



Arbitration CAS 2021/A/7685 Khireddine Zetchi v. Fédération Internationale de Football Association (FIFA), award of 19 August 2021 (operative part of 5 March 2021)

Panel: Mr Frans de Weger (The Netherlands), Sole Arbitrator

Football

Disciplinary sanctions for failure to disclose information

Form of a decision

Conditions for the refusal of a candidacy for a position

- 1. The form of the communication has no relevance in order to determine whether there exists a decision or not. A communication meets the necessary requirements to be considered as a decision if (i) it affects the legal situation of the addressee; (ii) it constitutes a unilateral act intended to produce legal effects; and (iii) it has an obvious intention to decide on the matter.**
- 2. A person submitting his candidacy for important position in sports organisations must under all circumstances appear as completely honest and beyond any suspicion. At the same time, however, allegations at the basis of a refusal to admit a candidacy for a position must always be of a certain severity and, obviously, should not be based on mere speculation.**

I. INTRODUCTION

1. This appeal is brought by Mr Khireddine Zetchi (the “Appellant”) against the decision rendered by the Review Committee of the Fédération Internationale de Football Association (the “FIFA Review Committee”) on 26 January 2021 (the “Appealed Decision”), declaring the Appellant not eligible for the position of member of the FIFA Council for Confederation of African Football (“CAF”).

II. PARTIES

2. The Appellant is the Chairman of the Algerian Football Federation (the “AFF”). The Appellant is of Algerian nationality.
3. The Fédération Internationale de Football Association (“FIFA” or the “Respondent”) is the global governing body of football with its registered office in Zurich, Switzerland. FIFA exercises regulatory, supervisory and disciplinary functions over national associations, clubs, officials and players worldwide.

4. The Appellant and the Respondent are jointly referred to as the “Parties”, where applicable.

III. FACTUAL BACKGROUND

5. Below is a summary of the main relevant facts, as established on the basis of the Parties’ written submissions on the file and relevant documentation produced in this appeal. Additional facts and allegations found in the Parties’ submissions may be set out, where relevant, in connection with the further legal discussion that follows. While the Sole Arbitrator has considered all the facts, allegations, legal arguments and evidence submitted by the Parties in the present proceedings, the Award only refers to the submissions and evidence it considers necessary to explain its reasoning.

A. Background facts

6. On an unspecified date, the Appellant submitted his candidacy for a position of member of the FIFA Council for CAF.
7. On 18 November 2020, Mr. Mukul Mudgal, the Chairman of the FIFA Review Committee, sent a letter to the Appellant requesting him to fulfil the eligibility questionnaire (the “Questionnaire”) in accordance with Article 72 of the FIFA Governance Regulations (the “FGR”).
8. On 23 November 2020, the Appellant completed the Questionnaire and sent it back to the FIFA Review Committee.
9. On 8 January 2021, the Chairman of the Review Committee requested further information from the Appellant regarding alleged sanctions that had been imposed by CAF and the Algerian Professional Football League (“APFL”).
10. On 11 January 2021, the Appellant responded by sending a letter providing the following explanation:

“[...] Mr Chairman,

In reply to your above-mentioned letter dated 8 January 2021, please be informed that I was indeed subject to two sanctions, one from the disciplinary panel of the Confederation of African Football and the other from the disciplinary panel of the Ligue de Football Professionnelle.

However and notwithstanding the fact the first sanction has never been implemented as I continued to be officially invited to all CAF meetings, where I even exercised my right to vote at the last three ordinary shareholders’ meetings, I would like to make it clear that the two sanctions do not in any way constitute a violation of the rules of conduct as set out in section 5 chapter II of the FIFA Code of Ethics in accordance with the eligibility questionnaire that you sent us on 18 November 2020.

Indeed, the CAF sanction served on 18 January 2018 but never applied followed an absence beyond my control at a competition to which I was appointed as an official, while the sanction of the Ligue de Football Professionnelle 1 on February 2016 and which was only 6 months of suspension including 3 months with no remission, followed a statement in the media that I had made as a club manager. It is for this reason that these sanctions were not included in the response to this questionnaire.

Should you need additional information, please do not hesitate to contact me. [...]” (free translation).

11. On 12 January 2021, upon request of FIFA, CAF provided a copy of the decision passed against the Appellant by the Disciplinary Committee of CAF.
12. On 13 January 2021, also upon request of FIFA, the Appellant provided a copy of the decision passed against him by the Algerian Professional Football League.
13. On 15 January 2021, also upon request of FIFA, the Chairman of the Disciplinary Committee of the Algerian Professional Football League further provided a copy of the decision passed against the Appellant and of the minutes of that meeting.
14. On 26 January 2021, the FIFA Review Committee issued the Appealed Decision, determining the following:

“[...] We refer to our correspondences dated 18 November 2020 and 8 January 2021 regarding the subject matter.

In this regard, we kindly inform you that the FIFA Review Committee, during its meeting on 26 January 2021, decided to declare you not eligible for the position of member of the FIFA Council. The reasons for this decision were that sanctions had been imposed both by CAF and by the Professional Football League of Algeria, which you had not declared to the Review Committee. Taking into account that the position of member of the FIFA Council is one of the highest positions in FIFA, it is required that any person filling such position is complying with the general principle of transparency and has a clean record, as FIFA’s public image may otherwise suffer significantly.

Thank you for taking note. [...]”.

IV. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT

15. On 8 February 2021, the Appellant filed a Statement of Appeal with the Court of Arbitration for Sport (the “CAS”) in accordance with Article 58 of the FIFA Statutes, Article 76 of the FGR, and Articles R47 and R48 of the Code of Sports-related Arbitration (2020 edition) (the “CAS Code”). In his submissions, the Appellant stated that the Statement of Appeal was considered as his Appeal Brief in accordance with Article R51 of the CAS Code.
16. On 9 February 2021, the Respondent was notified of the Appellant’s Statement of Appeal and was invited to inform the CAS Court Office, by 11 February 2021, whether it agreed with the Appellant’s request for an expedited procedure and with the suggested schedule.

17. On 15 February 2021, after a short extension was granted, the Respondent agreed with an expedited procedure being conducted in this matter. However, the Respondent proposed a slightly modified calendar.
18. On the same day, the CAS Court Office invited the Appellant whether he agreed with the slightly modified procedural schedule.
19. On 16 February 2021, the Appellant confirmed the CAS Court Office with the two alternative proposed dates for the hearing, with preference for the date of 5 March 2021. With respect to the operative part of the Award, the Appellant agreed with a communication by 11 March 2021, which should be the latest day considering the fact that the CAF Congress was taking place on 12 March 2021.
20. On the same day, the CAS Court Office informed the Parties that the following procedural schedule was adopted:
 - FIFA to file its Answer by 25 February 2021;
 - Hearing to be held on 5 or 8 March 2021;
 - Operative part of the Award to be issued on or before 11 March 2021.
21. On 23 February 2021, the Respondent filed its Answer to the Appeal Brief in accordance with Article R55 of the CAS Code.
22. On 23 February 2021, the CAS Court Office informed the Parties that it noted that FIFA, based on the considerations contained in its Answer, submitted that a hearing no longer appeared to be necessary and that the award could be rendered based solely on the written submissions.
23. On 1 March 2021, the CAS Court Office informed the Parties that the Sole Arbitrator did not consider a hearing be necessary in the present procedure.
24. On 2 March 2021, the Appellant and the Respondent returned duly signed copies of the Order of Procedure to the CAS Court Office.
25. On 5 March 2021, the CAS Court Office, on behalf of the Sole Arbitrator, notified the Parties that the operative part of the Award was rendered. The decision of the operative part of the Award contained the following:

“1. The Appeal filed on 8 February 2021 by Mr Khiredine Zetchi against FIFA with respect to the decision rendered by the FIFA Review Committee on 26 January 2021 is upheld.

2. The decision of the FIFA Review Committee rendered on 26 January 2021 is set aside.

3. *The costs of the arbitration, to be determined and served to the parties by the CAS Court Office, shall be borne in full by FIFA.*

4. *FIFA shall pay to Mr Khiredine Zetchi a contribution in the amount of CHF 3,000 (three thousand Swiss francs) toward his legal fees and expenses incurred in connection with the present proceedings.*

5. *All other motions or prayers for relief are dismissed”.*

V. SUBMISSIONS OF THE PARTIES

26. The following summary of the Parties’ positions is illustrative only and does not necessarily comprise each and every contention put forward by the Parties. The Sole Arbitrator, however, has, for the purposes of the legal analysis which follows, carefully considered all the submissions made by the Parties, even if there is no specific reference to those submissions in the following summary.

A. The Appellant

27. On 8 February 2021, the Appellant filed his Statement of Appeal, to be considered as his Appeal Brief, as set out above, pursuant to Article R51 of the CAS Code. The Appellant challenged the Appealed Decision, submitting the following requests for relief to:

“1. *set aside the Decision;*

2. *confirm that Mr. Khiredine Zetchi is eligible to submit his candidacy for the position of member of the FIFA Council for Confederation of African Football (CAF) that will take place at CAF General Assembly in Rabat, Morocco, on 12 March 2021;*

3. *rule that FIFA shall bear all the arbitration costs, if any, and shall be ordered to reimburse the Appellant the minimum CAS court office fee of CHF 1,000.- as well as any other amounts of advances of costs paid to CAS;*

4. *rule that FIFA shall be ordered to pay the Appellant a contribution towards the legal and other expenses incurred by the latter in the framework of these proceedings”.*

28. The Appellant’s submissions, in essence, may be summarised as follows:

a. Form of the decision

➤ The Appealed Decision must be set aside because it violates the formal requirement of a decision, as it lacks certain minima, such as a) the composition of the authority that rendered the decision; b) any summary of the facts; c) any motivated grounds; d) any provisions on which the Appealed Decision was based; e) the terms of the

Appealed Decision; f) any notice of the channels for appeal and g) the deadline to appeal.

b. *Eligibility check*

- In the present case, the Appellant has only two minor infractions in his track-record. The first issue relates to a statement he made in the media following a match in which he “*dedicated the victory to the president of the league*”. The fact that the infraction was minor is corroborated by the fact that the sanction was never extended to international level, but was only applied at local level. The legal requirements for such extension provided in Article 114 of the Disciplinary Code of the FAF were not met, as expressly confirmed by the Ligue Professionnelle de Football. The second case relates to the CAF and concerns a voluntary decision of the Appellant to withdraw from a position in the organisation commission of the CHAN 2018 because of a difference of views with the then president of the CAF. This matter did not lead to any sanction at all.
- The Appellant in good faith did not think of providing information on minor instances that occurred locally years ago, which were in no way of criminal nature. Considering the international investigative services assisting FIFA in the eligibility check, the Appellant had no reason to hide such cases. The Appellant did not hide elements, but he merely omitted to specify them in the Questionnaire by thinking in good faith, and considering his inexperience as first candidacy, that such elements were not be mentioned.

c. *Violation of the principle of proportionality*

- The principle of proportionality applies in the case at hand. In the present case, the seriousness of the sanction (prohibition to submit his candidacy) implies a serious violation. The Appellant has evidenced that such a serious violation is absent in the case at hand, since the past infractions were minor and the absence of disclosure is manifestly unintentional. Prohibiting the Appellant from participating in the election process is hardly justifiable and particularly unfair.
- One may finally wonder in which circumstances the Appealed Decision has been rendered. In particular, considering the fact that one of the candidates for the same position, Mr Lekjaa, is also member of the FIFA Review Committee, one may question the transparency and possible situation of conflict of interest in the present case.

d. *Violation of the principle of equal treatment*

- It is manifest that the Appellant has not been treated equally with respect to the other candidates, without any apparent justification. The violation of the principle of equal treatment is even more serious in view of the fact that the other candidates must be considered as “competitors” in the context of the election process.

B. The Respondent

29. On 23 February 2021, the Respondent filed its Answer in accordance with Article R55 of the CAS Code, submitting the following requests for relief:

- a. Amending the Appealed Decision as appropriate in consideration of the foregoing and the new evidence filed by the Appellant.*
- b. Ordering the Appellant to bear the full costs of these proceedings or, subsidiarily, that the costs will be divided equally between the parties.*
- c. Ordering that each party bears its own costs and expenses”.*

30. The submissions of the Respondent, in essence, may be summarised as follows:

a. The form of the decision is irrelevant

- The CAS jurisprudence has established in several awards that the form is irrelevant in order to determine if a communication should be considered as a decision (CAS 2005/A/899; CAS 2007/A/1251; CAS 2008/A/1633; CAS 2015/A/4213; CAS 2017/A/5200; and CAS 2004/A/748).

b. Eligibility check

- The main issue at stake is to determine whether or not the Appellant (i) failed to disclose disciplinary sanctions that had been imposed upon him by a sporting, civil or administrative body or tribunal, and, (ii) based on such failure to disclose (as retained by the FIFA Review Committee), the Appellant is to be declared ineligible.

a) Alleged CAF sanction

- At the time the FIFA Review Committee issued the Appealed Decision, it is undisputed that it was only cognizant of the recommendation of the CAF Disciplinary Tribunal to the CAF Executive Committee, but the FIFA Review Committee was unaware of whether or not the latter actually followed said recommendation and actually sanctioned the Appellant. Because the Appellant was never sanctioned by CAF, he was not obliged to declare anything in this respect in the Questionnaire. Thus, he has not violated his duty of disclosure on this issue, and the relevant consequences with respect to the Appealed Decision apply.

b) Alleged APFL sanction

- The Appellant admits having been sanctioned by the APFL in 2016. Furthermore, the FIFA has also taken note of the information provided by the APFL Committee. It

appears to be proven that (i) the APFL sanction was imposed for statements made by the Appellant to the media during his time as president of club Paradou AC, and that (ii) the APFL sanction was imposed for a violation of article 78/1 of the FAF disciplinary code, for breaching his “*obligation de reserve*”.

- A breach of the “*obligation de reserve*” does not constitute (even by analogy) a violation of the rules of conduct foreseen in Part II, Section 5 of the FIFA Code of Ethics (the “FCE”). The Appellant therefore did not appear to have an obligation to disclose the sanction imposed by the APFL, insofar as it was not within the scope of the Questionnaire.
- The bottom line is that in this case the sanction in question was not within the scope of what was asked from the Appellant in the framework of the eligibility check. It is now possible to reach a different conclusion than the one in the Appealed Decision.

c. *Principles of proportionality and equal treatment*

- In the light of the conclusion reached in the previous section, it is no longer necessary to address the proportionality and equal treatment of the Appealed Decision, as this issue has become moot.

d. *Conclusions*

- Having considered the new evidence which shows that the Appellant was never sanctioned by CAF and that the APFL sanction was for conduct unrelated to Part II, Section 5 of the FCE, it can only be concluded that, although it would have been preferable for the sake of transparency, the Appellant was not required to disclose such information in the Questionnaire.
- It is therefore now possible to re-evaluate the decision to declare the Appellant ineligible on the basis of a failure to disclose information that was not required from him.
- FIFA considers that the Sole Arbitrator is in a position to directly render an award on the Appellant’s eligibility.
- Finally, with respect to the costs of these proceedings, FIFA recalls that the conclusions that are reached in this Answer are all based on evidence that was unavailable to the FIFA Review Committee and which has been produced by the Appellant only at this appellate stage, irrespective of the conclusions reached concerning the Appealed Decision, FIFA asks that the Appellant is ordered to bear the costs of these proceedings, or, subsidiarily, that FIFA bears, at most half, of the procedural costs.

- For the same reasons, FIFA asks to be exempted from paying any contribution to the Appellant's legal costs and other expenses, and that the parties are order to bear their own such costs.

VI. JURISDICTION

31. Article R47 of the CAS Code provides as follows:

“An appeal against the decision of a federation, association or sports-related body may be filed with CAS if the statutes or regulations of the said body so provide or if the parties have concluded a specific arbitration agreement and if the Appellant has exhausted the legal remedies available to it prior to the appeal, in accordance with the statutes or regulations of that body”.

32. The jurisdiction of the CAS derives from Article 58(1) of the FIFA Statutes (2020 edition) which reads:

“Appeals 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”.

33. The Sole Arbitrator further observes that Article 76 of the FGR determines as follows:

“Decisions of the Review Committee in the context of elections may be appealed against directly with the Court of Arbitration for Sport”.

34. The jurisdiction of the CAS is further confirmed by the Orders of Procedure duly signed by the Parties.

35. It follows that the CAS has jurisdiction to decide on the present dispute.

VII. ADMISSIBILITY

36. 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 already been constituted, to terminate it if the statement of appeal is late. The Division President or the President of the Panel renders her/his decision after considering any submission made by the other parties”.

37. The Sole Arbitrator notes that pursuant to Article 58(1) of the FIFA Statutes, the time limit to file an appeal is 21 days of receipt of the Appealed Decision.

38. In accordance with Articles R47 and R48 of the CAS Code, the Appellant filed his Statement of Appeal on 8 February 2021, which is within the deadline. The Statement of Appeal complied with the other conditions set out in Article R48 of the CAS Code.
39. Therefore, the appeal was timely submitted and is admissible.

VIII. APPLICABLE LAW

40. Article R58 of the CAS Code provides more specifically the following:

“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 the Panel deems appropriate. In the latter case, the Panel shall give reasons for its decision”.

41. Article 57(2) of the FIFA Statutes reads as follows:

“The arbitral tribunal shall decide the dispute according to the rules of law chosen by the parties or, in the absence of such a choice, according to the rules of law with which the dispute has the closest connection”.

42. In his Statement of Appeal, the Appellant submits that the case is primarily governed by the various regulations of FIFA and, subsidiary, Swiss law applies, pursuant to Article 57(2) of the FIFA Statutes.
43. In its Answer, the Respondent acknowledged that the case shall be governed primarily by the various regulations of FIFA, and additionally by Swiss law.
44. The Sole Arbitrator is satisfied that the FIFA Regulations are applicable, with Swiss law applying to fill in any gaps or *lacuna* within those regulations.

IX. MERITS

A. The Main Issues

45. The Sole Arbitrator remarks that the case revolves around the question whether the Appellant failed to disclose information regarding alleged sanctions that were imposed upon him by the CAF Disciplinary Tribunal and the APFL. As the Appellant argues that he was not obliged to disclose information in this regard, he claims that, as a consequence thereof, the FIFA Review Committee was not right to declare him ineligible for the position of member of the FIFA Council for CAF. This decision was communicated by means of the Appealed Decision, which is the object of the appeal, noting that the Appellant also claims that the Appealed Decision must be set aside because it violates the formal requirement of a decision. On the latter basis alone, in his view, the Appealed Decision is considered as invalid and be annulled for formal reasons.

46. The Sole Arbitrator notes the specifics of this case as FIFA, by means of its Answer, after having received new evidence during the current CAS proceedings, takes the view that the Appellant did not fail to disclose any relevant information. Therefore, FIFA takes the position that it is now possible for the Sole Arbitrator to re-evaluate the decision to declare the Appellant ineligible on the basis of a failure to disclose information that was not required from him. At the same time, the Sole Arbitrator is requested to perform an individual analysis and assessment of the evidence when taking the relevance on this issue, which the Sole Arbitrator will now do in the next paragraphs.
47. In light of the foregoing, therefore, the issues to be resolved by the Sole Arbitrator are:
- a. Must the Appealed Decision be considered as invalid for formal reasons?
 - b. Did the Appellant fail to disclose relevant information?
 - c. What are the consequences?
48. The Sole Arbitrator will address these substantive issues in turn.
- a. *Must the Appealed Decision be considered as invalid for formal reasons?***
49. The Sole Arbitrator observes that the Appellant argues that the Appealed Decision must be set aside because it violates the formal requirements of a decision as a decision must contain certain minima, such as, a) the composition of the authority that rendered the decision – which may be problematic in the view of the presence of Mr Fouzi Lekjaa, competitor of the Appellant, in the FIFA Review Committee; b) any summary of the facts; c) any motivated grounds; d) any provisions on which the Decision was based; e) the terms of the Decision; f) any notice of the channels for appeal and g) the deadline to appeal. On the basis of Article 116 of the FIFA Disciplinary Code (the “FDC”), the Appealed Decision shall be considered as invalid and be annulled for formal reasons.
50. On the other hand, FIFA takes the view that the form is irrelevant to determine if a communication should be considered as a decision, as follows from CAS jurisprudence. In this regard, and irrespective of the content of Article 116 FIFA Disciplinary Code 2017 (the “FDC 2017”), it should be clear that the Appealed Decision meets the necessary requirements to be considered as a decision because (i) it affects the legal situation of the Appellant by declaring him ineligible for election to the FIFA Council; (ii) it constitutes a unilateral act from the FIFA Review Committee sent to the Appellant intended to produce legal effects (i.e. confirming his ineligibility to become a member of the FIFA Council); and (iii) it had an obvious intention to decide on the matter.
51. Considering the above positions of the Parties, the Sole Arbitrator does not agree with the Appellant that the Appealed Decision must be set aside because it violates the formal requirements of a decision.

52. As rightfully stated by FIFA, the Sole Arbitrator finds that the form of the communication has no relevance in order to determine whether there exists a decision or not, also confirmed in CAS jurisprudence which is overwhelmingly supporting this approach (see, *inter alia*, CAS 2019/A/6253, CAS 2015/A/4213, CAS 2008/A/1633, CAS 2007/A/1251, CAS 2005/A/899 and CAS 2004/A/748). The Sole Arbitrator finds that the Appealed Decision is considered a decision for several reasons.
53. Firstly, it is clear to the Sole Arbitrator that the communication of the FIFA Review Committee of 26 January 2021 contains a ruling, whereby the FIFA Review Committee intended to affect the legal situation of the Appellant by declaring him ineligible for the position of member of the FIFA Council for CAF. Furthermore, the Sole Arbitrator emphasises that the Appealed Decision constitutes a unilateral act sent to the Appellant which intended to produce legal effects. Finally, there is no doubt to the Sole Arbitrator that the Appealed Decision contains a communication which is based on an '*animus decidendi*', i.e. the intention of the FIFA Review Committee to decide on the matter.
54. In view of the above, the Sole Arbitrator concludes that the Appealed Decision meets the necessary requirements to be considered a decision and, therefore, rejects the Appellant's allegations as the Appealed Decision is not invalid for any formal reasons.
- b. *Did the Appellant fail to disclose relevant information?***
55. As a starting point, the Sole Arbitrator wishes to note that a person submitting his candidacy for important position in sports organisations, such as becoming a member of the FIFA Council, must under all circumstances appear as completely honest and beyond any suspicion.
56. In the absence of such clean and transparent appearance by top football officials, there would be serious doubts in the mind of the football stakeholders and of the public at large as to the rectitude and integrity of football organizations as a whole, all the more so in light of the events that happened in the past years with respect to football organizations, and in particular with FIFA. The Sole Arbitrator notes that this public distrust would rapidly extend to the general perception of the authenticity of the sporting results and would destroy the essence of the sport (see, *inter alia*, CAS 2011/A/2426).
57. At the same time, however, the allegations on the basis of any refusal for such positions must always be of a certain severity and, obviously, should not be based on mere speculation (see, *inter alia*, CAS 2016/A/4579, CAS 2015/A/4311).
58. The Sole Arbitrator fully concurs with the above approach in the CAS jurisprudence.
59. Against the above legal background, and having considered the specific circumstances of the case, the Sole Arbitrator notes that the FIFA Review Committee concluded that the Appellant failed to disclose two disciplinary sanctions imposed on him, i.e. one by the CAF and one by the APFL. In fact, the FIFA Review Committee found that he was required to include both alleged sanctions in the Questionnaire, which the Appellant failed to do. Therefore, in essence,

it is up to the Sole Arbitrator to decide whether the alleged sanctions had to be disclosed and, in this context, whether the alleged sanctions were of such a level of severity justifying such disclosure.

60. The first matter under review relates to a statement made by the Appellant in the media after a football match and following which he “*dedicated the victory to the president of the league*”. In this regard, the Sole Arbitrator notes that this sanction was not extended to international level and was only applied at local level. The Appellant was sanctioned for this action, which is also not denied by him. However, the Appellant provided information with regard to this first issue during the current CAS proceedings to demonstrate the insignificance of such sanction.
61. The Sole Arbitrator observes that from the new evidence it follows, as also noted by FIFA, that the APFL sanction was imposed for statements made by the Appellant to the media during his time as president of club Paradou AC, and that it was imposed for a violation of Article 78/1 of the FAF Disciplinary Code, for breaching his “*obligation de reserve*”.
62. As rightly considered by FIFA, such statements in themselves do not appear to be in violation of the FIFA Code of Ethics, in particular not those that follow from Part II, Section 5 of the respective code.
63. Therefore, the Sole Arbitrator emphasises that the allegation in relation to the first issue is not of a certain severity justifying the decision of the FIFA Review Committee in this regard, let alone that it was a violation of the FIFA Code of Ethics, as set out above. To the contrary, these statements, as was also admitted by FIFA, were no violation of Part II, Section 5 of the respective code. As such, the Sole Arbitrator finds that the first issue is considered as too minor and, in any event, not sufficient enough.
64. The second case concerns a voluntary decision of the Appellant to withdraw from a position in the organisation commission of the CHAN 2018 because of a difference of views with the then president of the CAF.
65. In this regard, the Sole Arbitrator observes that this issue did not lead to any sanction, which was also confirmed by the Executive Committee of the CAF. Further to this, it is also undisputed that the CAF Disciplinary Tribunal had not suspended the Appellant, but only issued a recommendation to the CAF Executive Committee that he should not be allowed to form part of a CAF delegation for two years, which decision was based on the voluntary decision of the Appellant to withdraw, as set out above.
66. The Sole Arbitrator notes that the FIFA Review Committee was not aware of the additional information whether or not the CAF Executive Committee followed the recommendation that the Appellant not be allowed to form part of a CAF delegation for two years. This information was only submitted during the CAS proceedings for the first time. In this regard, the Sole Arbitrator observes that only from the evidence submitted in the CAS proceedings it became clear that no sanction was imposed upon the Appellant by the CAF Executive Committee.

67. In view of the above, it is clear to the Sole Arbitrator that no sanction was imposed on the Appellant regarding this second issue. Therefore, logically, the Appellant was not obliged to declare anything, which is also admitted by FIFA in its Answer. Put differently, as there was no sanction, as to this second matter, the Appellant did not have to disclose anything in the Questionnaire. In this regard, the Sole Arbitrator also took into account and does not want to leave unmentioned that the violation for which the CAF Disciplinary Tribunal recommended that the Appellant be sanctioned, also does not fall under Part II, Section 5 of the FIFA Code of Ethics, which means that the Appellant would not even have had the obligation to declare such sanction if it had been imposed on him.
68. In view of the above, the Sole Arbitrator concludes that the Appellant did not fail to disclose relevant information in relation to the two issues, as discussed above.
69. Now that the Sole Arbitrator has decided that the Appellant was not required to disclose any further information in the Questionnaire, as set out above, it is not necessary for the Sole Arbitrator to address the proportionality of the Appealed Decision and the alleged violation of the principle of equal treatment, which was also put into doubt by the Appellant.

c. *What are the consequences?*

70. Having reached the conclusion that the Appellant was not obliged to disclose information in relation to the above two issues, the Sole Arbitrator, being in the possession of the new evidence which was not at the disposal of the FIFA Review Committee, will so reach a different conclusion than the one in the Appealed Decision.
71. Although the Sole Arbitrator is aware that the FIFA Review Committee must be given a certain deference in deciding whether or not the Appellant was a suitable candidate for the respective position, the Sole Arbitrator is of the view and is comfortably satisfied that, in light of the specific circumstances of the case, as set out above, the Appealed Decision of the FIFA Review Committee must be overturned and annulled.
72. Consequently, the Sole Arbitrator accepts the appeal and confirms that the Appellant is eligible to submit candidacy for the position of member of the FIFA Council for CAF that will take place at CAF General Assembly in Rabat, Morocco, on 12 March 2021.
73. Notwithstanding the above, and irrespective of the question whether the Appellant was obliged to disclose the above information from a legal point of view, which he was not, as set out above, the Sole Arbitrator wishes to add as he agrees with FIFA, that it is always recommendable to disclose all possible conflicts in order to create full transparency and to avoid any misunderstandings, all the more so in light of the fact that the standard to be applied should obviously be one of an impeccable integrity record.

B. Conclusion

74. Based on the foregoing, the Sole Arbitrator finds that:
- i) The Appealed Decision must not be considered as invalid for formal reasons;
 - ii) The Appellant did not fail to disclose relevant information; and
 - iii) The Appealed Decision is annulled and, consequently, the Appellant is eligible to submit candidacy for the position of member of the FIFA Council for CAF.

ON THESE GROUNDS

The Court of Arbitration for Sport rules that:

1. The Appeal filed on 8 February 2021 by Mr Khiredine Zetchi against FIFA with respect to the decision rendered by the FIFA Review Committee on 26 January 2021 is upheld.
2. The decision of the FIFA Review Committee rendered on 26 January 2021 is set aside.
3. (...).
4. (...).
5. All other and further motions or prayers for relief are dismissed.