeal expired on 15 July 2020 and that you had therefore until 16 July 2020 to do so.

Consequently, I invite you to provide the CAS Court Office with a proof of sending / uploading your Statement of Appeal on the CAS e-filing platform within the relevant time limit by 27 July 2020. Please note that failing which, Article R31 of the CAS Code would apply".

15. On 27 July 2020, the Club informed the CAS Court Office as follows:

"I am having trouble logging in despite entering the correct password. Multiple requests to reset the password were also unsuccessful. No email received even in the spam folder".

16. On the same date, 27 July 2020, the CAS Court Office provided the Club with new login details.
17. On the same date, 27 July 2020, the Club uploaded an amended Statement of Appeal, its Appeal Brief and additional documents to the CAS e-filing platform.
18. On the same date, 27 July 2020, the Club sent an email to the CAS Court Office, informing the CAS Court Office that it had uploaded the afore-mentioned documents to the CAS e-filing platform.
19. On 6 August 2020, the Player enquired whether the Club had appealed in a timely manner and whether it had paid the advance of costs in a timely manner.
20. On 10 August 2020, the Club enquired the CAS Court Office as to the status of the proceedings.
21. On the same date, 10 August 2020, the CAS Court Office informed both Parties that it acknowledged receipt of the Statement of Appeal filed on 15 July 2020 and the Appeal Brief filed on 27 July 2020, and provided them with all the correspondence exchanged in the proceedings until that point in time.
22. On 13 August 2020, the Player requested the President of the Appeals Arbitration Division to take a preliminary decision declaring the appeal inadmissible for being filed late and requested that the matter be submitted to a sole arbitrator.
23. On 17 August 2020, FIFA renounced its right to request its possible intervention pursuant to Article R52(2) and R41.3 CAS Code.
24. On 18 August 2020, following a request from the Player to suspend the time limit for filing

the Answer until the Club paid the full advance of costs, and pursuant to Article R55(3) CAS Code, the time limit imposed for the filing of the Answer was set aside and the Parties were informed that a new time limit would be fixed upon the Club's payment of its share of the advance of costs.

25. On 21 August 2020, upon being invited by the CAS Court Office to do so, the Club responded to admissibility exception raised by the Player, requesting that it be dismissed.
26. On 3 September 2020, the Club enquired with the CAS Court Office whether the Player had timely filed his Answer.
27. On 7 September 2020, the CAS Court Office referred the Parties to the CAS Court Office letter dated 18 August 2020, whereby the Player's time limit to file an Answer was set aside in accordance with Article R55(3) CAS Code.
28. On 15 September 2020, the CAS Court Office informed the Parties that the President of the Appeals Arbitration Division had decide to leave the Player's objection to the admissibility of the appeal for the sole arbitrator, once constituted, to decide.
29. On 23 October 2020, following the payment of the entire advance of costs by the Club, the CAS Court Office imposed a deadline on the Player to file his Answer. Furthermore, in accordance with Article R54 CAS Code, and on behalf of the President of the CAS Appeals Arbitration Division, the CAS Court Office informed the Parties that the arbitral tribunal appointed to decide the present matter was constituted as follows:

Sole Arbitrator: Hendrik Willem Kesler, Attorney-at-Law, Enschede, the Netherlands
30. On 2 November 2020, the CAS Court Office informed the Parties that Mr Dennis Koolaard, Attorney-at-Law in Arnhem, the Netherlands, had been appointed as *Ad hoc* Clerk.
31. On 12 November 2020, the Player filed his Answer, pursuant to Article R55 CAS Code.
32. On 18 November 2020, the CAS Court Office acknowledged receipt of the Player's Answer and informed the Parties that the Sole Arbitrator had decided to grant the Club an opportunity to complete its observations with respect to the exception of admissibility raised by the Player.
33. On 19 November 2020, the Club informed the CAS Court Office as follows:

"We clarified in our letter, on 21 August 2020, the issues of inadmissibility and proved that we have successfully submitted our Appeal Brief and Statement of Appeal according to the time limit specified in the Code. All relevant documents have been uploaded to CAS e-filing system and acknowledged by CAS too.

Please verify if there is any step we missed or any documents we have yet to complete which did not comply with the Code".
34. On 20 November 2020, the CAS Court Office informed the Parties that the Club was granted with the opportunity to complete its previous observations, should it wish to do so, because

the Player's Answer contained a section on admissibility.

35. On 30 November 2020, the Club filed an additional submission addressing the admissibility exception raised by the Player, requesting that it be dismissed.
36. On 14 December 2020, the CAS Court Office informed the Parties that, upon careful review of the case file and the Parties' respective positions on the issue of admissibility of the appeal, the Sole Arbitrator deemed it appropriate to decide such issue by way of a preliminary/final decision, depending upon the final result of the decision. The Parties were also informed that, unless any objection from the Parties would be raised on or before 17 December 2020, the Sole Arbitrator would decide on such issue.

IV. SUBMISSIONS OF THE PARTIES

37. The Player's submission with respect to the admissibility of the appeal may be summarised as follows:
 - Pursuant to Article R49 CAS Code and since the grounds of the Appealed Decision were issued on 24 June 2020, the time limit to appeal for the Club expired on 15 July 2020.
 - The Club provides no evidence that the Statement of Appeal was notified before such deadline.
 - On 22 July 2020, the Club requested to "*disregard the documents sent through e-mail on 15 July 2020*" and attached an amended Statement of Appeal. It is not clear which documents were sent on 15 July 2020, however, it is clear that the Club revoked these documents and filed its Statement of Appeal on 22 July 2020.
 - Apart from this, the Club provides no evidence to support a timely transmittance by courier delivery of the Statement of Appeal as prescribed by Article R31 CAS Code.
 - Hence, it is to be concluded that the appeal is late and thus not admissible.
 - In the alternative, it is to be concluded that the Club did not file written submissions by courier on time in accordance with Article R31 CAS Code, failing which the CAS shall not proceed with the appeal.
38. The Club's submission with respect to the admissibility of the appeal may be summarised as follows:
 - It is acknowledged that the deadline to appeal expired on 15 July 2020, but the relevant documents have been filed within the time limit as acknowledged by the CAS Court Office.
 - According to Article R31 CAS Code, any appeal that is transmitted by facsimile or by electronic mail at the official CAS email address is valid upon receipt of the facsimile or of the electronic mail.

- The Club sent an email containing all the relevant documents for appeal on 15 July 2020.
- The reason the Statement of Appeal is dated 17 July 2020 is because, on 16 July 2020, the CAS Court Office sent an email with the login details to the CAS e-filing platform, to which the Club quickly responded by uploading the documents afresh.
- Nonetheless, *“the appeal that was submitted by e-mail earlier does not render the filing invalid. This is the first time the Appellant deals with such unfamiliar legal procedures and humbly apologizes for any inconveniences. Furthermore, the Appellant throughout its communications with CAS often asks for further directions and instructions to ensure the procedures go smoothly”*.
- With respect to the letter dated 22 July 2020, CAS approved the registration of e-filing after the submission of the Statement of Appeal and the Appeal Brief along with other documents, which the CAS Court Office acknowledged in its correspondence dated 16 July 2020.
- Realising that the use of the CAS e-filing platform had been approved, the Club proceeded to upload the same documents to the CAS e-filing platform and requested CAS to disregard the documents sent through email on 15 July 2020 to avoid any confusion.
- Following the direction from the CAS Court Office in its correspondence dated 22 July 2020, the staff in the office was also instructed to deliver the documents and its copies by courier which the Club believes have been received by CAS.

There is no doubt the Club abided by all the directions and instructions from CAS.

- Furthermore, the CAS Court Office would not entertain the submission if the Club lapsed the time limit, let alone instructed to pay the CAS Court Office fee and proceeded to request the *“Advanced Payment”*. The Club has also been asking for assistance and directions from the CAS Court Office since the whole legal procedures are alien to us.

V. JURISDICTION

39. The jurisdiction of CAS, which is not disputed, derives from Article 58(1) FIFA Statutes (2019 Edition), as it determines that *“[a]ppeals against final decisions passed by FIFA’s legal bodies and against decisions passed by confederations, member associations or leagues shall be lodged with CAS within 21 days of receipt of the decision in question”*, and Article R47 CAS Code. The jurisdiction of CAS is not contested.
40. It follows that CAS has jurisdiction to adjudicate and decide on the present dispute.

VI. ADMISSIBILITY

41. Besides determining that the forum to adjudicate and decide on an appeal filed against final decisions passed by FIFA’s legal bodies is CAS, Article 58(1) FIFA Statutes also provides that such appeal *“shall be lodged with CAS within 21 days of receipt of the decision in question”*.

42. The Sole Arbitrator considers it uncontroversial that this is an admissibility requirement.
43. It is common ground between the Parties that the *dies a quo* of the 21-day time limit commenced with the issuance of the grounds of the Appealed Decision on 24 June 2020 and that this time limit expired on 15 July 2020.
44. What is in dispute between the Parties is whether the Statement of Appeal filed by the Club by email on 15 July 2020 complied with the mandatory requirements for such filing to be valid.
45. Whereas the Club considers that its Statement of Appeal filed by email on 15 July 2020 was validly submitted upon receipt of the email, the Player submits that the Club failed to provide evidence of a timely transmittance of the Statement of Appeal by courier delivery as prescribed by Article R31 CAS Code (edition 2020).
46. Article R31 CAS Code provides, *inter alia*, as follows:
- “The request for arbitration, the statement of appeal and any other written submissions, printed or saved on digital medium, must be filed by courier delivery to the CAS Court Office by the parties in as many copies as there are other parties and arbitrators, together with one additional copy for the CAS itself, failing which the CAS shall not proceed. If they are transmitted in advance by facsimile or by electronic mail at the official CAS email address (procedures@tas-cas.org), the filing is valid upon receipt of the facsimile or of the electronic mail by the CAS Court Office provided that the written submission and its copies are also filed by courier or uploaded to the CAS e-filing platform within the first subsequent business day of the relevant time limit, as mentioned above.*
- Filing of the above-mentioned submissions by electronic mail is permitted under the conditions set out in the CAS guidelines on electronic filing”.*
47. The Sole Arbitrator notes that Article R31 CAS Code provides for two methods to validly file a Statement of Appeal:
1. Filing by courier alone;
 2. Filing by facsimile or electronic mail in advance.
48. It is not in dispute that the Club did not file its first Statement of Appeal by courier, so that the first method described in the first sentence of Article R31 CAS Code paraphrased *supra* is immaterial for present purposes.
49. It is also not in dispute that the Club filed its first Statement of Appeal by email on 15 July 2020, in accordance with the method described in the first part of the second sentence of Article R31 CAS Code paraphrased *supra*.
50. However, when reading the full sentence concerning the second method, it is apparent that the filing of the Statement of Appeal by email is only valid, “***provided that*** the written submission and its copies are also filed by courier or uploaded to the CAS e-filing platform within the first subsequent business day of the relevant time limit” (emphasis added by the Sole Arbitrator).

51. Accordingly, in the absence of the Statement of Appeal also being filed by courier or uploaded to the CAS e-filing platform within the first subsequent business day, the filing **by email alone** is not valid.
52. The Sole Arbitrator notes that the Club acknowledges that it did not file its first Statement of Appeal by courier on 15 or 16 July 2020, but maintains to have uploaded the Statement of Appeal on 17 July 2020, thereby allegedly quickly responding to the email from the CAS Court Office dated 16 July 2020 providing the Club with the login details to the CAS e-filing platform.
53. Despite the fact that, in accordance with Article R31 CAS Code, the Statement of Appeal should have been uploaded on 16 July 2020 at the latest, the alleged uploading of the Statement of Appeal to the CAS e-filing platform on 17 July 2020 may perhaps have been legitimate in view of the fact that a request to make use of the CAS e-filing platform may only be made after the opening of the arbitration proceedings by the CAS Court Office and because the email of the CAS Court Office of 16 July 2020 with the login details to the CAS e-filing platform was sent at 12:29 CET (19:29 Malaysian time), i.e. after close of business in the country where the Club and its legal representative are based.
54. Be this as it may, the Sole Arbitrator does not consider it necessary to decide on this issue as there is no evidence on file establishing that the Statement of Appeal was uploaded to the CAS e-filing platform on 17 July 2020.
55. There is only evidence on file proving that the amended Statement of Appeal was uploaded to the CAS e-filing platform on 27 July 2020 at 09:25 CET, which is clearly outside the 21-day time limit and therefore inadmissible.
56. Indeed, the Club's letter to the CAS Court Office dated 22 July 2020 appears to support the proposition that no documents were uploaded by the Club to the CAS e-filing platform on or before 17 July 2020, as the Club informed the CAS Court Office as follows:

"If all cause papers are required to be uploaded to the Documents Library, the Appellant requests to disregard the documents sent through email on 15th July 2020 along with the E-filing form".
57. In the same letter, the Club requested instructions from the CAS Court Office about the deadline to "upload/file" the Statement of Appeal, which again appears to confirm that it had not yet done so on 22 July 2020. Accordingly, contrary to the Player's assumption, the Club did not file an amended Statement of Appeal to the CAS Court Office on 22 July 2020.
58. This was subsequently confirmed by the CAS Court Office when informing the Club as follows by letter dated 22 July 2020, in reply to the Club's enquiry of the same date:

"I note that, up to date, you have not uploaded your Statement of Appeal on the CAS e-filing platform and the CAS Court Office has not received the original of the Statement of Appeal by courier within the prescribed deadline in accordance with Article R31 of the CAS Code. I further note that the time limit for appeal expired on 15 July 2020 and that you had therefore until 16 July 2020 to do so".

59. Finally, the Sole Arbitrator finds that the CAS Court Office's understanding that the Club had not uploaded its Statement of Appeal to the CAS e-filing system yet was confirmed by the Club's email dated 27 July 2020, indicating as follows:

"I am having trouble logging in despite entering the correct password. Multiple requests to reset the password were also unsuccessful. No email received even in the spam folder".

60. Without access to the CAS e-filing platform, the Club could obviously not have uploaded its Statement of Appeal. The Club argues that it only acquired access on 27 July 2020 and therefore could not have uploaded the Statement of Appeal on or before 17 July 2020.

61. The Sole Arbitrator finds that this correspondence contradicts the Club's contention that it had uploaded its Statement of Appeal to the CAS e-filing platform on or before 17 July 2020.

62. Furthermore, while any problems successfully logging in to the CAS e-filing platform cannot be held against the Club, the Sole Arbitrator finds that any such alleged issues should have been reported forthwith, i.e. at the latest on 17 July 2020, because that was the date that its deadline to do so certainly expired. A delay of 10 days in reporting alleged connection problems does not exculpate the Club from its failure to timely upload its Statement of Appeal to the CAS e-filing platform.

63. In any event, the Club failed to establish its contention that it faced difficulties logging in to the CAS e-filing platform on or before 27 July 2020, which the Club could for example have done by means of witness statements and/or screenshots.

64. The Sole Arbitrator also finds that the mere fact that the CAS Court Office, by letter dated 16 July 2020, acknowledged receipt of the Statement of Appeal filed by email on 15 July 2020, does not cure the Club's default of failing to timely upload the Statement of Appeal to the CAS e-filing platform, as the CAS Court Office by no means confirmed that the Club's Statement of Appeal had been validly filed in accordance with Article R31 CAS Code. Indeed, the CAS Court Office letter dated 22 July 2020 suggests that the Club did not comply with the requirements of Article R31 CAS Code: *"you have not uploaded your Statement of Appeal on the CAS e-filing platform and the CAS Court Office has not received the original of the Statement of Appeal by courier within the prescribed deadline in accordance with Article R31 of the CAS Code"*.

65. The Sole Arbitrator also considers that the Club's inexperience with CAS proceedings does not cure its default, nor does the fact that it sought instructions from the CAS Court Office to ensure that the proceedings would go *"smoothly"*, as the Club's fatal default already took place prior to seeking instructions from the CAS Court Office.

66. In this respect, the Sole Arbitrator does not accept that the invalid filing of the Club's Statement of Appeal was only a result of the Club's inexperience with CAS proceedings, because the Sole Arbitrator considers the content of Article R31 CAS Code to be unequivocal and clear, also to inexperienced users.

67. The Club's failure to abide by Article R31 CAS Code was not the only non-compliance with

the CAS Code. Indeed, the Statement of Appeal did not comply with certain other requirements set forth in the CAS Code, although it must be added that such deficiencies are not fatal and may be cured at a later stage in the proceedings. The Sole Arbitrator however considers such additional failures exemplary for the Club's ignorance of the procedural rules applicable:

- The Club failed to provide a “*copy of the provisions of the statutes or regulations or the specific agreement providing for appeal to CAS*” with its Statement of Appeal, as required by Article R48 CAS Code;
- The Club failed to pay the CAS Court Office fee when filing its Statement of Appeal, as required by Article R48 CAS Code;
- The Club failed to provide the CAS Court Office with a power-of-attorney (a written confirmation of representation), as required by Article R30 CAS Code.

68. Accordingly, rather than inexperience, it appears that the Club generally ignored the procedural requirements set forth by the CAS Code, and, as held by a Latin maxim, *ignorantia juris non excusat*, i.e. ignorance of the law does not excuse.

69. Furthermore, the Sole Arbitrator finds that the Club's argument that the CAS Court Office would not entertain the submission of the Club lapsed the time limit, let alone to instruct it to pay the CAS Court Office fee and the relevant advance of costs must be dismissed. Such payments are preconditions for the CAS Court Office to proceed with a case. By no means can the payment of the CAS Court Office fee or the advance of costs cure a procedural default from the Club.

70. Finally, the Sole Arbitrator does not consider that declaring the Club's appeal inadmissible is a result of excessive formalism and feels himself comforted in this respect by jurisprudence of the Swiss Federal Tribunal, in turn referring to other decisions of CAS and the Swiss Federal Tribunal, providing as follows:

“6.3. Selon la jurisprudence relative à l'art. 29 al. 1 Cst., il y a excès de formalisme lorsque des règles de procédure sont conçues ou appliquées avec une rigueur que ne justifie aucun intérêt digne de protection, au point que la procédure devient une fin en soi et empêche ou complique de manière insoutenable l'application du droit (ATF 142 I 10 consid. 2.4.2; 132 I 249 consid. 5 p. 253).

6.4. Le Tribunal fédéral a déjà eu l'occasion de préciser que le TAS ne faisait pas montre d'un formalisme excessif en sanctionnant par une irrecevabilité le vice de forme que constituait l'envoi d'une déclaration d'appel par simple télécopie (arrêt 4A_690/2016, précité, consid. 4.2).

Il l'a encore rappelé tout récemment, dans un arrêt rendu en 2018, en soulignant que, si l'art. R31 al. 3 du Code permet de déposer par avance une déclaration d'appel par télécopie, la validité de ce dépôt est toutefois subordonnée à la condition que l'écriture soit aussi transmise par courrier le premier jour ouvrable suivant l'expiration du délai applicable. En d'autres termes, on ne saurait reléguer l'exigence du dépôt d'une déclaration d'appel par courrier au rang de simple formalité administrative (arrêt 4A_238/2018, précité, consid. 5.6).

6.5. *Appliqués aux circonstances du cas concret, ces principes permettent d'écarter le reproche de formalisme excessif formulé par le recourant. Ce dernier a en effet reconnu s'être contenté de transmettre son mémoire d'appel par simple télécopie, sans le déposer également par courrier le premier jour ouvrable suivant l'échéance du délai applicable, ce qui, au regard de l'art. R31 al. 3 du Code et de la jurisprudence susmentionnée, suffit à sceller le sort du présent recours. C'est le lieu de rappeler en outre que le recourant avait été expressément rendu attentif à la nécessité d'adresser son mémoire d'appel par courrier, ainsi que le démontre le passage mis en exergue par le TAS dans son courrier électronique du 20 juillet 2018 (cf. ci-dessus, B.b). Quoi qu'en dise le recourant, la transmission du mémoire d'appel par courrier ne constitue pas une simple formalité, mais bel et bien une condition de validité du dépôt de cette écriture.*

[...]” (SFT 4A_556/2018, consid. 6.3-6.5).

Which can be freely translated into English as follows:

“6.3. *According to the case law relating to art. 29 para. 1 Cst., excess of formalism occurs when procedural rules are designed or applied with a rigor that no interest worthy of protection justifies, to the extent that the procedure becomes an end in itself and prevents or unsustainably complicates the application of the law (ATF 142 I 10 para. 2.4.2; 132 I 249 para. 5 p. 253).*

6.4. *The Federal Tribunal has already had the opportunity to state that the CAS did not show excessive formalism in sanctioning with inadmissibility the formal defect constituted by the sending of a statement of appeal by simple fax (judgment 4A_690 / 2016, cited above, para. 4.2).*

It reiterated this again recently, in a judgment rendered in 2018, stressing that, while art. R31 al. 3 of the Code allows a statement of appeal to be filed in advance by fax, the validity of this filing is, however, subject to the condition that the submission is also sent by mail on the first working day following the expiry of the applicable time limit. In other words, the requirement to file a statement of appeal by mail cannot be relegated to the rank of a mere administrative formality (judgment 4A_238 / 2018, cited above, para. 5.6).

6.5. *Applied to the circumstances of the specific case, these principles make it possible to rule out the reproach of excessive formalism formulated by the appellant. The latter in fact admitted that he had contented himself with transmitting his appeal brief by simple fax, without also filing it by mail on the first working day following the expiry of the applicable deadline, which, in view of art. R31 al. 3 of the Code and of the aforementioned case law, is sufficient to seal the fate of this appeal. It should also be recalled that the Appellant was expressly made aware of the need to send his appeal brief by mail, as demonstrated by the passage highlighted by the CAS in its email of July 20, 2018 (see above, Bb). Whatever the appellant may say, the transmission of the appeal brief by mail is not a mere formality, but indeed a condition for the validity of the filing of such submission”.*

71. Consequently, in view of all the above, the Sole Arbitrator finds that the Club failed to file a valid Statement of Appeal within the time-limit of 21 days set forth by Article 58(1) FIFA Statutes and that the Statement of Appeal uploaded to the CAS e-filing platform on 27 July 2020 was filed late, rendering the appeal inadmissible.

ON THESE GROUNDS

The Court of Arbitration for Sport rules that:

1. The appeal filed on 15 and/or 27 July 2020 by Perak Football Association against the decision issued on 4 June 2020 by the Dispute Resolution Chamber of the *Fédération Internationale de Football Association* is inadmissible.
2. (...).
3. (...).
4. All other and further motions or prayers for relief are dismissed.