



Arbitration CAS 2012/A/3013 Sudan Football Association (SFA) v. Fédération Internationale de Football Association (FIFA), award of 4 March 2013

Panel: Mr Hendrik Willem Kesler (The Netherlands), President; Mr Stuart McInnes (United Kingdom); Mr Michele Bernasconi (Switzerland)

Football

Disciplinary sanction for the fielding of an ineligible player

Formal requirements regarding confirmation of suspension of players

Automatic suspension of a player for the following official match in case of expulsion from a match

Responsibility for fielding ineligible players and role of the match commissioner

Rationale of the rule imposing sanctions on clubs for fielding ineligible players

- 1. In light of article 111(1) of the CAF Disciplinary Code, records of cautions, expulsions and match suspensions, in the case of final competitions, are to be confirmed to the Head of the delegation concerned. This provision does not require a confirmation letter to be sent specifically to the General Secretary of the national association concerned but rather a facsimile to the general facsimile number of the national association concerned suffices. It is therefore the responsibility of the national association, if a facsimile is directed to a wrong person within its organisation, to make sure that such facsimile is internally transferred to the responsible person within the organisation and that it does not cause the facsimile transmission to have failed.**
- 2. A suspension of a player for the following official match of the relevant national team is automatically imposed if a player is expelled from a match. In theory, the sending of a confirmation letter before the next official match of the relevant team is, strictly speaking, not necessary. Pursuant to article 111(2) of the CAF Disciplinary Code confirmation of a suspension only serves as a notification. Sanctions have immediate effect and are not dependent on a confirmation letter of such suspension to the relevant national association. The national association should check the status of the player by consulting the proper FIFA and/or CAF authorities in order to field eligible players only.**
- 3. Article 8(3) of the 2014 FIFA World Cup Regulations stipulates that the national association shall be responsible for fielding only eligible players and that failure to do so shall lead to the consequences stipulated in the FIFA Disciplinary Code. A match commissioner is not a contact person for the national associations in order to provide assurance that no match suspensions have to be served by certain players or officials. Match commissioners are further never informed by the secretariat to the FIFA Disciplinary Committee of any match suspension to be imposed on players. In case of any uncertainty about the eligibility of one of its players the national association has the responsibility to verify the exact status of the player with the responsible departments**

of the CAF and/or FIFA. A national (or club) team cannot avoid liability for fielding ineligible players by reliance upon incorrect or incomplete information given by a person or a body which is not competent to give such binding information.

4. The rule that a national team or a club shall lose a match in which it has fielded ineligible player(s) is neither new nor a rule which would be applicable only in the FIFA World Cup Regulations. Rather, it is a clear-cut rule that is widely used by national associations and international federations to ensure that it is a responsibility of each team to ensure that only eligible players are fielded. The rationale of such rules is clear: federations, associations and leagues are keen to ensure high reliability and integrity of the competition.

I. PARTIES

1. The Sudan Football Association (the “Appellant” or the “SFA”) is the national governing body of football in Sudan with its registered headquarters in Khartoum, Sudan. The SFA is affiliated to the Confederation of African Football (the “CAF”) and the Fédération Internationale de Football Association.
2. The Fédération Internationale de Football Association (the “Respondent” or “FIFA”) is an association under Swiss law and has its registered office in Zurich, Switzerland. FIFA is the governing body of international football at worldwide level. It exercises regulatory, supervisory and disciplinary functions over continental federations, national associations, clubs, officials and players worldwide.

II. FACTUAL BACKGROUND

A. Background Facts

3. 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 is made 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.
4. On 4 February 2012, the Sudanese national football team played a match against the national team of Zambia within the CAF final tournament of the Orange Cup of Nations in Gabon and Equatorial Guinea (the “2012 CAN Tournament”). Sudan won this match with the score of 2-0. Among its players, the Sudanese team fielded Mr Eldin Ali Idris Farah (the “Player”), who received two cautions during the same match and was thus sent off.

5. On 20 February 2012, the CAF addressed a facsimile (dated 19 February 2012) to the Head of the Sudan delegation, notifying the latter of the disciplinary sanctions imposed in the course of the 2012 CAN Tournament. This letter, inter alia, stated the following:

“For having received two cautions during the same match the player no. 09 Ali Idriss Farah was sent off and he is automatically suspended for his next match. Seeing that your team is eliminated from the said competition, the player Ali Idriss Farah is suspended for his next official match with his national team”.

6. On 28 May 2012, in preparation for the forthcoming preliminary competition matches for the 2014 FIFA World Cup Brazil, the CAF administration addressed an e-mail to FIFA where it informed the latter of the players who remained suspended from any CAF competitions and indicated that the Player was listed amongst them. This correspondence was not shared with the SFA.
7. On 2 June 2012, the national team of Sudan participated in the preliminary competition match for the 2014 FIFA World Cup Brazil (the “Match”) against Zambia and won the Match with 2-0. On the same day the referee of the Match prepared a report which listed the Player amongst the players fielded by Sudan and that he scored one of the two goals.

B. Proceedings before the Disciplinary Committee FIFA

8. By letter dated 7 June 2012 addressed to the SFA, following the match official’s reports, the FIFA Disciplinary Committee (the “FIFA DC”) initiated disciplinary proceedings against the SFA as it appeared that the Player took part in an official match despite being ineligible; thus a violation of article 55(1) of the FIFA Disciplinary Code, which reads as follows:

“If a player takes part in an official match despite being ineligible, his team will be sanctioned by forfeiting the match (cf. art. 31) and paying a minimum fine of CHF 6,000”.

9. By letter dated 20 June 2012, addressed to FIFA the SFA set out its position regarding the alleged violation and maintained that it had not received any notification from CAF that the Player was suspended for the next match with the national team of Sudan.
10. On 6 August 2012, the FIFA DC passed Decision 120282 SUD ZH (the “FIFA DC Decision”), with, inter alia, the following operative part:

1. *“The Sudan Football Association is liable for having breached art. 55 par. 1 of the [FIFA Disciplinary Code]*
2. *The Sudan Football Association is ordered to pay a fine of CHF 6,000. (...)*
3. *The match Sudan – Zambia of 2 June 2012 is declared to be lost by forfeit by Sudan (0-3)”.*

11. On 4 October 2012, the grounds of the FIFA DC Decision were communicated to the parties.

C. Proceedings before the Appeal Committee of FIFA

12. By letter dated 9 October 2012, addressed to the Chairman of the Appeals Committee of FIFA in response to the FIFA DC Decision, the SFA reiterated inter alia that no confirmation letter had been received from the CAF in respect of the suspension of the Player and/or his ineligibility to participate in the Match.
13. On 14 October 2012, the SFA lodged an appeal against the FIFA DC Decision with the Appeal Committee of FIFA.
14. On 24 October 2012, the Appeal Committee of FIFA passed Decision 120282 APC SUD ZH (the “Appealed Decision”), whereby it was decided that “[t]he appeal lodged by the Sudan Football Association is rejected and the decision of the FIFA Disciplinary Committee rendered on 6 August 2012 is confirmed”.

III. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT

15. On 3 December 2012, the SFA filed a statement of appeal together with 3 exhibits with the Court of Arbitration for Sport (the “CAS”). The Appellant nominated Mr Stuart C. McInnes, solicitor-at-law in London, United Kingdom, as arbitrator.
16. On 14 December 2012, the SFA filed its appeal brief. This document contained a statement of the facts and legal arguments and was accompanied by 11 exhibits. The Appellant challenged the Appealed Decision taken by the Appeal Committee of FIFA on 24 October 2012, submitting the following requests for relief:
 1. *“to accept the present appeal against the Challenged Decision;*
 2. *to set aside the Challenged Decision;*
 3. *to establish that match Sudan vs. Zambia of 2 June 2012 shall not be declared to be lost by forfeit by Sudan;*
 4. *to establish that the match Sudan vs. Zambia of 2 June 2012 was correctly won by Sudan with 2-0, with all sportive consequences that this shall have for the preliminary competition for the 2014 FIFA World Cup Brazil;*
 5. *to condemn the Respondent to the payment in favour of the Appellant of the legal expenses incurred;*
 6. *to establish that the costs of the arbitration procedure shall be borne by the Respondent”.*
17. On the same date, the Respondent nominated Mr Michele A.R. Bernasconi, attorney-at-law in Zurich, Switzerland, as arbitrator.
18. On 27 December 2012, pursuant to Article R54 of the Code of Sports-related Arbitration (the “CAS Code”), and on behalf of the Deputy President of the CAS Appeals Arbitration Division,

the CAS Court Office informed the parties that the Panel appointed to decide the present matter was constituted by:

- Mr Hendrik Willem Kesler, attorney-at-law in Enschede, the Netherlands, as President;
- Mr Stuart C. McInnes, solicitor-at-law in London, United Kingdom; and
- Mr Michele A.R. Bernasconi, attorney-at-law in Zurich, Switzerland, as arbitrators.

19. On 18 January 2013, the Respondent filed its answer, with 17 exhibits, whereby it requested CAS to decide the following:

1. *“To reject the Appellant’s prayers for relief in their entirety.*
2. *To confirm the decision hereby appealed against.*
3. *To order the Appellant to bear all costs incurred with the present procedure and to cover all legal expenses of the Respondent related to the present procedure”.*

20. By letter dated 20 February 2013, the CAS Court Office informed the parties that the Panel had decided not to hold a hearing in the present matter following the parties’ agreement to have an award rendered on the basis of the written submissions.

21. On 26 February 2013 and on 1 March 2013 respectively, the Appellant and the Respondent filed the signed Order of Procedure with the CAS Court Office. Both parties agreed that their right to be heard had been respected. The Panel confirms that it took into account in its discussion and subsequent deliberations all the submissions, evidence and arguments presented by the parties, even if they have not been specifically summarized or referred to in the present award.

IV. SUBMISSIONS OF THE PARTIES

22. The following outline of the parties’ positions is illustrative only and does not necessarily encompass every contention put forward by the parties. However, the Panel has carefully considered all the submissions made by the parties, even if there is no specific reference to those submissions in the following summaries.

23. The submissions of the SFA, in essence, may be summarized as follows:

- The SFA attributes the dispute to the multiple violations committed by FIFA and in particular to the level of miscommunication between FIFA and CAF which entailed the substantial impairment of the SFA’s rights.

- The SFA maintains that it was not duly notified of the suspension imposed on the Player by the CAF and that such failure precipitated the actions before FIFA and the current appeal to CAS.
- With reference to article 111(1) of the CAF Disciplinary Code, the SFA deems that it is the responsibility of the CAF to clarify imposed sanctions and to notify the federation in question about the sanctions imposed on its players.
- When performing its obligation of notification of sanctions registered within its central computer system, the CAF is also responsible for procurement of delivering such essential information to the relevant person of the association in charge. The CAF should have ensured that the message was delivered to the particular person responsible for implementation of the respective disciplinary decisions within the national association rather than to restrict itself with merely sending the message to the general facsimile number. The CAF allegedly addressed its notification of suspension of the Player to the Head of delegation of the Sudan national team 14 days after it had been eliminated from the tournament. By that time the delegation had ceased to exist and the former Head of delegation had withdrawn from performing his responsibilities. Therefore, the CAF should have addressed the issue at stake to the General Secretary of the SFA.
- Furthermore, communication between the CAF and its affiliates was ordinarily made electronically, i.e. by e-mail. Should the CAF have decided to depart from this established practice and instead communicate by facsimile, it clearly had to make affiliates aware of that step in advance.
- The SFA also contends that FIFA violated its right to receive complete information concerning the disciplinary proceedings. The issue in question could have been avoided by mere inclusion of the SFA in the respective correspondence between the CAF and FIFA, where the SFA had an express interest. However, the factual background of the case evidences that misleading and ambiguous information coming from different sources resulted in the involuntary violation committed by the SFA. Hence, the SFA did not intentionally field the Player for the match; it was simply under an innocent misapprehension that no sanctions remained outstanding with any of its players. Considering the multiple changes following the modernisation of African football, the SFA reasonably relied on the assistance of the CAF and FIFA to avoid unnecessary violations.
- Additionally, the SFA claims to have been misled by FIFA before the relevant match in that it was specifically assured by the FIFA representative, i.e. by the match commissioner, that no on-going suspensions were imposed on the players and was not made aware of any impediment preventing a player from participation in the match. Although the SFA admits that the match commissioner may indeed possibly not be a person responsible for the accumulation of information regarding the suspensions, the fact that he was not in possession of documentation recording the Player's suspension from the Match proves

the lack of communication or at least the lack of collaboration between the Respondent and CAF.

- With reference to article 14(3) of the FIFA Regulations 2014 FIFA World Cup Brazil (the “2014 FIFA World Cup Regulations”), the SFA drew the attention of the Panel to the fact that Zambia did not lodge any protest in respect of the ineligibility of the Player. Instead of performing the diligent preparatory work for the match and/or in good faith, notifying its affiliate of potential violation of the effective regulations, FIFA restricted its action to an ex officio prosecution and imposition of sanctions on the SFA.
- Finally, the SFA referred the Panel to Decision no. 050537 SUD LIM of 19 September 2005 (the “Decision 050537 SUD LIM”). Notwithstanding the slightly different factual circumstances in the matter in question, the SFA is of the opinion that the basic principles of the case-handling expressed in Decision 050537 SUD LIM can be applied to resolution of the instant dispute. Thus, the inadvertent violation by the SFA should be mitigated by the SFA’s ignorance of the disciplinary sanction of the Player, caused by the illicit stance of FIFA.

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

- In respect of the SFA’s position that it was not duly notified of the suspension of the Player, FIFA maintains that a confirmation letter of two pages dated 19 February 2012 was communicated by CAF to the SFA on 20 February 2012 to the facsimile number mentioned on the facsimile confirmation – which confirmed positive transmission of two pages – and which is the same official facsimile number used during the disciplinary and appeal proceedings by the secretariat to the FIFA Disciplinary and Appeal Committee, to which the SFA replied several times during the course of the proceedings before the FIFA Committees.
- The SFA’s allegation that CAF might on other occasions have notified certain letters and/or decisions via e-mail but failed to do so in respect of the confirmation letter in question, does not alter the fact that said confirmation letter was duly communicated by facsimile and received by the SFA.
- Equally, in respect of SFA’s allegation that the confirmation letter dated 19 February 2012 was addressed to the Head of delegation of the SFA, but should instead have been sent to the Secretary General of the SFA, has no consequence at all. The only decisive point according is that the confirmation letter was communicated to one of the official facsimile numbers of the SFA and as this happened the relevant confirmation letter has to be considered as duly and timely notified to the SFA.
- In addition, FIFA refers to article 94(4), 111(2) and 114(2)(a) of the CAF Disciplinary Code and maintains that even if the confirmation letter had not been received by the SFA before the preliminary competition match for the 2014 FIFA World Cup Brazil played between Sudan and Zambia on 2 June 2012, *quod non*, the match suspension was binding

on the Player, and was so immediately binding having been sent off in the match of the 2012 CAN Tournament played between Zambia and Sudan on 4 February 2012.

- If the SFA had any doubt about the eligibility of the Player, it would have been up to the SFA to undertake the necessary steps in order to clarify the status of eligibility of the Player. The responsibility to field only eligible players falls entirely and solely on the association concerned which is also stipulated in article 8(3) of the 2014 FIFA World Cup Regulations. A match commissioner is not a contact person that the associations must assure that (no) match suspensions have to be served by certain players or officials. Match commissioners are never informed by the Secretariat to the FIFA DC of any match suspensions imposed on players. Thus, the fact that in the present case the match commissioner allegedly denied having been informed of any match suspension by the respective department of FIFA – *a contrario*, the SFA claims that the match commissioner confirmed that all players were eligible to play – is not a legally valid argument to shift the responsibility of fielding eligible players to the match commissioner only and/or ultimately to FIFA.
- Additionally, FIFA argues that its responsibility is limited only to confirming in writing cautions, expulsions and match suspensions to the concerned associations, for matches that FIFA has administrative responsibility with regard to disciplinary aspects in accordance with article 35(1) of the FIFA Disciplinary Code. In the instant action, the match suspension in question resulted from a match played in the scope of the 2012 CAN Tournament between Zambia and Sudan on 4 February 2012. In accordance with article 111(1) CAF Disciplinary Code, the said match suspension was confirmed to the SFA by the relevant department of CAF. Moreover, pursuant to article 111(2) CAF Disciplinary Code a “*confirmation serves only as confirmation: sanctions (cautions, expulsions, automatic match suspensions) have immediate effect on subsequent matches even if the letter of confirmation reaches the association, club or head of delegation concerned later*”. In other words, the SFA was responsible to know whether the Player was eligible or not in the match for the 2014 FIFA World Cup Brazil played between Sudan and Zambia on 2 June 2012.
- FIFA maintains that the facts related to Decision 050537 SUD LIM differ substantially from those of the present matter. In that case, the FIFA DC also came to the conclusion that the SFA fielded an ineligible player and that it was to be held responsible for this failure. However, when deciding on the sanction to be imposed on the SFA, the FIFA DC took into consideration several circumstances, which are, in any case, not relevant for this case and which arguments cannot be considered as legally valid arguments to be applied *tel quel* in the present matter.
- Finally, in respect of the argument of the SFA that Zambia should have filed a protest regarding the fielding of the Player in the relevant match; FIFA refers to article 108(1) of the FIFA Disciplinary Code, according to which disciplinary infringements are prosecuted *ex officio*.

V. ADMISSIBILITY

25. The appeal was filed within the deadline of 21 days set by article 63(1) FIFA Statutes. The appeal complied with all other requirements of article R48 of the CAS Code, including the payment of the CAS Court Office fees.
26. It follows that the appeal is admissible.

VI. JURISDICTION

27. The jurisdiction of CAS, which is not disputed, derives from article 63(1) FIFA Statutes 2011 edition as it determines that “[a]ppeals against final decisions passed by FIFA’s legal bodies and against decisions passed by Confederations, Members or Leagues shall be lodged with CAS within 21 days of notification of the decision in question” and article R47 of the CAS Code. The jurisdiction of CAS is further confirmed by the Order of Procedure duly signed by the parties.
28. It follows that CAS has jurisdiction to decide on the present dispute.

VII. APPLICABLE LAW

29. Article R58 of the CAS Code provides the following:

“The Panel shall decide the dispute according to the applicable regulations and 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 application of which the Panel deems appropriate. In the latter case, the Panel shall give reasons for its decision”.

30. The Panel notes that article 62(2) FIFA Statutes stipulates the following:

“The provisions of the CAS Code of Sports-Related Arbitration shall apply to the proceedings. CAS shall primarily apply the various regulations of FIFA and, additionally, Swiss law”.

31. The parties agreed to the application of the various regulations of FIFA and subsidiary to the application of Swiss law. The Panel is therefore satisfied to accept the subsidiary application of Swiss law should the need arise to fill a possible gap in the various regulations of FIFA.

VIII. MERITS

A. The Main Issues

32. In view of the above, the main issues to be resolved by the Panel are:
 - a) *Was the SFA duly notified of the suspension imposed on the Player?*

- b) *Should the confirmation letter on the suspension of the Player to the SFA have been communicated by e-mail?*
- c) *Did the match commissioner of FIFA mislead the SFA before the Match?*
- d) *Could the FIFA Disciplinary Committee open disciplinary proceedings against the SFA ex officio?*
- e) *Is Decision no. 050537 SUD LIM of the FIFA Disciplinary Committee dated 19 September 2005 relevant for the present matter?*

a) Was the SFA duly notified of the suspension imposed on the Player?

- 33. The SFA maintains that the CAF should have ensured that the confirmation letter was delivered to the particular person entitled to implement the respective disciplinary decisions within the national association rather than restrict itself merely with sending the message to the general facsimile number of the association. The CAF allegedly addressed its notification on the suspension of the Player to the Head of the Sudan delegation only 14 days after the latter had been eliminated from the tournament, where it should have addressed such letter to the General Secretary of the SFA.
- 34. The SFA also contends that FIFA violated its right to receive complete information concerning the disciplinary proceedings. The issue in question could have been avoided by mere inclusion of the SFA in the respective correspondence between the CAF and FIFA, where the SFA had an express interest. The factual background of the case evidences that misleading and ambiguous information coming from different sources resulted in the involuntary violations committed by the SFA. Hence, the SFA did not intentionally field the Player for the Match. Given that the match during which the Player was condemned to a one match suspension was played in the course of the final stage of the 2012 CAN Tournament, whereas the Match belonged to the 2014 FIFA World Cup and having not received any notification or warning from FIFA, the SFA merely concluded that the cautions received during one tournament did not count in the other tournament. In this respect the Appellant alleges that it specifically relied on the cooperation of CAF to avoid unnecessary violations because CAF had initiated an extensive modernisation program, among which steps it was decided to move international football tournaments from even to odd years. The SFA was under the impression that the Player was not suspended for the Match as the SFA maintains that players that were suspended during the CAN Tournament in Angola were permitted by the CAF to participate in the final tournament of the 2010 FIFA World Cup in South Africa.
- 35. FIFA maintains that the two page letter confirming the suspension imposed on the Player was communicated by CAF to the SFA on 20 February 2012 at the general facsimile number of the SFA. The SFA was therefore duly notified of the ineligibility of the Player before the Match.
- 36. Equally, FIFA finds that it is immaterial that the confirmation letter was addressed to the Head of the Sudan delegation and not to the Secretary General of the SFA. The only decisive point according to FIFA is that the confirmation letter was communicated to one of the official

facsimile numbers of the SFA and as this happened the relevant confirmation letter has to be considered as duly and timely notified to the SFA.

37. Additionally, FIFA is of the opinion that it had no obligation whatsoever to inform the SFA about the pending suspensions which were carried over from the 2012 CAN Tournament. The only records of cautions, expulsions, and match suspensions FIFA has to confirm in writing to the concerned associations are those that relate to matches in which FIFA has charge of the administration with regard to disciplinary aspects. The match of 4 February 2012 between Zambia and Sudan was played in the scope of the 2012 CAN Tournament, and the said match suspension was thus confirmed to the SFA by the relevant department of CAF.
38. The argument regarding the move of the conduct of international football tournaments from even to odd years by CAF in the past and the cited example where players which were suspended during the CAN Tournament in Angola were permitted by the CAF to participate in the final tournament of the FIFA World Cup 2010 in South Africa are legally irrelevant. FIFA finds that the SFA has not brought forward any kind of evidence or legal argument to prove that due to this the SFA should not have been aware of the ineligibility of the Player in the Match.
39. Finally, FIFA refers to article 94(4), 111(2) and 114(2)(a) of the CAF Disciplinary Code and maintains that even if said confirmation letter had not been received by the SFA before the preliminary competition match for the 2014 FIFA World Cup Brazil played between Sudan and Zambia on 2 June 2012, quod non, the match suspension was binding on the Player, and was so binding immediately after having been sent off in the match of the 2012 CAN Tournament played between Zambia and Sudan on 4 February 2012.
40. The Panel notes that the articles of the CAF Disciplinary Code referred to by the parties, determine the following:

Article 94(4):

“An expulsion automatically incurs suspension from the subsequent match, even if imposed in a match that is later abandoned and/or cancelled. The Disciplinary Board may extend the duration of the suspension”.

Article 111(1):

“Records of cautions, expulsions and match suspensions are stored in the central computer system of CAF. The Disciplinary Board secretariat confirms them in writing to the national association or club concerned or, in the case of final competitions, to the head of the delegation concerned”.

Article 111(2):

“This confirmation serves only as notification: sanctions (cautions, expulsions, automatic match suspensions) have an immediate effect on subsequent matches even if the letter of confirmation reaches the national association, club or head of delegation concerned at a later date”.

Article 114(2)(a):

“Match suspensions in relation to an expulsion pronounced on a player outside of a competition (separate match[es]) or not served during the competition for which they were intended (elimination or the last match in the competition) are carried over as follows:

a. African Cup of Nations: carried over to the national team’s subsequent official match”.

41. The Panel finds that FIFA provided convincing evidence that on 20 February 2012, the CAF Disciplinary Board sent by facsimile a confirmation letter of the suspension imposed on the Player (dated 19 February 2012) marked for the attention of the Head of delegation of team Sudan in the 2012 CAN Tournament. Further the Panel is satisfied that the facsimile number is the same facsimile number as was used by FIFA during the Disciplinary and Appeal proceedings in the present matter.
42. Consequently, it is to be decided by this Panel whether the confirmation letter had to be addressed to the General Secretary of the SFA, instead of the Head of Delegation of team Sudan in the 2012 CAN Tournament.
43. The Panel finds that, in light of article 111(1) of the CAF Disciplinary Code, records of cautions, expulsions and match suspensions, in the case of final competitions, are to be confirmed to the Head of the delegation concerned. This is exactly what the CAF Disciplinary Board did on 20 February 2012. The fact that the Head of the Sudan delegation was no longer in post when the relevant facsimile was transmitted is of no avail, as the facsimile was addressed to the Head of delegation, but was transmitted to the general facsimile number of the SFA. Article 111(1) of the CAF Disciplinary Code does in any way not require a confirmation letter to be sent specifically to the General Secretary of the national association concerned; a facsimile to the general facsimile number of the national association concerned suffices.
44. Moreover, the Panel is of the opinion that it is the responsibility of the SFA that even if a facsimile is directed to a wrong person within its organisation, *quod non*, such facsimile would have to be internally transferred to the responsible person within the organisation and does not cause the facsimile transmission to have failed.
45. Regarding the e-mail correspondence that took place between CAF and FIFA about suspensions of players for the upcoming preliminary round for the 2014 FIFA World Cup Brazil, the Panel finds that there was no duty upon CAF or FIFA to inform the SFA of its findings, as these findings were in line with what was stipulated in the confirmation letter of 20 February 2012.
46. The arguments adduced by the SFA regarding the SFA’s elevated reliance on communications from CAF due to the modernisation program executed by the CAF does not, in the opinion of the Panel, preclude the SFA from its duty to field only eligible players in matches of its national team. Moreover, the SFA was duly informed by CAF of the suspension imposed on the Player.

47. Further, the SFA's reference to the CAN Tournament in Angola and the fact that players suspended in this tournament were allegedly permitted by CAF to participate in the final tournament of the 2010 FIFA World Cup in South Africa, is immaterial. Although this may have occurred, the confirmation letter of 20 February 2012 and the CAF Disciplinary Code are clear in determining that the Player was suspended for the next official match of the national team of Sudan.
 48. Finally, the Panel also accepts the submission of FIFA that a suspension of a player for the following official match of the relevant national team is automatically imposed if a player is expelled from a match. In theory, the sending of a confirmation letter before the next official match of the relevant team is to take place is, strictly speaking, not necessary. Pursuant to article 111(2) of the CAF Disciplinary Code confirmation of a suspension only serves as a notification. Sanctions have immediate effect and are not dependent on a confirmation letter of such suspension to the relevant national association. In the present matter, the SFA could not ignore that the Player had been expelled during the previous official match of the team of Sudan and should have checked the status of the Player by consulting the proper FIFA and/or CAF authorities (see also para. 53ff. below) Such simple check would have allowed the SFA to field another player without taking the risk of losing the match by forfeit.
 49. Consequently, the Panel finds that all arguments submitted by the SFA concerning the notification of the confirmation letter are to be dismissed as the confirmation letter was duly notified to the SFA and the SFA was informed of the suspension automatically imposed on the Player for the next official match with the national team of Sudan.
- b) Should the confirmation letter on the suspension of the Player to the SFA have been communicated by e-mail?**
50. The SFA argues that CAF used to notify its affiliates of suspensions imposed on its players by e-mail. The present confirmation letter was however sent by facsimile. The SFA is of the opinion that, should the CAF have decided to change its usual means of dealing with the affiliates from e-mail to facsimile it clearly had to make them aware of that step in advance.
 51. FIFA is of the opinion that it does not matter whether the confirmation letter of the suspension was communicated by e-mail or facsimile, as it does not alter the fact that the said confirmation letter was duly communicated and received by the SFA.
 52. The Panel finds that the SFA submission that CAF used to send confirmation letters of suspensions by e-mail and thus could not suddenly change its practice to sending such letters by facsimile is immaterial as the fact remains that the facsimile was duly transmitted to the SFA in accordance with the requirements established in the CAF Disciplinary Code. Additionally, as was determined *supra*, even if no confirmation letter had been sent at all before the Match, *quod non*, the SFA should still have been aware that the Player was automatically suspended for the next official match of the national team of Sudan following his sending off in the match of 4 February 2012.

c) Did the match commissioner of FIFA mislead the SFA before the Match?

53. Before the Match, the SFA alleges that it was assured by a FIFA representative, i.e. the match commissioner, that no on-going suspensions were imposed on the players and that it was not made aware of any such impediment preventing a player from participating in the Match. In other words, the SFA is of the opinion that if FIFA failed to divulge information of particular interest for the Match with its official representative, then the SFA cannot have been informed of the suspension imposed on the Player.
54. FIFA is of the opinion that if the SFA had any doubt about the eligibility of the Player, it was for the SFA to undertake the necessary steps in order to clarify the status of eligibility of the Player. The responsibility to field only eligible players falls entirely and solely on the association concerned which is also stipulated in article 8(3) of the 2014 FIFA World Cup Regulations. A match commissioner is not a contact person for the associations in order to provide assurance that (no) match suspensions have to be served by certain players or officials. Match commissioners are never informed by the secretariat to the FIFA DC of any match suspension to be imposed on players.
55. The Panel notes that article 8(3) of the 2014 FIFA World Cup Regulations stipulates the following:
- “The association shall be responsible for fielding only eligible players. Failure to do so shall lead to the consequences stipulated in the FIFA Disciplinary Code”.*
56. The Panel accepts FIFA’s submission that a match commissioner is not a contact person for the associations in order to provide assurance that no match suspensions have to be served by certain players or officials. In case of any uncertainty about the eligibility of one of its players the SFA has the responsibility to verify the exact status of the player with the responsible departments of CAF and/or FIFA. A national (or club) team cannot avoid liability for fielding ineligible players by reliance upon incorrect or incomplete information given by a person or a body which is not competent to give such binding information (cf. CAS 2007/A/1278-1279 at n° 177 et seq.).
57. In addition, the Panel finds the submission of the SFA that the match commissioner confirmed that all players were eligible to play, quite different from the initial submission of the SFA made in its letter to FIFA dated 20 June 2012, that the match commissioner denied having been informed of any match suspension by the respective department of FIFA. In any case, statements of a match commissioner cannot be a legally valid reason to shift the responsibility of fielding an ineligible player to the match commissioner, and ultimately to FIFA. Pursuant to article 8(3) of the FIFA 2014 World Cup Regulations, the SFA was solely responsible for fielding only eligible players.
58. As FIFA submits, match commissioners are never informed by the secretariat to the FIFA DC of any match suspension to be imposed on players. In the absence of proof to the contrary, the Panel cannot accept the SFA’s argument that the absence of knowledge of the match

commissioner of any illegibility issues with the players, is caused by a lack of collaboration between CAF and FIFA and should in turn lead this Panel to overturn the Appealed Decision.

59. Consequently, the Panel dismisses the argument brought forward by the SFA in respect of alleged assurances made by the match commissioner in advance of the Match.

d) Could the FIFA Disciplinary Committee open disciplinary proceedings against the SFA *ex officio*?

60. With reference to article 14(3) of the 2014 FIFA World Cup Regulations, the SFA draws the attention of the Panel to the fact that Zambia did not lodge any protest in respect of the ineligibility of the Player. Therefore, it would be reasonable to conclude that the Football Association of Zambia was neither notified nor otherwise made aware of the disciplinary sanction imposed on the Player (notwithstanding that the Player was allegedly suspended in the match between Sudan and Zambia) or that it understood that the Player had already purged possible earlier suspensions. Instead of performing the diligent preparatory work for the Match, and in good faith notifying its affiliate of the impending violation of the effective regulations, FIFA restricted itself to an *ex officio* prosecution and imposition of the sanctions on the SFA.

61. FIFA refers to article 108(1) of the FIFA Disciplinary Code, according to which disciplinary infringements are prosecuted *ex officio*. In compliance with the afore-mentioned provision, the FIFA Appeal Committee correctly pointed out in the Appealed Decision that the alleged pre-condition of the opponent to lodge a protest is not necessary in order for the secretariat to the FIFA DC to open disciplinary proceedings for possible violation of article 55(1) of the FIFA Disciplinary Code.

62. The Panel notes that article 14(3) of the FIFA 2014 World Cup Regulations reads as follows:

“Protest regarding the eligibility of players nominated for matches in the preliminary competition shall be submitted in writing to the match commissioner within one hour of the match in question and followed up immediately with a full written report, including a copy of the original protest, to be sent in writing and by registered letter to the FIFA general secretariat. Protests regarding the eligibility of players nominated for matches in the final competition shall be submitted in writing to the FIFA general secretariat no later than five days before the opening match”.

63. Article 108(1) of the FIFA Disciplinary Code stipulates the following:

“Disciplinary infringements are prosecuted ex officio”.

64. In accordance with the FIFA DC Decision and the Appealed Decision, the Panel is of the opinion that the alleged pre-condition of the opponent to lodge a protest is not necessary in order for the secretariat to the FIFA DC to open disciplinary proceedings for a possible violation of article 55(1) of the FIFA Disciplinary Code. In this respect the Panel adheres to the reasoning of the FIFA Appeal Committee in the Appealed Decision where it held that as the present matter is of purely disciplinary nature, the secretariat to the FIFA DC was entitled to

open disciplinary proceedings against the SFA and that consequently the allegation made by the SFA is to be rejected.

e) Is Decision no. 050537 SUD LIM of the FIFA Disciplinary Committee dated 19 September 2005 relevant for the present matter?

65. Finally, the SFA refers the Panel to Decision 050537 SUD LIM of the FIFA DC dated 19 September 2005. The SFA asserts that Decision 050537 SUD LIM is relevant for the present matter and that based on this jurisprudence, at least the inadvertent violation of the SFA should be mitigated by complete unawareness of the SFA in respect of the disciplinary sanction of the Player caused by the illicit stance of FIFA.
66. FIFA maintains that the facts related to Decision 050537 SUD LIM differ substantially from those of the present matter. In Decision 050537 SUD LIM, the FIFA DC also came to the conclusion that the SFA fielded an ineligible player and that the SFA was to be held responsible for this failure. However, when deciding on the sanction to be imposed on the SFA, the FIFA DC took into consideration several circumstances, which are, according to FIFA, not relevant for this case and which arguments cannot be considered as legally valid arguments to be applied *tel quel* in the present matter. Consequently, according to FIFA, the two afore-mentioned disciplinary cases are different and thus cannot be compared or related and therefore the SFA's request to mitigate its caused violation by fielding an ineligible player has to be rejected.
67. The Panel noted that there are several differences between the present matter and Decision 050537 SUD LIM of the FIFA DC. One of the differences is, for example, that in the dispute leading to Decision 050537 SUD LIM, the FIFA DC sent an incorrect confirmation letter to the SFA, which erroneously did not mention that the player in question was suspended for a certain match. Also, the SFA itself drew FIFA's attention to this fact after the match in which the player in question had to serve an automatic suspension.
68. Nevertheless, despite these mitigating circumstances in Decision 050537 SUD LIM (which are not present in the instant case) the FIFA DC remained of the opinion that the SFA should have realised that the player was automatically suspended for the next match after having received two yellow cards in two different matches and in case the SFA had any doubt about the eligibility of the player, the SFA should have contacted FIFA.
69. The Panel finds that Decision 050537 SUD LIM was rendered under quite different circumstances and can therefore not be used as a basis to overturn the Appealed Decision in the present case. On the contrary, the Panel is of the opinion that the SFA should have learned from the dispute leading to Decision 050537 SUD LIM, as the FIFA DC "*issued a warning in accordance with art. 14 [FIFA Disciplinary Code] on the Sudan Football Association to act with more diligence in the future. A new infringement of the relevant articles would lead to a much more severe sanctions to be determined by the Committee*". Consequently, the Panel finds that the SFA had an elevated duty of care to verify with more diligence the eligibility of the players of its national team in the future.

70. Even if no previous warning would have been given to the SFA and even if the Panel would conclude that the national team of Sudan did not intentionally field the Player in the relevant Match between Sudan and Zambia on 2 June 2012, the fact that the Player was sent off in the match between Sudan and Zambia of 4 February 2012, should have led to SFA to, at least, verify the status of the Player with the responsible authorities. By not doing so, the SFA acted negligently by fielding the Player and the Panel finds that the SFA should bear the consequences thereof.
71. The Panel finds the sanctions imposed on the SFA (a fine of CHF 6,000 and losing the match Sudan – Zambia of 2 June 2012 as lost by forfeit by Sudan) for violating article 55(1) of the FIFA Disciplinary Code (fielding an ineligible player), not to be disproportional and consequently decides that the Appealed Decision is to be upheld.
72. Finally, it may be noted that the rule that a national team or a club shall lose a match in which it has fielded ineligible player(s) is neither new nor a rule which would be applicable only in the FIFA World Cup Regulations. Rather, it is a clear-cut rule that is widely used by national associations and international federations to ensure that it is a responsibility of each team to ensure that only eligible players are fielded. The rationale of such rules is clear: federations, associations and leagues are keen to ensure high reliability and integrity of the competition (cf. CAS 2007/A/1278-1279, at n° 124 et seq.; TAS 2006/A/1154, at n° 15 et seq.; TAS 2006/A/1166, at n° 79; CAS 2011/O/2574, at n° 327; TAS 2009/A/1935, at n° 101; CAS 2011/A/2473, at n° 68 et seq.).

B. Conclusion

73. Based on the foregoing, and after taking into due consideration both the regulations applicable to the event and all the evidence produced and all arguments submitted, the Panel finds that:
- a) *The SFA was duly notified of the suspension imposed on the Player by facsimile of 20 February 2012 (dated 19 February 2012) by CAF.*
 - b) *The notification was of confirmatory nature only, while the ineligibility of the Player was automatically triggered by the expulsion of the Player in the preceding match.*
 - c) *Information provided by a match commissioner of FIFA in advance of a match is not legally relevant as a match commissioner is not a competent contact person for the associations to give assurance in binding terms that no match suspensions have to be served by certain players or officials.*
 - d) *The FIFA DC could open disciplinary proceedings against the SFA ex officio; neither a protest nor other forms of official complaint of the opposing team was necessary in this respect.*
 - e) *Decision no. 050537 SUD LIM of the FIFA Disciplinary Committee dated 19 September 2005 is not in any event relevant for the matter at stake due to the different factual circumstances of the respective cases.*

74. Consequently, the Panel confirms the Appealed Decision in full. Any other prayers and requests for relief are dismissed.

ON THESE GROUNDS

The Court of Arbitration for Sport rules:

1. The appeal filed by the Sudan Football Association on 3 December 2012 against the Decision issued on 24 October 2012 by the Appeal Committee of the Fédération Internationale de Football Association is dismissed.
2. The Decision issued on 24 October 2012 by the Appeal Committee of the Fédération Internationale de Football Association is confirmed.
3. (...).
4. (...).
5. All other motions or prayers for relief are dismissed.