CAS 2018/A/6072 Kwesi Nyantakyi v. FIFA

ARBITRAL AWARD

delivered by the

COURT OF ARBITRATION FOR SPORT

sitting in the following composition:

President:	Prof. Dr. Martin Schimke, Attorney-at-Law, Dusseldorf, Germany
Arbitrators:	Mr. Olivier Carrard, Attorney-at-Law, Geneva, Switzerland
	The Hon. Michael J. Beloff, Q.C., Barrister, London, United Kingdom
Ad hoc Clerk:	Mr. Adam Thew, Solicitor, London, United Kingdom

in the arbitration between

Mr. Kwesi Nyantakyi, Accra, Ghana

Represented by Mr. Jorge Ibarrola, Attorney-at-Law in Lausanne, Switzerland, Mr. Olivier Rodondi, Attorney-at-Law in Lausanne and Mr. Thaddeus Sory, Solicitor in Accra, Ghana

- Appellant -

and

Fédération Internationale de Football Association, Zurich, Switzerland

Represented by Mr. Jaime Cambreleng Contreras, Head of Litigation (FIFA) and Mr. Octavian Bivolaru, Acting Head/Ethics Secretariat of Adjudicatory Chamber (FIFA), Switzerland

- Respondent -

I. PARTIES

1. Mr. Kwesi Nyantakyi (the "Appellant") is a Ghanaian national and the former President of the Ghana Football Association (the "GFA"), a former FIFA Council Member, the former 1st Vice President of the African Football Confederation ("CAF") and former President of the West African Football Union ("WAFU").

2. The Fédération Internationale de Football Association (the "Respondent" or "FIFA") is the international federation governing the sport of football worldwide. It is headquartered in Zurich, Switzerland.

3. The Appellant and the Respondent are hereinafter referred to as the "Parties".

II. FACTUAL BACKGROUND

A. Background Facts

4. Below is a summary of the relevant facts and allegations based on the Parties' written submissions, pleadings and evidence adduced and at the hearing. Additional facts and allegations found in the Parties' written submissions, pleadings and evidence may be set out, where relevant, in connection with the legal discussion that follows. While the Panel has considered all the facts, allegations, legal arguments and evidence submitted by the Parties in the present proceedings, it refers in its Award only to the submissions and evidence it considers necessary to explain its reasoning.

5. Between October and December 2017, Mr. Anas Aremeyaw Anas, an investigative journalist, together with his associates operating collectively under the name 'Tiger Eye', conducted an undercover investigation focusing on corrupt practices in African football. As part of this investigation, Mr. Anas and his team disguised themselves as a company incorporated in Qatar, named 'Medgulf Company Limited' ("Medgulf"), led by a supposed member of the Qatari royal family named H.H. Sheikh Hammad Al Thani. Medgulf made contact with the Appellant through the Appellant's associate Mr. Abdulai Alhassan, himself a GFA official and member of the GFA Executive Committee.

6. During subsequent meetings between Medgulf, the Appellant and Mr. Alhassan, the participants discussed different forms of potential collaboration, including Medgulf's sponsorship of the GFA and the Ghanaian Premier League, as well as wider construction and infrastructure projects in Ghana not directly related to football. The meetings were recorded and subsequently broadcasted along with other findings of the undercover investigation in a BBC Africa documentary entitled *'Betraying the Game'* and a similar production entitled '*Number 12 on the Ball*'. The authenticity of these recordings is not disputed by the Parties.

7. During the meetings in question, the alleged Qatari investors clearly indicated their main objectives to the Appellant, namely: (i) the sponsorship of the Ghanaian Premier League; and (ii) obtaining contracts in relation to two principal government projects in Ghana – the Tema Oil Refinery and the Gas Pipeline Extension. From the content of the

discussions, it is clear that these two objectives were interdependent and that the Appellant's role in both was vital and central.

8. The Appellant was recognised and portrayed in the meetings as a facilitator and "strategist" in relation to the above objectives. In this context, the Appellant discussed the sums of money which should be paid to various government ministers and contacts in order to secure the said government contracts. The Appellant assured the alleged investors that he could facilitate these bribes being received and accepted by the said government officials in order to obtain the relevant contracts. In this respect, the plan (as described by Mr. Alhassan) intended to "*use football as a tool, so that everywhere [the supposed Sheikh] goes, he's heard of.*" The Appellant presented himself and was repeatedly referred to during the discussions as President of the GFA (rather than as acting in any other function), having been informed that the supposed Qatari investors would only deal with him in furtherance of their plan.

9. From the video recordings of the meetings, it was established that the Appellant received a substantial amount of cash from the supposed Qatari investors (in the form of bundles of banknotes which were handed to the Appellant and which he placed in a bag). While the exact amount was not specified in the recording, several sources indicate it to have been USD 65,000 (or at least USD 40,000). This cash payment was qualified as *"shopping money"* and was given to the Appellant following the Appellant's request that he and Mr. Alhassan would be *"sorted out"* for their cooperation in relation to the matters discussed.

10. With regards to the specifics of the sponsorship of the Ghanaian Premier League, the Appellant proposed a scheme by which Medgulf would conclude a contract with Nama (later Namax), a company related to the Appellant, pursuant to which Medgulf would sponsor the league over a three-year period for a sum of up to USD 15 million. Namax would act as the agent representing Medgulf in its dealings with the GFA and would receive a commission of 5% of the total sponsorship amount, as well as a further 20-25% from the GFA for ensuring the conclusion of the sponsorship agreement. The Appellant subsequently drafted by hand an MoU documenting the terms of the intended sponsorship, followed by a second and final version of the document sent from his GFA email account, which was dated 12 October 2017. The document was signed by the Appellant on behalf of Namax, and by Mr. Alhassan as a witness.

11. According to email correspondence from the Appellant to the supposed Qatari investors, the Appellant requested that the entire sponsorship amount be wired to the account of a financial institution – Fountain Savings and Loans Limited – which the Appellant described as belonging to him, and of which he is documented as a shareholder. No amount was ultimately paid by Medgulf to the GFA or Namax.

12. On 7 June 2018, the BBC Africa documentary '*Betraying the Game*' was first broadcasted. This programme included footage of some of the video recordings taken from the above-mentioned meetings and exposed the actions of the Appellant in his dealings with the supposed Qatari investors to the relevant football authorities and the general public.

B. Proceedings before the FIFA Investigatory Chamber

13. On 8 June 2018, the Appellant was informed by the Chairperson of the Investigatory Chamber of the FIFA Ethics Committee (the "FIFA Investigatory Chamber") that formal proceedings had been opened against him pursuant to Article 62 para. 3 of the FIFA Code of Ethics ("FCE") 2012. The FIFA Investigatory Chamber determined that there was a prima facie case to answer that the Appellant committed violations of the FCE, and requested provisional measures be put in place.

14. On 19 June 2018, pursuant to this request for provisional measures, the Appellant was provisionally banned by the FIFA Investigatory Chamber from all football-related activities for 90 days.

15. On 5 September 2018, this provisional ban was extended by the FIFA Investigatory Chamber by a further 45 days.

C. Proceedings before the FIFA Adjudicatory Chamber

16. On 1 October 2018, the Appellant was informed that, following the conclusion of the FIFA Investigatory Chamber proceedings, formal adjudicatory proceedings had been opened against him before the Adjudicatory Chamber of the FIFA Ethics Committee (the "FIFA Adjudicatory Chamber").

17. On 29 October 2018, the Appellant was found guilty by the FIFA Adjudicatory Chamber of the infringement of Articles 19 (Conflict of Interest), 21 (Bribery and Corruption) and 22 (Commission) FCE 2012 (the "Appealed Decision").

18. The decision banned the Appellant from taking part in any kind of football-related activity at the national and international level (administrative, sports or any other) for life and ordered him to pay a fine in the amount of CHF 500,000.

19. On 29 November 2018, the full written grounds of the Appealed Decision were subsequently communicated to the Appellant.

D. Proceedings before the Court of Arbitration for Sport

20. On 27 December 2018, the Appellant submitted his Statement of Appeal pursuant to Article R48 of the Code of Sports-related Arbitration (2017 edition) (the "CAS Code"). This included a request for provisional measures to stay the Appealed Decision. In his Statement of Appeal, the Appellant nominated Mr. Olivier Carrard, Attorney-at-Law in Geneva, Switzerland, as arbitrator.

21. On 29 December 2018, the Appellant requested an extension of the time limit to file his Appeal Brief. Following agreement between the Parties, the Appellant was subsequently granted an extension until 11 February 2019 to file his Appeal Brief. In accordance with this agreement, the Respondent was given an extension of the same duration within which to file its Answer.

22. On 7 January 2019, the Respondent nominated the Hon. Michael J. Beloff, Q.C., Barrister in London, United Kingdom, as arbitrator.

23. On 22 January 2019, the Appellant withdrew his application for a stay of the Appealed Decision.

24. On 11 February 2019, the Appellant submitted his Appeal Brief pursuant to Article R51 of the CAS Code.

25. On 13 February 2019, in accordance with Article R54 of the 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:

- President: Prof. Dr. Martin Schimke, Attorney-at-Law in Dusseldorf, Germany

- Arbitrators: Mr. Olivier Carrard, Attorney-at-Law in Geneva, Switzerland
  The Hon. Michael J. Beloff, Q.C., Barrister in London, United Kingdom

26. On 19 February 2019, the CAS Court Office informed the Parties that Mr. Adam Thew, Solicitor in London, United Kingdom, would act as *ad hoc* Clerk in the present case.

27. On 29 April 2019, the Respondent filed its Answer, pursuant to Article R55 of the CAS Code.

28. On 26 and 27 June 2019, respectively, the Appellant and the Respondent returned a duly signed copy of the Order of Procedure.

29. On 4 July 2019, a hearing was held in Lausanne, Switzerland. At the outset of the hearing, both Parties confirmed not to have any objection as to the appointment of the Panel.

30. In addition to the Panel, Ms. Andrea Zimmermann, CAS Counsel, and Mr. Adam Thew, *ad hoc* Clerk, the following persons attended the hearing:

For the Appellant:

1. The Appellant;
2. Mr. Thaddeus Sory (Counsel);
3. Mr. Jorge Ibarrola (Counsel);
4. Mr. Olivier Rodondi (Counsel); and
5. Ms. Monia Karmass (Counsel).

For the Respondent:

1. Mr. Jaime Cambreleng Contreras (Head of Litigation, FIFA);
2. Mr. Octavian Bivolaru (Acting Head, Ethics Secretariat of Adjudicatory Chamber, FIFA); and
3. Ms. Audrey Cech (Counsel, FIFA).

31. Following the commencement of the hearing, the Appellant's counsel informed the Panel that the Parties had been in discussions in the days preceding the hearing regarding the substance of the Appeal. The Parties requested a short break in which to further discuss the common ground which might be reached between them in order to narrow the issues to be presented to the Panel. For this purpose, a short break was duly granted by the Panel.

32. Upon recommencement of the hearing, the Appellant's counsel informed the Panel that an agreement had been reached between the Parties, on the basis of which the Appellant would admit his commission of all the offences for which he had been found guilty in the Appealed Decision and withdraw all arguments relating thereto, including as to the FIFA Adjudicatory Chamber's jurisdiction in the case and the legality of the evidence on which his convictions were based. The sole contentious point remaining between the Parties in the present appeal was therefore the issue of the proportionality of the sanction applied in the Appealed Decision. The Panel accordingly agreed to hear arguments from the Parties solely on that issue (the "Proportionality Issue"). As a result, the facts of the case as set out in the Appealed Decision are not contested by the Parties, save in so far as they directly relate to the Proportionality Issue. The present Award therefore omits the arguments presented by the Parties in their respective submissions, save for those regarding that issue. In that context, where appropriate, it sets out the facts of the case as accepted by the Parties pursuant to the Appealed Decision.

III. SUBMISSIONS OF THE PARTIES

A. Appellant

33. The Appellant's submissions, in essence, may be summarized as follows:

- The Appellant has not committed any violation of the FCE 2012 which would deserve any sanction. For the sake of prudence, however, the Appellant submits that should the CAS consider that any infringement has been committed, he does not deserve the sanction which has been imposed on him in the Appealed Decision.

- The principle of proportionality provides that the sanction must be proportionate to the offence committed. It is a widely accepted general principle of sports law that *"the severity of a penalty must be in proportion with the seriousness of the infringement."*

- CAS has confirmed the importance of respecting this general principle, acknowledging that penalties imposed by an international federation can be overruled when the penalties provided for by the rules can be deemed excessive or unfair. Moreover, the sanctions imposed by associations must comply with the principle of equal treatment, meaning that all members or constituents of that association must be treated alike. In this case, the sanctions imposed on the Appellant were biased and unreasonable, particularly in comparison to FIFA sanctions against other FIFA officials.

- The said sanction remains especially and particularly excessive when compared to the sanctions imposed on officials like Mr. Blatter or Mr. Platini, for example. Both Mr. Blatter and Mr. Platini were found to have violated Articles 20(1) 19(1), (2), 13 and 15 FCE 2012 in relation to Mr. Blatter's transfer of CHF 2,000,000 to Mr. Platini. The FIFA Adjudicatory Chamber banned Mr. Blatter and Mr. Platini for eight years from all football-related activities – then reduced to six years by the FIFA Appeal Committee – and fined Mr. Blatter and Mr. Platini CHF 50,000 and CHF 80,000 respectively. Mr. Platini's ban was further reduced to four years and the fine to CHF 60,000 by CAS, whereas Mr. Blatter's appeal was dismissed.

- More recently, CAS reduced the sanction imposed on Dr. Mong Joon Chung. On 7 October 2015, the FIFA Adjudicatory Chamber of the FIFA Ethics Committee found that Dr. Chung had violated Articles 13, 16, 18, 41 and 42 FCE 2012 and sanctioned him with a six-year ban from all football-related activity at the national and international level, and a fine of CHF 100,000. On 23 June 2016, the FIFA Appeal Committee found that Dr. Chung had only violated Articles 13, 18, 41 and 42 of the FCE 2012 and, as a consequence, reduced the ban from six years to five years as well as the fine from CHF 100,000 to CHF 50,000. In its arbitral award issued on 9 February 2018, the CAS panel found that Dr. Chung was guilty of violations of Article 3 of the FCE 2009, Article 18, 41 and 42 FCE 2012. Accordingly, the CAS panel significantly reduced the ban imposed on Dr. Chung from five years to 15 months and annulled the fine.

- The two CAS awards cited by the FIFA Adjudicatory Chamber in the Appealed Decision to support its argument that a life ban is a proportionate sanction are not appropriate in comparison to the present case.

- *CAS 2010/A/2172* is about match-fixing, in particular the manipulation of a UEFA Europa League match. As stated in that award, *"it is the first case of its kind in European football involving a match official as distinct from a player or a coach. It therefore has an importance beyond that to the disputant parties."* The Panel ruled that "*match officials are an obvious target for those who wish to make illicit profit through gambling on match results (or indeed on the occurrence of incidents within matches). They must be reinforced in their resistance to such criminal approaches."*

- *CAS 2009/A/1920* is also about match-fixing, which is, according to the Panel *"one of the worst possible infringements of the integrity of sports."* The Panel declared that *"only reactions inside the clubs can prevent that games are manipulated, and only strong sanctions against the clubs will set the necessary signal to the officials and the players that the direct or indirect support of match fixing activities are not tolerated but can lead to severe consequences for the entire club and not only for the leading actors of the plot."* As a football official who has been working for many years in furtherance of the reputation and the integrity of the game, the Appellant fully endorses these views.

- However, in the present case, it should be recalled that the alleged offences were allegedly committed by the Appellant only as a businessman willing to enter commercial contracts which would benefit his organization, the GFA. The

Appellant's intention was never to affect, directly or indirectly, the course of any game or damage football's reputation, which he has defended all his life. He is not guilty of any manipulation of the game that could have jeopardized the trust of spectators of the game, as was the case in the CAS awards the FIFA Adjudicatory Chamber used as examples of justified life bans.

- Even if the Appellant committed mistakes and lapses of judgement in his commercial approach, the case still does not have such an importance beyond the Parties as would justify a heavy sanction to "*send a signal*". Therefore, these cases of match-fixing should not be compared with the present one in the way the FIFA Adjudicatory Chamber suggested in order to justify the life ban. It is more appropriate to compare the case of the Appellant with the sanctions imposed on Messrs. Blatter and Platini.

- For having given and received CHF 2,000,000, respectively, the former FIFA President Blatter was suspended for eight years and received a fine of CHF 50,000, while the UEFA President Platini was suspended for four years and received a fine of CHF 60,000. CAS obviously applied the proportionally test taking into consideration the amount improperly exchanged and the senior positions of the appellants in those cases.

- There is an inexplicable and baffling disproportion between the sanctions imposed on Messrs. Blatter and Platini, respectively President of FIFA and the President of UEFA, relating to a CHF 2,000,000 transaction, and the sanctions imposed on the Appellant, President of the GFA.

- Even assuming, *quod non*, that the Appellant received an undue pecuniary advantage, then it should still be noted that the said advantage was only of USD 40,000 (or USD 65,000 if FIFA's version of events is accepted). This is a much lower amount than the CHF 2,000,000 exchanged between Messrs Blatter and Platini, who however received lower sanctions and fines.

- It is unacceptable that the FIFA Adjudicatory Chamber relied on a speculative amount of USD 750,000 to decide the amount of the fine, while not only is there no evidence to indicate that the Appellant would actually have done anything in order to receive such a sum, but in fact, since he was being set up by Mr. Anas, he would never actually have received it. The Appellant added that he does not have sufficient funds to pay a fine of USD 750,000, and that, in the analogous situation of criminal cases, such a fine would inevitably be adapted to what he could afford to pay. On these bases, the Appellant argues that the fine should be substantially reduced to be commensurate with the facts of the case and with his financial means.

- In reality, it appears that the Appealed Decision reflected an unjustified intention to punish the Appellant for the entirety of the accusations contained in the broadcasted documentaries, including the allegations of match-fixing that were brought against some referees in Ghana. It also seems that the Appealed Decision seeks to punish the Appellant for offences that he might have committed at a later stage but that he eventually did not and could not commit. The Appellant did not bribe any public

servant of Ghana; he did not receive, directly or indirectly, any sponsorship amount for the account of the GFA; and he did not receive any commission out of such sponsorship amounts. In other words, he was convicted by the Respondent for that which he could have done, but which he did not do.

- This approach amounts to pre-emptive justice, punishing individuals before they commit any wrongdoing, giving rise to the overwhelming risk of imposing sanctions without any certain knowledge that such wrongdoing would have actually been committed. The FIFA Adjudicatory Chamber cannot, without violating proportionality, ignore the principle that a conviction may only be based on the offences actually committed by the accused, not on those that could have been committed or those committed by third parties unconnected with the case-in-hand.

- It is important to take into consideration mitigating factors in favour of a reduction of the sanction imposed on the Appellant. Notably his previous career in football is impeccable: he served FIFA, the GFA, CAF and WAFU for many years and in various important positions. At the hearing, the Appellant added that the GFA, at the time of the commission of the offences, had not had a main sponsor for three to four years, leading him to jump at the chance of meeting the supposed Sheikh who might remedy this situation to the GFA's benefit. He emphasised that this was the supposed investor's idea, not his, and that he for his part thought he was negotiating the sponsorship agreement in good faith.

- As a prominent figure of football in Ghana and important businessman, the Appellant has previously been faced with rumours which always proved to be false. Moreover, he fully cooperated with the FIFA Adjudicatory Chamber during all the proceedings and was even willing to fly from Ghana for a hearing in which he could present his position.

- At the hearing, the Appellant questioned the significance of the present case for the wider footballing world in comparison to cases such as those involving Messrs. Blatter and Platini. The Appellant questioned how many people are aware of the present case outside Ghana or Africa, suggesting that it is inappropriate to compare the damage done to FIFA's reputation in this case to that done in the above cases. Further, he questioned whether the general public's trust of FIFA would be any greater if a life ban is handed out in this case.

- The Appellant added that a life ban would ruin his life and be disproportionate in the circumstances. The Appellant accepted at the hearing the necessity of CAS imposing a significant sanction and that, since he had admitted the offences, the ban could not be quashed, but argued that a life ban would be neither fair, nor commensurate to the offences committed. Furthermore, the Appellant questioned whether the minimum sanction of a five-year ban is indeed applicable as it is not contained in FCE 2012. The Appellant suggested that an appropriate period of suspension would be between two to six years (i.e. within the range of ban handed out in the Diakite and Blatter cases), asking the Panel to temper justice with mercy in this respect.

- Taking into account all the elements of the case, and general mitigating factors, even assuming that the Appellant violated the FCE 2012, the sanctions imposed on him are evidently and grossly disproportionate to the alleged offence. Therefore, in view of all the circumstances of the case-at-hand, the Appellant requests that the sanction imposed on the Appellant by the FIFA Ethics Committee on 16 May 2018 be significantly reduced.

Request for Relief

34. Following the Appellant's acceptance at the hearing of his commission of the offences set out in the Appealed Decision, the remaining relevant Requests for Relief as set out in his Appeal Brief are:

"[…]

VI. The sanction imposed by the Adjudicatory Chamber of the FIFA Ethics Committee on 29 October 2018 is significantly reduced to a limited number of years of suspension and/or to a reasonable fine.

VII. The Adjudicatory chamber of the FIFA Ethics Committee shall be ordered to pay to Mr Kwesi Nyantakyi a contribution towards his legal and other costs incurred within the framework of these proceedings, in an amount to be determined at the discretion of the Panel."

B. Respondent

35. The Respondent's submissions, in essence, may be summarized as follows:

i. Introductory Remarks

- Taking into account the seriousness of the infringements of the Appellant's admitted offences and the content of the articles infringed, especially bribery (Article 21 para. 1 FCE 2012), the sanction imposed by the FIFA Ethics Committee is just and proportionate.

- With regard to the scope and duration of such ban, the FCE 2018 sets forth minimum and maximum limits for certain infringements; but not a maximum limit for the most serious infringements. In this respect, bribery is considered the most serious offence under the FCE 2018 in view of the damage it causes to the image of football and especially of FIFA. In this case, the FIFA Adjudicatory Chamber (and therefore CAS) has the margin of discretion to impose a ban ranging from five years up to a life ban.

- When determining the scope and duration of such ban, the FIFA Ethics Committee has to be guided by the principle of proportionality, taking into consideration all circumstances of the case, whilst keeping in mind that the sanction imposed must serve both a punitive and a preventive purpose.

ii. General remarks on the principle of proportionality

- In light of the Appellant's prayers for relief, it is stressed that – notwithstanding its power to review a case *de novo* (Article R57 of the CAS Code) – the Panel should amend a disciplinary decision of a FIFA judicial body only in cases in which it finds that that a body exceeded the margin of discretion afforded to it by the principle of association autonomy, i.e. only in cases in which the FIFA judicial body concerned is held to have acted arbitrarily (cf. Hans Michael Riemer, no. 230 on art. 70).

- Established CAS jurisprudence holds that the principle of proportionality requires an assessment of whether a sanction is appropriate to the violation committed in the case–at-stake. Excessive sanctions are prohibited. In this respect, several CAS panels have observed that "*[w]hatever the nature of the offence may be, […] the special circumstances of each case must be taken into account when determining the level of the sanction".*

- Moreover, when imposing a sanction and in order to restore, vis-à-vis public opinion, the relationship of trust that has been damaged by the misconduct, the deciding body shall first take into consideration several elements. These include: the consequences that such misconduct caused to the proper functioning or reputation of the institution to which the person is directly or indirectly affiliated (here, FIFA); the character of the accused; his (or her) level of responsibility and status; the severity of the fault; the motives for the infringement; and any relevant precedents. Taking such elements into consideration will ensure that the sanction imposed adequately meets the purpose of prevention and provides an adequate remedy to restore the public's trust.

- FIFA takes a strong stance against any unethical act, especially bribery, which is so damaging to the good governance, integrity and viability of football. In this respect, FIFA prohibits absolutely − and must apply a zero-tolerance policy against − any conduct, or attempt, by any football stakeholders worldwide, to accept, give, offer, promise, receive, request or solicit any improper advantage to or from anyone within or outside FIFA.

- Notably, in recent years FIFA's image has been seriously damaged by repetitive bribery scandals involving officials (directly or indirectly) affiliated to it. In the case-at-stake, serious offences (including bribery), were committed by a highly-ranked official with decades of experience in the world of football (being the former president of the GFA and WAFU, 1st vice-president of CAF and member of the FIFA Council). In this context, the judicial bodies of FIFA play a central role in sanctioning such misconduct, particularly in order to regain the public's trust, avoid collateral damage, and ensure that football is free from any such blemishes.

- In light of this, FIFA's judicial bodies must impose proportionate sanctions that will dissuade others from acting similarly, punish the offender, prevent recidivism and, most importantly, restore the public's trust. As a result, in a scenario as serious as the one-at-hand, in which the Appellant's actions all but led to the dissolution of the GFA, a lenient sanction would not meet these objectives.

- Moreover, the FIFA judicial bodies pass decisions based on the specific circumstances of each case, considering all the determining factors of the culpability as foreseen in general rules of the FCE 2012 and FCE 2018 (Article 9(1) and as confirmed by the CAS − *"similar cases must be treated similarly, but dissimilar cases could be treated differently"* , as well as, *"it must impose a sanction that is proportionate to the offence, as* [sic] *well as taking into account the sanctions – if themselves proportionate − imposed on others for similar offences"*.

iii. Proportionality of the FIFA judicial bodies' decisions

- With regard to the nature of the infringement, and as was correctly highlighted by FIFA's judicial bodies, the allegation of bribery is among the most serious ones under FIFA's rules and regulations and the FCE 2012 and 2018.

- A breach of FIFA's regulations, particularly for bribery, must attract serious sanctions. In this context, the importance of Articles 19, 21 and 22 of the FCE 2012 is confirmed by the fact that their corresponding provisions in the FCE 2018 (Articles 19, 27 and 21 respectively), have been placed on the list of articles that are binding at the national level and must be included without amendment in association regulations.

- It must be recalled that the aim of the FCE 2012 is to protect the integrity and good governance of football. Articles 19, 21 and 22 of the FCE 2012, and their corresponding provisions in the FCE 2018, play an essential role in safeguarding essential elements of organised football and any breach must be sanctioned accordingly. As mentioned by several CAS panels, it is of vital importance to uphold the integrity and good image of football around the world: "[…], *kickbacks, extortion, bribery and the like are a growing concern in many major sports. The conduct of economic and business affairs related to sporting events requires the observance of certain 'rules of the game' for the related activities to proceed in an orderly fashion.* […] *In the Panel's view, it is therefore essential for sporting regulators to demonstrate no tolerance against all kinds of corruption and to impose sanctions sufficient to serve as an effective deterrent to people who might otherwise be tempted, because of their greed, to consider adopting improper conducts for their personal or political gain"* (*CAS 2011/A/2426*, para. 153).

- It is important to note that the Appellant has held some of the most important positions in association football. He was not only a member of the FIFA Council (FIFA's executive and strategic body), but also the 1st Vice President of CAF (the largest football confederation). In addition, he was the President of an important regional confederation, WAFU (consisting of 16 Member Associations). Last but not least, the Appellant was also the President of the GFA for 13 years, and thus the highest representative of a FIFA Member Association. In short, the Appellant is a person of influence, involved for many years at the top of professional football. Consequently, he must have been aware of the relevant ethics regulations of FIFA and should have respected them.

- In particular, the Appellant was recorded while engaging in conduct which was directly at odds with the relevant provisions on bribery (Article 21 para. 1), Commission (Article 22) and Conflict of Interest (Article 19) of the FCE 2012.

- No disciplinary procedure would have been opened and no sanction would have to be imposed had not the Appellant:

    a) agreed to receive a cash payment corresponding to a bribe;

    b) negotiated and accepted (the promise of) a commission for and/or on behalf of a related-party company;

    c) failed to act in the best interest of the GFA, by creating an intermediary agency for the sponsorship of the said association, that would receive an important percentage (as commission) of the value of such sponsorship, therefore causing a significant loss to the GFA; and

    d) indicated to the alleged sponsor an account of a company to which he was connected being the account where the sponsor was invited to disburse the sponsorship sum.

- The Appellant's violations (Bribery, Commission and Conflict of Interest) were proactive, intentional and avoidable at his wish. It is clear that the Appellant attempted to obtain a personal undue advantage through his several wrongdoings.

- At the hearing, the Respondent further emphasised that the Appellant would have taken this scheme further had he had the chance and was fully willing to benefit from his senior position in football and the GFA. The video evidence shows that he had no hesitation in taking the cash offered to him and putting in his bag. His sole intention was private gain. He acted with disregard for the best interests of the GFA.

- The Respondent further emphasised the extreme gravity of wrongdoing which has been established and admitted by the Appellant. The offence of bribery is one of (if not the most) reprehensible offences in the FCE 2012. The sanction is therefore commensurate to the offence.

iv. The Appellant's failure to prove the disproportionality of the sanction

- The Appellant claims that the FIFA Ethics Committee sanctioned Mr. Platini and Mr. Blatter for bribery and corruption. However, as mentioned in the respective CAS awards, the evidence available to the FIFA Ethics Committee in those cases was not sufficient to establish that the acts of Mr. Blatter and Mr. Platini amounted to bribery and corruption within the meaning of FCE 2012. Furthermore, the Appellant refers to the sanction imposed by the FIFA Ethics Committee and the consequent CAS award in the case of Dr. Mong Joon Chung, although he was fully aware (and mentioned) that the initial charges against Dr. Chung (subsequently reduced by CAS) related to violations of Articles 13 (General duties), 16 (Confidentiality), 18 (Duty of disclosure, cooperation and reporting), 41 (Obligation of the parties to

collaborate) and 42 (General obligation to collaborate) of the FCE 2012, represented significantly lesser offences than those with which the Appellant is charged.

- It is dangerous to make such comparisons with cases whose facts were inevitably different. Indeed, the Adjudicatory Chamber of the FIFA Ethics Committee decides on a case-by-case basis taking into consideration all the facts surrounding the case. In this regard, as already mentioned, CAS has confirmed on numerous occasions that *"similar cases must be treated similarly, but dissimilar cases could be treated differently".* In the light of this jurisprudence, the cases cited by the Appellant do not sustain his argument of disproportionality of the sanction under scrutiny. Indeed, as already explained, the cases *CAS 2016/A/4501* and *TAS 2016/A/4474* did not concern acts of bribery but rather of conflict of interest, as well as accepting and giving gifts and other benefits, while the *CAS 2017/A/5086* only concerned breaches related to general duties, in particular the duties and obligations to collaborate. In consequence, the present case is clearly distinguishable from the cases cited by the Appellant.

- As for the CAS awards cited in the Appealed Decision in relation to the appropriateness and proportionality of a life ban (*CAS 2010/A/2172*) and the importance of the fight against corruption (*CAS 2009/A/1920*), the fact that these decisions concerned cases of match manipulation is not relevant, in particular due to the following considerations:

  a) First, the seriousness and severity of match manipulation is comparable to that of bribery. This is attested to by the content of Article 2 lit. g) of the FIFA Statutes (listing the objectives of FIFA), according to which corruption and match manipulation, together with doping, are indicated as examples of methods or practices which might jeopardise the integrity of matches, competitions, players, officials and member associations or give rise to an abuse of association, and which need to be prevented. A further illustration of the same point is the content of Article 12 para. 2 FCE 2012, according to which prosecution for bribery and corruption was not subject to a limitation period for prosecution, or its corresponding provision in the FCE 2018 (Article 12 para. 2), which sets a limitation period of ten years (the longest) for breaches corresponding to bribery, misappropriation of funds and manipulation of football matches.

  b) Second, it should be pointed out that no infringement corresponding to Article 29 FCE 2018 (Manipulation of Football Matches or Competitions) existed in the previous editions of the Code. Consequently, all past FIFA ethics cases related to match manipulation concerned, as the main charge, the violation of Bribery (Article 21 para. 1 FCE 2012 and corresponding provisions in the previous editions – Article 11 FCE 2009 and Article 12 FCE 2006).

  c) Third, while it is well-established that there is no principle of binding precedent ("stare decisis" or "collateral estoppel") under the CAS Code, it is recognized that, although later CAS panels might decide a point-at-stake

differently to a previous panel, it must nonetheless accord to previous CAS awards a substantial precedential value.

- With respect to the Appellant's allegation as to the disproportionality of the sanction imposed on him in relation to the amount of the (undue) advantage received, the Respondent stresses that, as specifically mentioned in the Appealed Decision, the totality of the bribe received by the Appellant (USD 65,000) does not adequately reflect the seriousness of his misconduct, as shown by the FIFA Adjudicatory Chamber's disapproval of it. Moreover, the Appellant engaged in a scheme wherein he solicited and accepted a commission in the approximate amount of USD 750,000 (corresponding to 5% of the USD 15 million value of the respective sponsorship).

- In view of the above, as well as of the fact that the Appellant was recorded receiving the bribe, and soliciting and accepting the relevant commission, and in order to ensure that sanctions imposed by the FIFA Ethics Committee have a punitive, but also a preventive role, and do not amount merely and inadequately to a reclaiming of the USD 65,000, the Respondent submits that the respective sanction in the appealed decision was fully proportionate.

- The sanction imposed on the Appellant is in line with previous practice of the Adjudicatory Chamber of the FIFA Ethics Committee in similar cases related to bribery; for example, the cases of Messrs. Chuck Blazer, Jeffrey Webb, Héctor Trujillo, Kokou Hougnimon Fagla and Ibrahim Chaibou.

- The FIFA Ethics Committee considered all the relevant facts of the case and, in particular, the fact that the Appellant has committed various breaches of several articles of the FCE 2012, including the most serious one.

- The FIFA Ethics Committee even analysed whether mitigating circumstances existed, and (as noted), took into consideration the Appellant's valuable services to football and to the development of the game in Ghana, the WAFU territory, for CAF as well as from FIFA, overall for various years. However, taking into consideration the circumstances of the case, the Adjudicatory Chamber of the FIFA Ethics Committee considered that none of these factors justified application of a lower sanction or excused the Appellant's serious misconduct.

v. Aggravating and mitigating circumstances in the Appellant's case

- The Appellant insists that other mitigating factors must be taken into account:

  a) his punishment for offences he eventually did not and could not commit;

  b) the cooperation of the Appellant during the proceedings; and

  c) his impeccable historical background in football.

- The Respondent submits that none of these factors lead to the conclusion that the Appealed Decision is other than proportionate for the following reasons:

a) Punishment for offences he did not/could not commit:

- In this respect, the outcome of the final report and the decision of the FIFA Ethics Committee, as well as of the result of the present proceedings, have established that the Appellant acted for personal financial interest. He sought to – and eventually did – materially benefit from his actions. In particular, he received a cash amount (as a bribe).

- Moreover, with regards to the infraction of commission, the content of Article 22 of the FCE 2012 clearly mentions the acceptance of a promise of commission among its constitutive elements. In other words, the FCE 2012 also proscribes the acceptance of a promise of such commission, regardless of the fact whether such commission was actually paid or received.

- Finally, it is evident that the Appellant, through his own proactive actions, positioned himself in a situation of conflict of interest by prioritising the interest of a related party company – Namax – over that of the GFA, acting as representative of both entities simultaneously. This alone, and regardless of the MoU not being formalised, constitutes a violation of Article 19 FCE 2012.

b) The duty to cooperate:

- The Appellant had the obligation to cooperate with FIFA, as established under his duty to cooperate (Article 18) and failure to cooperate (Article 39) FCE 2018. The fact that the Appellant had cooperated in the context of the investigations carried out by FIFA cannot be considered a mitigating factor but is the behaviour normally to be expected from parties to disciplinary proceedings.

c) The historical background in football:

- Regarding the achievements of the Appellant in football, the FIFA Ethics Committee took into account in its decision the valuable services rendered by the Appellant to football; but it had also to note that the Appellant (following his demission as the GFA President) has left the GFA in a severe situation of crisis, which all but led to the dissolution of the association and obliged FIFA to intervene.

- Furthermore, FIFA expects its top-ranked officials to act always within the boundaries of the various rules that apply to them. A blatant set of violations such as the ones committed by the Appellant cannot therefore be excused because of other positive achievements of his in the past.

vi. The Appellant's late admission of guilt at the hearing

- At the hearing, the Respondent added that the Appellant's admission of the offences and acceptance of the Appealed Decision (save as for the proportionality of the sanction), should only be counted as a mitigating factor if it was a "prompt and timely admission", not if it is solely a "late admission of guilt".

- The purpose of awarding a reduction in a sanction period for admission of offences is to avoid the time and costs of the dispute involved. Such time and costs savings have not occurred in the case-at-hand as the Appellant admitted his guilt only on the morning of the final hearing when the Parties had already made or prepared all their submissions and were already in attendance. The Appellant should therefore not benefit from a reduction of the sanction. Indeed, even had the admission occurred earlier, CAS would have no obligation to reduce the period of suspension. In the event, the Parties have had lengthy proceedings and have spent considerable time and money before CAS. The Appellant's late admission of guilt and acceptance of the offences should therefore not be counted by CAS as a mitigating factor in determining the proportionality of the sanction.

vii. Conclusions

- As mentioned above, there is consistent CAS jurisprudence regarding the limited discretion for CAS panels to review sanctions imposed by disciplinary bodies of federations. As stated in *CAS 2012/A/2762*, at para. 122: "*The measure of the sanction imposed by a disciplinary body in the exercise of the discretion allowed by the relevant rule can be reviewed only when the sanction is evidently and grossly disproportionate to the offence.*" In this context, CAS has to show restraint in evaluating whether a sanction is appropriate.

- In line with the above-mentioned CAS jurisprudence, the well-established standard practice of CAS is to reassess disciplinary sanctions only where they are grossly and evidently disproportionate (*CAS 2017/A/5127*, para. 84, *CAS 2009/A/1817 & CAS 2009/A/1844*, para. 174 and *CAS 2009/A/1870 WADA v. Hardy & USADA* para. 125), which it is not the case here.

- In the light of all the foregoing, it should be concluded that FIFA has demonstrated that the FIFA Ethics Committee correctly applied the relevant articles of the FCE 2012 and, consequently, the decision passed by the FIFA Ethics Committee is proportionate to the infringement committed.

- According to the rules relating to sanctions under the FCE 2012 (cf. Article 6 para. 2) in conjunction with fine limits established under Article 15 paras. 1 and 2 of the FIFA Disciplinary Code ("FDC") 2017, the amount of the fine shall not be less than CHF 300 and not more than CHF 1,000,000.

- In addition, the FIFA Ethics Committee took into account the undue pecuniary advantage received by the Appellant from the alleged Qatari investors (USD 65,000), as well as the approximate amount corresponding to the solicited and accepted commission (USD 750,000). However, the Panel's attention should be drawn to the fact that, when deciding upon the possible sanctions to be imposed *in casu*, these amounts alone do not adequately reflect the seriousness of the misconduct displayed by the Appellant. In this respect, in order to have a sanctioning and a preventive effect, in line with the longstanding jurisprudence of the FIFA Ethics Committee, the fine must be higher than the benefit the Appellant actually obtained (USD 65,000) as otherwise, it would only amount to a reclaiming of the

respective benefit. In addition, the imposition of the fine addresses not only the pecuniary benefits obtained, but also the overall misconduct carried out by the sanctioned person. In the light of the above, a fine of CHF 500,000 is fully proportionate.

- More specifically, the Appealed Decision complies with the principle of proportionality as well as with the FIFA Ethics Committee's practice in which there is a reasonable balance between the kind of the misconduct and the sanction.

- In particular, the sanction imposed on the Appellant is justified by the overall interest of football, especially as a commitment to the eradication of bribery in football. FIFA is constantly striving to protect the image of football from jeopardy or harm as a result of immoral or unethical methods and practices. Those who seek to make their livelihood in professional football should not violate the ethical rules, which exist in the interest of FIFA and football, as well as ensuring that those professionals for whom football has an important meaning are not disaffected by the degeneration of ethical standards.

- In conclusion, the disciplinary measures imposed by the FIFA Ethics Committee in the Appealed Decision are in compliance with the FCE 2012 and 2018 and the FIFA Ethics Committee's jurisprudence, for which reason all arguments brought forward by the Appellant as regards proportionality should be rejected.

Requests for Relief

36. The Respondent filed the following requests for relief in its Answer:

- *"To reject the Appellant's appeal in its entirety;*

- *To confirm the decision rendered by the FIFA Ethics Committee on 29 October 2018 hereby appealed against; and*

- *To order the Appellant to bear all costs incurred with the present procedure and to cover all expenses of the Respondent related to the present procedure."*

IV. JURISDICTION

37. The jurisdiction of CAS, which is not disputed by the Parties, derives from Article R47 of the CAS Code and the terms of the FIFA Statutes and FCE 2012. 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 the CAS insofar as the statutes or regulations of the said body so provide or as the parties have concluded a specific arbitration agreement and insofar as the Appellant has exhausted the legal remedies available to him prior to the appeal, in accordance with the statutes or regulations of the said sports-related body."

38. Article 82(1) of the FIFA Statutes provides as follows:

"With the exception of art. 81 par. 1 above, decisions taken by the adjudicatory chamber are final, subject to appeals lodged with the Court of Arbitration for Sport (CAS) in accordance with the relevant provisions of the FIFA Statutes."

39. Further, Article 58(1) of the FIFA Statutes provides as follows:

"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."

40. The jurisdiction of CAS is further confirmed by the Order of Procedure, duly signed by the Parties.

41. It follows that CAS has jurisdiction to adjudicate on and decide the present dispute.

V. ADMISSIBILITY

42. Article 58(1) of the FIFA Statutes provides as follows:

"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."

43. The written grounds of the Appealed Decision were communicated to the Appellant on 29 November 2018. The Appellant filed his Statement of Appeal with CAS on 17 December 2018 pursuant to Article R48 of the CAS Code. The Parties subsequently agreed upon an extension of the time limit for the Appellant to file his Appeal Brief until 11 February 2019, which was granted by CAS in its letter of 23 January 2019. The Appellant subsequently filed his Appeal Brief on 11 February 2019, in line with the above deadline.

44. The Appeal was therefore filed within the time limit prescribed by Article 67(1) of the FIFA Statutes. The Appeal complies with all other requirements of Article R48 of the CAS Code, including the payment of the CAS Court Office fee.

45. It follows that the present Appeal is admissible.

VI. APPLICABLE LAW

46. Article R58 of the CAS Code provides as follows:

"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."

47. Article 57(2) of the FIFA Statutes provides:

"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."

48. The Panel accepts the primary application of the various regulations of FIFA, in particular the FCE and, subsidiarily, Swiss law, should the need arise to fill a possible gap in the various regulations of FIFA.

49. In accordance with the principle of *tempus regit actum*, an offence is to be judged on the basis of the substantive rules in force at the moment the alleged offence was committed, subject to the principle of *lex mitior*. However, the procedural aspects of the proceedings are governed by the regulations in force at the time the appeal was lodged.

50. The FCE 2018, which substantively replaced the FCE 2012, came into force on 12 August 2018. The present Appeal concerns conduct which occurred around October 2017, and thus before the FCE 2018 entered into force. Hence, with regard to material provisions, the FCE 2012 applies.

51. With respect to the procedural provisions, Article 88(2) of the FCE 2018 states that the procedural rules enacted therein shall come into force immediately and apply to all adjudicatory proceedings for which adjudicatory proceedings had not been formally opened at that point. The Panel notes that the FIFA Adjudicatory Chamber opened proceedings against the Appellant on 1 October 2018, after the date on which the FCE 2018 had entered into force. As in the Appealed Decision (and as agreed by the Parties), the Panel will therefore apply the FCE 2018 as to all procedural aspects of the present appeal.

VII. MERITS

A. Background

52. As noted above, at the outset of the hearing in the present case, the Parties came to an agreement on the basis of which the Appellant withdrew his Appeal against the Appealed Decision, save as to the proportionality of the sanction awarded therein. As such, the sole task before the Panel is to assess whether the sanction contained in the Appealed Decision is proportionate to the offences admitted by the Appellant.

53. For the sake of clarity, it is worth restating at this point the details of the offences of which the Appellant was found guilty in the Appealed Decision (and which he has now admitted) and the sanction against with the Appeal is made:

"1.Mr Kwesi Nyantakyi is found guilty of infringement of art. 19 (Conflicts of Interest), art. 21 (Bribery and corruption), and art. 22 (Commission) of the FIFA Code of Ethics 2012 edition.

2. Mr Kwesi Nyantakyi is hereby banned from taking part in any kind of football-related activity at national and international level (administrative, sports or any other) for life as of notification of the present decision, in accordance with Article 6 lit. h) of the FIFA Code of Ethics 2012 edition in conjunction with Article 22 of the FIFA Disciplinary Code.

3. Mr. Kwesi Nyantakyi shall pay a fine in the amount of CHF 500,000 within 30 days of notification of the present decision[…]*"*

54. It is a well-established principle of CAS jurisprudence that the party which asserts facts to support its rights has the burden of establishing them. This is in line with Article 8 of the Swiss Civil Code which stipulates that: *"Unless the law provides otherwise, the burden of proving the existence of an alleged fact shall rest on the person who derives rights from that fact."* It is therefore the responsibility of the Appellant in this case to prove that the sanction is disproportionate (see, i.e. *CAS 2013/A/3297*).

55. It is also a well-established principle (and uncontested between the Parties) that all appeals to CAS are heard *de novo*, as enshrined in Article R57 of the CAS Code. In line with its *de novo* powers, when determining whether a sanction contained in an Appealed Decision is proportionate, the specific circumstances of each case must be taken into account. The Panel notes the margin of discretion afforded to the FIFA Adjudicatory Chamber through the principle of autonomy of association as a judicial body established under Swiss law, with the consequence that, as argued by the Respondent, CAS shall demonstrate a certain degree of deference to the decision-making bodies of FIFA. For this margin of discretion to apply, therefore, requires that the FIFA Adjudicatory Chamber has taken account of all the specific circumstances of the case in determining the sanction.

56. Further, the Panel notes that the Respondent's argument that the Panel may only overturn or reduce the sanction in question if it is *"evidently and grossly disproportionate to the offence,"* is only acceptable to the extent that it is not directly at odds with CAS' power to hear the case *de novo.* Such a self-imposed restriction would otherwise contradict the clear language of Article 57 of the CAS Code and arguably weaken the curative power of CAS decisions in regard to any procedural inadequacies (see, i.e. *CAS 2012/A/2912*). Furthermore, the principle of autonomy of association and the application of Article 75 of the Swiss Civil Code has been extensively discussed in previous CAS decisions, and are commonly understood to be broadly interpreted, especially in an international context such as this one, to the extent that it may not be used to restrict the scope of review by CAS panels (see also Lewis Q.C., Adam and Taylor Q.C., Jonathan (eds.), *Sport: Law and Practice*, (3rd edition) (2014) paras. E3.90-E3.94). While previous CAS panels may have chosen to apply a particular standard based on the specific circumstances of individual cases, therefore, the present Panel does not find itself restricted in its power of review in this case beyond the clear and concise wording of Article 57 of the CAS Code.

57. As such, the question the Panel has to ask itself is simply whether, in all the specific circumstances of the case, the sanction is disproportionate to the offences committed by the Appellant.

B. The Nature of the Scheme

58. The Panel notes that the offences in the present case were committed entirely within the context of, and relied wholly upon, a media sting operation set up by Mr. Anas and his Tiger Eye associates. While this does not necessarily constitute entrapment in a strict sense (and the Appellant's acceptance of the offences renders any discussion of the validity of evidence collected in this manner a moot point), the fact remains that he was in fact the 'victim' of this media sting. Indeed, there is no evidence that, absent Mr. Anas' media sting operation, the Appellant would in fact have acted wrongfully as he did. In this case, the proposed corrupt scheme could never actually have come to fruition, as there were in fact no Qatari investors poised to sponsor the GFA and pay the vast sums promised to the Appellant. As such, this situation can be distinguished from one in which the Appellant participated in a genuine corrupt scheme which was later exposed by journalistic reporting (or any other means). While this is not a defence to the offences involved in the case, it does mean that there was never any possibility of the corrupt scheme actually coming to fruition.

59. The Panel also notes that although it is true that the Appellant would have made a substantial personal gain from the planned scheme had it come to fruition, in clear contravention of his official duties and the terms of FCE 2012, the scheme would have also benefited his employer the GFA, in the form of a significant long-term sponsorship of its premier competition. Although this neither excuses the Appellant's conduct, nor provides a defence to the offences for which he has been found guilty, this point should also be taken into consideration when assessing the proportionality of the sanction for these offences. Whilst it may be argued that the Appellant's principal motivation in his involvement in this scheme was his own personal gain, it cannot be discounted that the GFA's benefit was also a significant factor in that motivation. This is indeed what the Appellant claimed in his statement at the outset of the hearing when he described the situation of the GFA not previously having had a main sponsor for some period of time, and that he *"jumped at the chance"* to meet the supposed Sheikh in order to remedy this, thinking that he was doing this *"in good faith."*

C. Previous Cases

60. It is well-established (and uncontested by the Parties) that there is no principle of binding precedent (*stare decisis)* at CAS. To the extent that it finds it useful, however, the Panel is free to take note of the decisions in previous cases which involved broadly similar circumstances, in order to aid it in determining whether the sanction in the Appealed Decision is proportionate in all the circumstances.

61. In this context, the Appellant makes much of the shorter sanctions imposed on former FIFA President Mr. Blatter in *CAS 2016/A/4501* and former UEFA President Mr. Platini in *CAS 2016/A/4474*. As stated in the Appellant's submissions, CAS reduced Mr. Platini's ban to four years, while it upheld Mr. Blatter's ban of six years. The Appellant also cites CAS' decision in *CAS 2016/A/4474*, in which it reduced the ban imposed on

Dr. Moon Joon Chung to five years. The Appellant argues that, in comparison to these cases, the sanction imposed on him in this case is *"blatantly disproportionate,"* especially considering the much lower sum of money actually received by the Appellant in this case compared with the sums changing hands in those cases.

62. The Panel notes, however, as stated by the Respondent, that none of these three above cases cited by the Appellant involved commission of the offence of Bribery and Corruption pursuant to Article 21 FCE 2012. While there are some broad similarities in terms of the corrupt nature of the activity involved and the senior positions within regional and global football governance held by those concerned, the facts of each of these cases and specific nature of that conduct were quite different from the case-at-hand. Considering that, as already stated above, the Panel must assess the proportionality of the offences in all the specific circumstances of the case, it does not necessarily feel it appropriate to read too much into the sanctions awarded in those cases in the context of a case concerning Article 21 FCE 2012. Specifically, it is not persuaded that the lower length of the sanctions in those cases necessarily supports an argument that the sanction in this case is disproportionate, considering the different circumstances involved.

63. The Panel is also not particularly persuaded, however, by the Respondent's argument that the offence of match manipulation is *"comparable to that of bribery"* in this case or by the relevance of the CAS cases cited by the Respondent (e.g. *CAS 2010/A/2172* and *CAS 2009/A/1920*) to the proportionality of the sanction in this case. As submitted by the Appellant, there is no indication that he intended to affect, directly or indirectly, the course of any football match as a result of the scheme. While it may be the case that, under previous editions of the FCE, officials involved in match-fixing would have been charged with the offence of Bribery equivalent to Article 21 FCE 2012, this does not mean that their behaviour is thereby comparable with that of the Appellant in the present case. The absence of any evidence suggesting an intention on the part of the Appellant to affect the outcome of any match means the Panel does not find that there is any value to be drawn in comparing this case with the above-cited match-fixing cases. As a result, it does not find that the cases *CAS 2010/A/2172* and *CAS 2009/A/1920* are particularly significant in the context of the present Appeal or speak against a finding that the ban imposed in the Appealed Decision was disproportionate.

64. The Panel does take note of the decision in *CAS 2011/A/2426* which concerned an appeal by Mr. Amos Adamu, a former member of the FIFA Executive Committee, Executive Member of CAF and President of WAFU, against a three-year ban for Bribery (as defined under a previous version of the FCE) and other offences, having accepted a bribe of USD 800,000, allegedly towards the funding of artificial pitches in Nigeria, in exchange for agreeing to fix his vote for the future host of the FIFA World Cup. As with the present cases, this was in reality a media sting operation contrived by undercover journalists, documented by video and audio recordings and subsequently exposed. The CAS panel in that case upheld the three-year ban imposed by the FIFA Appeal Committee and added that it "*might even be deemed a relatively mild sanction given the seriousness of the offence".*

65. The Panel also notes the decision in *CAS 2011/A/2433*, which concerned broadly similar facts to *CAS 2011/A/2426*, and in which CAS dismissed an appeal by former a FIFA Executive Committee member, Mr. Diakite, to overturn or reduce a two-year ban. Again, the Panel espoused the view that the sanction was a relatively mild one in view of the seriousness of the offences committed by the Appellant. Both these cases – *CAS 2011/A/2426* and *CAS 2011/A/2426* – were cited by the Appellant at the hearing as evidence that the much stricter sanction of a life ban in the case–at-hand is disproportionate considering the broadly similar facts of all three cases.

66. It is indeed striking that the bans in both these above-cited cases are significantly shorter than the one contained in the Appealed Decision, despite some overarching similarities (bribery offences, each the result of media sting operations targeted against individuals holding senior positions in football administration). This lends considerable weight to the Appellant's argument that the sanction in the present case is disproportionate. However, the Panel also takes into account the emphasis placed by the Respondent and in the Appealed Decision on the specific circumstances of the case-at-hand. In particular, the video evidence shows that the Appellant not only agreed to his participation in the corrupt scheme, but played an active role in driving and developing the exact terms of it, beyond the actions of the offenders in the other cases concerned. It was the Appellant who came up with the terms of the scheme, including the individuals to target, the sums to be paid to those individuals in order to facilitate the scheme (repeatedly increasing the sums he requested in this respect), the details of the bank accounts in to which the sums were to be paid (into companies in which he was interested), and the wording of the agreement which was to formalise the arrangement. He then drafted the terms of this agreement himself before sending this via email to the supposed investors, requesting payment into the aforementioned bank account in full. The creative driving role played by the Appellant in this manner thereby goes considerably beyond the conduct displayed by the offenders in the other cited cases, which might properly mark it out as a case deserving of a stronger punishment.

67. As further emphasised by the Respondent and as reflected in the Appealed Decision, the video evidence also shows that the Appellant had no hesitation in taking the cash initially offered as an initial bribe by the supposed investors and putting it in a bag, without any doubt that this was intended to be a personal bribe for his services. It is apparent from the video evidence that the Appellant would have extended this scheme further into an inherently corrupt long-term sponsorship arrangement at the heart of Ghanaian football and political life, had it been possible to do so. This also sets this case apart from the other above-cited cases in marking out as one which the violations committed by the Appellant are more egregious and for which a stronger sanction is justified.

68. While the marked disparity between the sanction in the present case and those in *CAS 2011/A/2426* and *CAS 2011/A/2426* does lend some weight to the Appellant's argument that the sanction in the Appealed Decision is disproportionate, the Panel feels comfortable that there are sufficient differences in the level and nature of the conduct involved to warrant a more stringent sanction in the case-at-hand. Furthermore, it should be noted that in both *CAS 2011/A/2426* and *CAS 2011/A/2426*, CAS dismissed the appeal of the individual concerned to have his ban reduced or overturned, commenting

specifically in both awards that the sanction might be considered mild in all the circumstances. It was not of course open to CAS to increase the length of these bans, which provides context to those indicative comments.

69. For its part, the Respondent has cited multiple cases of the FIFA disciplinary bodies in which life bans were imposed on senior football administration figures imposed for bribery offences, including those of Messrs. Chuck Blazer, Jeffrey Webb, Héctor Trujillo, Kokou Hougnimon Fagla and Ibrahim Chaibou. At the hearing, the Respondent further argued that there has been an evolution in the jurisprudence of FIFA since cases such as *CAS 2011/A/2426* and *CAS 2011/A/2426*, and further since the corruption scandals which engulfed the organisation following the cases of (i.a.) Mr. Blatter and Mr. Platini, reflected in the imposition of the minimum sanction of a five-year ban for bribery offences since the introduction of FCE 2018. The Panel has weighed all of these factors carefully in considering whether or not the sanction in the present case is disproportionate in the light of the above-mentioned previous cases, but reiterates that it is primarily concerned with the facts of the present case and the degree of misconduct revealed.

D. The Appellant's Previous Record

70. The Panel notes that the Appellant, as set out in his submissions and in his statement at the outset of the hearing, has a previously unblemished record in his long career in football governance and administration. As such, this is his first offence in a career in which he has held various positions at FIFA, the GFA, CAF and WAFU.

71. The Panel also notes the years of service the Appellant has provided to football through his various roles and the good work previously done for his employer the GFA, summarised at para. 234 of the Appealed Decision as *"rendering valuable services to football and to the development of the game in Ghana."* This is to be weighed against the severe situation of crisis in which the GFA was placed following release of the documentaries at the heart of the present case *"which almost led to the dissolution of the (GFA) and obliged FIFA to intervene."* The Panel follows the logic and reasoning of the FIFA Adjudicatory Chamber in this respect, although it should be noted that the crisis described was precipitated not only by the actions of the Appellant, but also of the wider instances of corruption exposed by Mr. Anas' work, notably the widespread problem of match-fixing in Ghana. As already stated, there is no indication that the Appellant was involved in match-fixing in any way.

72. The Panel would further note that, while the Appellant may indeed have a long history of service to football, in particular through his employment by the GFA, he clearly and admittedly tarnished this through his recent actions, in complete disregard for its best interests or for the good of the game in Ghana. His previous good work was carried out primarily through fulfilment of his professional duties to the GFA, for which he was remunerated. As such, while the Appellant's previously clean record may be considered to be no more than a slight mitigating factor, the Panel finds that this alone cannot be considered, in the present circumstances, to justify a reduction of the sanction on the basis that it is disproportionate.

E. The Timing of the Appellant's Admission of Guilt

73. The Appellant has had ample opportunity to admit the offences and accept responsibility for his actions. Instead, he created an elaborate story involving his email account being hacked, denying his interest in the company which was to act as agent in the proposed scheme and claiming that the money which he did receive in the form of a bribe was intended instead as repayment of travel expenses. Only at the outset of the hearing did he abandon this fanciful and fabricated defence by admitting his commission of the offences and the facts as set out in the Appealed Decision. This late admission, made at the last moment possible, saved little by the way of time and costs in this case, other than by reducing the length of the hearing and the time spent by the Panel in drafting the Award, based on the fact that the sole remaining issue to be decided was the Proportionality Issue. As such, full preparation for the hearing, both on the part of the Respondent and of the Panel, was still thereby required and carried out.

74. The Panel also notes the decision of the panel in *CAS 2011/A/2433*, which, as already mentioned, involved a broadly similar situation. As in this case, the appellant in that case *"consistently denied any wrongdoing and systematically contested any violation".* The Panel in that case found that there were no mitigating circumstances to apply merely because the appellant had *"expressed regret for the attack on FIFA's image"* and for the *"media hype, caused in particular by his* [...] *meetings with the journalists."*

75. Further, as argued by the Respondent, the Appellant had a duty to cooperate with the FIFA investigations pursuant to Article 18 FCE 2018. As such, the mere cooperation of the Appellant with FIFA during proceedings, even when wedded to his late admission of guilt, can only be held to be a minor mitigating factor, considering all the circumstances of the case. The Panel would generally encourage parties to CAS proceedings to admit facts and seek to narrow the issues before the Panel where appropriate, and the fact that the Appellant sought to do just that in this case has been duly considered by the Panel. However, the Panel finds that this consideration must be weighed against the timing of the Appellant's late admission of guilt in this case and the fact that full preparation for the hearing on the part of both the Respondent and the Panel was still required.

76. The Panel therefore finds that it cannot consider the Appellant's late admission of his guilt for the offences at the outset of the hearing as a basis on which to reduce the sanction against him.

F. Summary of the Panel's Findings

77. In its reasoning within the Appealed Decision, the FIFA Adjudicatory Chamber stated at para. 242 that "*nothing short of the maximum sanction under the FCE 2012, i.e. a ban on taking part in any football-related activity for life, is adequate for the violation of Article 21 FCE 2012 committed by Mr. Nyantakyi*."

78. The decision to apply a life ban was based on a variety of factors, notably the seriousness of the Appellant's breach, FIFA's *"zero tolerance policy against all kinds of corruption"*, the need for sanctions to serve as an effective deterrent to other individuals,

the need to maintain the integrity of the sport, and the threat that corruption poses to sport and sports organisations (see paras. 227-242 of the Appealed Decision).

79. In coming to this decision, however, the FIFA Adjudicatory Chamber did not appear to take into account some of the specific circumstances of the case mentioned above. In particular, it did not seek to take account of the fact that the offences were committed as part of a media sting operation, with no opportunity for the proposed scheme to actually come to fruition (although as already stated above, the nature of the proposed scheme does not negate the Appellant's guilt for the offences which he committed or provide a valid defence thereto). The Panel is also prepared to accept that there may be situations where a life ban for bribery offences committed even within the context of a media sting operation is justified and proportionate. Nevertheless, the nature of the scheme is a specific circumstance of the case which sets it apart from some other instances of bribery and related offences under the FCE, and which should have been taken into account when determining the appropriate sanction.

80. Further, the Panel is conscious of the much shorter sanctions awarded in cases with very broadly similar facts, such as *CAS 2011/A/2426* and *CAS 2011/A/2433*, albeit noting that the conduct of the Appellant in the present case is arguably more serious and egregious than that of the individuals in those cases.

81. In weighing up all the specific circumstances of the present case, the Panel determines that the lifetime ban from football imposed in the Appealed Decision is disproportionate.

82. In coming to this conclusion, the Panel notes in particular that the Appealed Decision did not take into account the fact that the offences were committed as part of a media sting operation by undercover journalists which was designed to solicit the sort of conduct from the Appellant which led to his violations of the FCE 2012. The Panel finds that this should have been taken into account, and that a distinction should be drawn between cases such as this one and *CAS 2011/A/2426* on the one hand, where the guilty conduct of the Appellant occurred entirely as part of a media sting operation, from cases where the conduct occurred as part of a genuine corrupt scheme, on the other hand. In cases of the former, there was never any actual possibility of the scheme coming to fruition, as it was a fantasy construction involving undercover journalists. In the latter, there is potential for actual harm to be caused to a myriad of stakeholders in football, including potential criminal harm.

83. The Panel also has in mind the much shorter bans imposed in analogous cases such as *CAS 2011/A/2426* and *CAS 2011/A/2433*, and, to a lesser extent, *CAS 2016/A/4501* and *CAS 2016/A/4474*. It notes CAS' previous dismissal of appeals against lifetime bans for match-fixing offences in cases such as *CAS 2010/A/2172* and *CAS 2009/A/1920*, though it is less convinced of the relevance of these cases to the present case considering the lack of any scheme or intention on the part of the Appellant to fix matches, despite the Respondent's claims that the offences for which he has been found guilty are analogous in terms of their seriousness.

84. As stated above, the Panel also notes in its decision that this is the Appellant's first offence, and that he has a long history of having served the best interests of football in

Ghana and Africa in a variety of senior roles. It also takes account of the FIFA Investigatory Chamber's decision to offset this against the crisis situation at the GFA following the exposure of his conduct, although this appears to have been caused, at least in part, by the unrelated match-fixing allegations which resulted from the material broadcast in Mr. Anas's documentary.

85. While, considering the above factors and all the circumstances of the present case, a lifetime ban appears in the Panel's view disproportionate, it at the same time acknowledges that the offences for which the Appellant has been found guilty are nevertheless extremely serious. Bribery in particular merits such categorisation and is aptly described at para. 241 of the Appealed Decision as *"life threatening for sports and sports organisations"*. The Respondent argues, as reflected in the same paragraph of the Appealed Decision, that FIFA has a direct and pressing interest in applying a zero-tolerance approach to the issue of bribery in football by baring those convicted of Bribery offences from sports governance positions in order to safeguard the future of football. The Panel also notes the Respondent's submissions at the hearing that there have been increased numbers of life bans awarded to those convicted of Bribery offences under the FIFA regulations in recent years and since the previous cases cited above. In this context, the Panel would have welcomed further submissions from the Respondent supporting its argument that there has been an evolution in FIFA's approach to the handling of bribery cases in the past few years and further evidence of the increased use of life bans for violations of Article 21 FCE 2012, in order to substantiate the proportionality of the sanction in this case but is prepared to assume that the Respondent is correct in what it avers. Nonetheless, the Panel reiterates that it is concerned with what sanction is merited on the agreed facts, rather than with any evolving practice of FIFA in this general context. On that basis it now turns to summarise its conclusions.

86. The Appellant is an experienced football official with a long career in its administration. His various positions made him one of the most senior football figures in Africa and a senior figure in football worldwide. As a result of this, he assumed a great deal of trust and responsibility, in particular to represent at all times the best interests of his employer the GFA, of which he was President. As such, his behaviour should be held to the highest standards so as to ensure the best interests of the GFA and the other organisations of which he was a figurehead are protected, along with the integrity of football in Ghana and Africa.

87. It should have been abundantly clear to the Appellant that, from the outset, his participation in the scheme and acceptance of bribes represented a colossal breach of these responsibilities. He sought directly to abuse these positions of trust and responsibility for his own personal gain. At no point did he seemingly stop to question his behaviour or establish that his actions were in the best interests of the GFA, instead encouraging and expanding the scheme, repeatedly increasing the sums demanded with which to bribe political figures to ensure its success. His behaviour ran directly counter to the best interests of football in Ghana and Africa, and contributed, following the exposure of the scheme, to a situation of scandal and chaos in Ghana in which the integrity of football administration in the country was devastated.

88. While the Panel deems that the lifetime ban imposed in the Appealed Decision is disproportionate, it notes too that the offences committed by the Appellant in abuse of his senior positions of responsibility are of a very serious and egregious nature. As such, a strong sanction is required in this case.

89. Considering the seriousness of the offences for which the Appellant has been found guilty, the seniority of his position and the other specific circumstances of the case, as outlined above, the Panel finds that a ban of fifteen years would be just and proportionate, and provide a sufficient deterrent to such behaviour being repeated in future.

G. Calculation of the Fine to be Imposed

90. The Panel notes the Respondent's argument, as reflected in the Appealed Decision, that the sanction imposed should not only recoup the amount acquired by the Appellant through his illicit conduct, but also set a deterrent to such conduct through inclusion of a further pecuniary sanction. The Panel notes that, pursuant to the FCE 2012 and Article 15(2) FDC, the amount of the fine shall not be less than CHF 300 and not more than CHF 1,000,000.

91. It is unclear to the Panel, however, how the amount of CHF 500,000 imposed by way of fine in the Appealed Decision was calculated. There appears to be little reasoning for this figure given, and it bears no perceptible relation to the figure of USD 65,000 which was the amount established on the facts to have been obtained by the Appellant through his participation in the scheme.

92. The Appealed Decision cites the figure of USD 750,000 as the amount which the Appellant accepted as commission as part of the proposed scheme ("*corresponding to 5% of the USD 15 million value of the respective sponsorship"*). The Panel finds the citation of these figures in the section of the Appealed Decision dealing with the calculation of the fine to be imposed to be misplaced. As already stated, the scheme was, from the outset, a contrived media sting with no actual prospect of a sponsorship deal coming to fruition. As such, the numbers floated in discussions between the Appellant and the supposed investors concerning prospective sponsorship amounts and related commission were pure fantasy, with no chance of the Appellant actually receiving the sums discussed. The only amount which actually changed hands, and on which the Appellant's guilt is primarily based, was the USD 65,000 given to the Appellant by the supposed-Sheikh in their meeting in October 2017. As such, this appears logically to be the only relevant figure that should have been taken into account in the calculation of the fine by the FIFA Investigatory Chamber.

93. The Panel notes the FIFA Investigatory Chamber's comment, at para. 247 of the Appealed Decision, that, "*in order to have a sanctioning and preventive effect, the fine must be substantially higher than the benefit which Mr. Nyantakyi obtained in cash as otherwise, it would only amount to a reclaiming of the respective benefit*." The Panel follows this reasoning, though it appears to be based on a common-sense purposive approach rather than any particular provision of the FIFA Regulations (none being alluded to by either Party). However, it finds that a fine of CHF 500,000, being over seven times the value of the amount actually received by the Appellant, goes far beyond

the "substantially higher" level described in the reasoning of the Appealed Decision, and therefore beyond what is necessary, under a common-sense purposive approach, to have any deterrent effect. As such, the Panel finds that the level of fine imposed on the Appellant in the Appealed Decision is also disproportionate.

94. In determining an appropriate and proportionate level of fine, the Panel takes into account the USD 65,000 deemed to have been received by the Appellant (as accepted by the Parties as per the facts contained in the Appealed Decision). This is therefore the minimum basis on which the fine should be calculated in order to ensure the benefit obtained by the Appellant through his participation in the scheme is recovered. The Panel deems it logical and proportionate that a substantially higher amount should be added to this in order to have an appropriate deterrent effect. The Panel has considered the submissions of both the Parties on the Appellant's previous income and financial means, as well as the seriousness of the conduct concerned and the previous fines set in the broadly similar cases cited above.

95. Having taken all these considerations into account, the Panel considers that a fine of CHF 100,000 is an appropriate and proportionate amount in the specific circumstances of this case. This figure serves both to reclaim the benefit which was obtained by the Appellant through the scheme (accepted on the facts as being USD 65,000), and through the substantial additional amount added to this figure, serves as a deterrent to others (as well as to the Appellant) against this form of misconduct.

H. Conclusion

96. The Panel finds that the lifetime ban from all football-related activities contained in the Appealed Decision should be reduced to a ban from all football-related activities for fifteen years.

97. The Panel finds that the fine of CHF 500,000 contained in the Appealed Decision should be reduced to a fine of CHF 100,000.

VIII. COSTS

98. Article R65 of the CAS Code provides the following:

> *"R65.1 This Article R65 applies to appeals against decisions which are exclusively of a disciplinary nature and which are rendered by an international federation or sports-body. […]*
>
> *R65.2 Subject to Articles R65.2, para. 2 and R65.4, the proceedings shall be free. The fees and costs of the arbitrators, calculated in accordance with the CAS fee scale, together with the costs of the CAS are borne by CAS.*
> *Upon submission of the statement of appeal, the Appellant shall pay a non-refundable Court Office fee of Swiss francs 1,000.– without which CAS shall not proceed and the appeal shall be deemed withdrawn. […]*

R65.3 Each party shall pay for the costs of its own witnesses, experts and interpreters. In the arbitral award and without any specific request from the parties, the (Sole Arbitrator) has discretion to grant the prevailing party a contribution towards its legal fees and other expenses incurred in connection with the proceedings and, in particular, the costs of witnesses and interpreters. When granting such contribution, the (Sole Arbitrator) shall take into account the complexity and the outcome of the proceedings, as well as the conduct and financial resources of the parties.

R65.4 If the circumstances so warrant, including the predominant economic nature of a disciplinary case or whether the federation which has rendered the challenged decision is not a signatory to the Agreement constituting ICAS, the President of the Appeals Arbitration Division may apply Article R64 to an appeals arbitration, either ex officio or upon request of the (Sole Arbitrator)."

99. Since the present appeal is lodged against a decision of an exclusively disciplinary nature rendered by an international federation, no costs are payable to CAS by the Parties beyond the Court Office fee of CHF 1,000 paid by the Appellant with the filing of his Statement of Appeal, which is in any event retained by CAS.

100. In terms of the other costs and expenses associated with this case, the Panel takes into consideration the fact that the Appellant has been partially successful in his Appeal, and that this should necessarily be reflected in its Award. The Panel also considers that the financial resources of the Respondent are greater than those of the Appellant. However, the Panel notes that the Appellant's late admission of guilt led only to marginal savings in terms of time and costs. Further, while the financial resources of the Appellant may be smaller than those of the Respondent, the Appellant nevertheless held many senior administrative positions in football at several different organisations, for which he would have been well-remunerated.

101. As such, pursuant to Article R65.3 of the CAS Code, and in consideration of the complexity and outcome of the proceedings, as well as the conduct and the financial resources of the Parties, the Panel therefore rules that each party shall bear its own costs incurred in connection with the present arbitration proceedings.

* * * * * * *

ON THESE GROUNDS

The Court of Arbitration for Sport rules that:

1. The appeal filed by Kwesi Nyantakyi on 17 December 2018 against the decision of the Adjudicatory Chamber of the FIFA Ethics Committee is partially upheld.

2. The decision rendered by the Adjudicatory Chamber of the FIFA Ethics Committee on 29 October 2018 is amended as follows:

   Kwesi Nyantakyi is banned from taking part in any kind of football-related activity at national and international level (administrative, sports or any other) for a period of fifteen (15) years, commencing on 29 October 2018.

   Kwesi Nyantakyi is fined the sum of CHF 100,000, to be paid within thirty (30) days of notification of this award.

3. The award is pronounced without costs, except for the Court Office fee of CHF 1,000 (one thousand Swiss Francs) paid by Kwesi Nyantakyi, which is retained by CAS.

4. Each Party shall bear its own costs and other expenses incurred in connection with these arbitration proceedings.

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

Seat of arbitration: Lausanne, Switzerland
Date: 9 April 2020

THE COURT OF ARBITRATION FOR SPORT

Martin Schimke
President of the Panel

Olivier Carrard
Arbitrator

Michael J Beloff
Arbitrator

Adam Thew
Ad hoc Clerk