



**TAS / CAS**

TRIBUNAL ARBITRAL DU SPORT  
COURT OF ARBITRATION FOR SPORT  
TRIBUNAL ARBITRAL DEL DEPORTE

**CAS 2022/A/9341    Fédération Internationale de Football Association (FIFA) v.  
Abdullah Alrouwely & Saudi Arabian Anti-Doping Committee (SAADC)**

## **ARBITRAL AWARD**

**delivered by the**

## **COURT OF ARBITRATION FOR SPORT**

**sitting in the following composition**

Sole Arbitrator:    Prof. Luigi Fumagalli, Professor and Attorney-at-Law, Milan, Italy

**in the arbitration between**

**Fédération Internationale de Football Association (« FIFA »), Zurich, Switzerland**

Represented by Mr Miguel Liétard and Mr Roberto Nájera, FIFA Litigation Department,  
Zurich, Switzerland

**Appellant**

and

**Abdullah Alrouwely, Skaka, Kingdom of Saudi Arabia**

**First Respondent**

and

**Saudi-Arabian Anti-doping Committee (SAADC), Riyadh, Kingdom of Saudi Arabia**

**Second Respondent**

## **I. THE PARTIES**

1. The Fédération Internationale de Football Association (FIFA) (“FIFA” or the “Appellant”) is the international governing body of football. It is an association under Articles 60 *et seq.* of the Swiss Civil Code and has its headquarters in Zurich, Switzerland. FIFA is a signatory to the World Anti-Doping Code (the “WADC”) established by the World Anti-Doping Agency (“WADA”), the core document that harmonizes anti-doping policies, rules and regulations around the world. As a result, it adopted the FIFA Anti-Doping Rules (the “FIFA ADR”) to implement its responsibilities under the WADC.
2. Mr Abdullah Alrouwely (the “Player” or the “First Respondent”) is a Saudi Arabian football player born on 9 December 2000. At the time of the relevant facts, the First Respondent played for Al Orobah Football Club (“Al Orobah”), a club then competing in the Yelo Football League (the second football league of Saudi Arabia).
3. The Saudi Arabian Anti-Doping Committee (SAADC) (“SAADC” or the “Second Respondent”) is a consultative, legislative and executive committee, attached to the Saudi Arabian Olympic Committee (“SAOC”) as an independent body. The SAADC is a reference in all anti-doping matters nationwide in the Kingdom of Saudi Arabia and operates within the policies of SAOC and under the supervision of the Ministry of Sports. It is a signatory to the World Anti-Doping Code (the “WADC”) and has adopted the Saudi Anti-Doping Rules (the “SAADC ADR”) to implement its responsibilities under the WADC.
4. WADA, the Player and SAADC are referred to as the “Parties”. The Player and SAADC are referred to as the “Respondents”.

## **II. BACKGROUND FACTS**

5. Below is a summary of the main relevant facts and allegations based on the Parties’ written submissions, pleadings and evidence adduced during these proceedings. Additional facts and allegations may be set out, where relevant, in connection with the legal discussion that follows. Although the Sole Arbitrator has considered all the facts, allegations, legal arguments and evidence submitted by the Parties in the present proceedings, he refers in this Award only to the submissions and evidence he considers necessary to explain his reasoning.
6. On 18 May 2022, a match was played between Al-Akhdoud and Al Orobah (the “Match”). After the Match, the Player underwent a doping control. On that occasion, the Player did not declare in the Doping Control Form (“DCF”) the use of any medication or other substance. The DCF contained an unclear handwritten indication of the Player’s email, as well as his mail address as “Alfaisalyah, Skaka, Aljouf, KSA”.
7. On 17 June 2022, the Swiss Laboratory for Doping Analysis (the “Laboratory”) reported an Adverse Analytical Finding (“AAF”) for the presence in the Player’s “A”

sample of Amfetamine (the “Prohibited Substance”), a non-specified substance prohibited in-competition, included in category “S6.A Non-Specified Stimulants,” of the 2022 WADA Prohibited List.

8. On 21 June 2022, the Player was notified of the AAF and provisionally suspended.
9. On the basis of the AAF, the SAADC opened disciplinary proceedings against the Player for an anti-doping rule violation (“ADRV”).
10. On 26 June 2022, a hearing was held before the SAADC in the presence of the Player. At the hearing, the Player waived his right to request the opening and analysis of the “B” sample and declared that he had no objection with to the sample collection procedure and the analysis conducted by the Laboratory. At the same time, the Player stated that that prior the Match he had attended a wedding, at which he drank tea and coffee, which he believed was the reason of the AAF. After the consumption of these drinks, he felt a headache and took Panadol. In addition, the Player noted that at the Match he was on the bench and was not actually fielded.

11. On 28 July 2022, the hearing body of SAADC issued a decision (the “Appealed Decision”) imposing on the Player:

*“a 90-day Ineligibility period, ... effective from the date of the provisional suspension (21/06/2022)”.*

12. The “grounds of the sanction” imposed by the Appealed Decision contained a reference to some provisions set out in the SAADC ADR and confirmed that the sanction had been applied:

*“\* After reviewing the minutes of the hearing, the defense statement and the whole documents of the case, and;*

*\* After having the whole documents and the doping control procedures verified and validated, and;*

*\* Based on what provided in the Saudi Anti-Doping Rules in sport*

*1. Article 2-1: (Presence of a Prohibited Substance or its Metabolites or Markers in an Athlete’s Sample), and*

*2. Article 2-1-1: (It is each Athlete’s personal duty to ensure that no Prohibited Substance enters his body. Athletes are responsible for any Prohibited Substance or its Metabolites or Markers found to be present in their Samples. Accordingly, it is not necessary that intent, Fault, negligence or knowing Use on the Athlete’s part be demonstrated in order to establish an anti-doping rule violation under Article 2.1), and,*

*3. Articles 10-2, and 10-2-2, the standard period of Ineligibility shall be Two years.*

*4. Article 10-2-3: As used in Article 10.2, the term “intentional” is meant to identify those Athletes or other Persons who engage in conduct which they knew constituted an anti- doping rule violation.*

*5. Articles 10-2-4 and 10-2-4-1: If the Athlete can establish that any ingestion or Use occurred Out-of-Competition and was unrelated to sport performance, then the period of Ineligibility shall be three (3) months of Ineligibility.*

*6. Article 10-14: (Status During Ineligibility); and Article 10-14-1: (Prohibition Against Participation During Ineligibility), and Article 10.14.2 (Return to Training), and as an exception to Article 10-14-1, an Athlete may return to train with a team or to use the facilities of a club or other member organization of SAADC's member organization during the shorter of: (1) the last two months of the Athlete's period of Ineligibility, or (2) the last one-quarter of the period of Ineligibility imposed."*

13. On 29 August 2022, FIFA requested the Saudi Arabian Football Federation ("SAFF") to provide information regarding the Player's case.
14. On 13 September 2022, the SAFF provided FIFA with an undated document issued by the SAADC, which contained the "*Legal grounds of the reduced decision of Abdullah Alrouwely*". This document, after a summary of the proceedings, recapitulated the opinion of the hearing committee as follow:

*"The hearing committee believes the player is responsible for what he ingests and goes in his body according to article 2-1-1. If the hearing committee proved or sought the player intended to violate the doping rules, the period of ineligibility shall be two years, according to rules 2-10 and 2-2-10.*

*Given that the player provided us with when he took the drug and why he took it, and because it was for recreational consumption. Also, it was his first encounter with an anti-doping violation; the hearing committee decided that the period of ineligibility shall be three months according to rules 4-2-10 and 1-4-2-10".*

15. On 21 September 2022, FIFA requested from the SAFF the complete case file.
16. On 23 November 2022, following an exchange of correspondence with FIFA, the SAFF provided FIFA with some additional documents.

### **III. THE PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT**

17. On 14 December 2022, FIFA filed with the Court of Arbitration for Sport ("CAS") a Statement of Appeal, pursuant to Article R47 of the CAS Code of Sports-related Arbitration (the "CAS Code"), to challenge the Appealed Decision. The Statement of Appeal contained, *inter alia*, the indication of the email address of the Player as "*h141412345@gmail.com*", the request that the case be submitted to a Panel of three arbitrators and the nomination of Professor Luigi Fumagalli as an arbitrator.
18. At the same time, FIFA in its Statement of Appeal requested the CAS to order the SAADC to file the remaining documents from its file concerning the Player's ARDV that had not been provided to FIFA yet.
19. On 16 December 2022, the CAS Court Office forwarded such request to the SAADC,

together with the Statement of Appeal. The Statement of Appeal was also notified to the Player by email to the address indicated by FIFA (“*h141412345@gmail.com*”) and by courier to the mail address noted by the Player in the DCF. According to the courier report, the CAS Court Office letter was delivered at the Player’s address on 28 December 2022.

20. On 16 May 2023, FIFA informed the CAS Court Office that on 14 May 2023 the SAADC had eventually provided FIFA with additional documents, transmitted for the first time. As a result, FIFA filed an updated Statement of Appeal on 16 May 2023 (with the new exhibits) into the CAS e-filing platform. At the same, FIFA requested that the proceedings be suspended pending discussions with the SAADC “*in order to streamline the dispute-resolution process and to obtain all relevant evidence in this matter*”.
21. On 10 July 2023, FIFA informed the CAS Court Office that FIFA and SAADC had agreed to submit the case to Professor Fumagalli as Sole Arbitrator and provided a calculation of the deadline for the submission of its Appeal Brief.
22. On 11 July 2023, the CAS Court Office noted the joint designation of the Sole Arbitrator by the Appellant and the Second Respondent and informed the Parties that in the absence of an objection by the First Respondent such designation would be considered as accepted. Such communication was sent to the First Respondent by email to the email addresses of his club provided by the Appellant in the Appeal Brief.
23. On 18 August 2023, FIFA filed with the CAS Court Office its Appeal Brief pursuant to Article R51 of the CAS Code. The Appeal Brief was notified to the Player by email and by courier to the addresses noted in the DCF. However, according to the courier report, the courier transmission could not be delivered as it was refused (“*livraison refusée*”).
24. On 11 October 2023, the CAS Court Office noted that the Respondents had not filed any Answer or transmitted any other communication. At the same time, the CAS Court Office informed the Parties, on behalf of the President of the CAS Appeals Arbitration Division, that the Panel appointed to hear the dispute between the Parties was constituted by Professor Luigi Fumagalli, as Sole Arbitrator. Again, the correspondence for the First Respondent was sent the email addresses of his club as provided by the Appellant in the Appeal Brief.
25. On 7 November 2023, the CAS Court Office, writing on behalf of the Sole Arbitrator, invited the Appellant to provide an alternative email and/or mail address for the First Respondent.
26. On 14 November 2023, the Appellant in a letter to the CAS Court Office confirmed, upon indications of the SAFF, the contact details of the Player’s club and specified that the email of the Player was “*hlyly12345@gmail.com*”.
27. On 15 November 2023, the CAS Court Office transmitted again to the First Respondent copy of the Statement of Appeal and of the Appeal Brief, with the related exhibits, and

invited the First Respondent to submit its answer. Such correspondence was sent also by email to the address “hlyly12345@gmail.com”.

28. On 6 December 2023, the CAS Court Office noted that no answer had been submitted by the First Respondent.
29. On 21 December 2023, the CAS Court Office informed the Parties that the Sole Arbitrator had decided not to hold a hearing in this case. As a result, the CAS Court Office communicated to the Parties, on behalf of the Sole Arbitrator, an Order of Procedure accordingly. Such Order of Procedure was signed on 26 December 2023 by the Appellant, the First Respondent and the Second Respondent. The copy of the Order of Procedure signed by the First Respondent was sent by email to the CAS Court Office to the address “hlyly12345@gmail.com”.
30. On 27 December 2023, however, the Player sent an email to the CAS Court Office as follows:

*“I recently went through a legal procedure where I felt right to be heard was not adequately guaranteed. This has left me feeling frustrated and disheartened. Specifically, I would like to express my objection to the decision made by the sole arbitrator to issue a ruling based on the written submissions. While I appreciate the efficiency and convenience of this approach, I believe that it falls short in ensuring a fair and just outcome. In light of this, I kindly request for a hearing session to be arranged, at the very least. This would provide an opportunity for me to present my case and reasons for objecting to the decision. I understand the importance of a decision ensuring a smooth and efficient process, but it is equally important to safeguard the principles of fairness and justice. By granting me the chance to be heard in person, we can ensure that all aspects of the case are thoroughly examined before reaching a final decision. Thank you for taking the time to read my message, and I sincerely hope that my concerns will be given due consideration.”*
31. On 3 January 2024, the CAS Court Office informed the Parties that the Sole Arbitrator was available to hold a hearing by video-conference.
32. On 25 January 2024, following an exchange of correspondence with the Parties, the CAS Court Office confirmed that a remote hearing would be held on 21 February 2024.
33. On 12 February 2024, the First Respondent informed the CAS Court Office

*“that the following individuals will be attending the hearing: - Mr. Ahamad Alamir ... . Mr. Alamir will be attending the hearing as my legal representative, expert witness, and interpreter. 2- Mr. Saad Dughayyme Al Anazi ... . Mr. Al Anazi will be attending as a witness. 3- Mr. Rashid Khalid Al Qhahtani ... . Mr. Al Qhahtani will also be attending as a witness ...”.*
34. On 13 February 2024, the CAS Court Office invited, on behalf of the Sole Arbitrator, the First Respondent to provide “a brief summary or the expected testimony or a description of the factual circumstances” on which the expected testimony would be

rendered, and, with respect to the expert, to inform about “*the area of his expertise*”.

35. On 13 February 2024, the Appellant requested that the late calling by the First Respondent of witnesses and of an expert be rejected on the basis of Article R56 of the CAS Code.
36. On 14 February 2024, the CAS Court Office informed the Parties that a decision as to the admission of the witnesses indicated by the First Respondent would be taken by the Sole Arbitrator at the outset of the hearing. At the same time, the CAS Court Office invited the First Respondent to specify the “*exceptional circumstances*” on which he relied pursuant to Article R56 of the CAS Code in support of his request to hear the named witnesses.
37. On 14 February 2024, the First Respondent sent a letter to the CAS Court Office, addressing the request to provide a “*concise summary of the anticipated testimony or a description of the factual circumstances on which the testimony will be based, as well as Mr. Al Amir’s area of expertise*” as follows:

*“I would like to bring to your attention that Mr. Al Anazi and Mr. Al Qahatani will provide testimony regarding an incident involving Mr. Abdullah Alrouwely. On the 17th of May 2022, a day before the match where his urine sample was collected, they accompanied Mr. Alrouwely to a wedding party. During the event, Mr. Alrouwely consumed coffee and tea drinks, unbeknownst to him, the tea drink was spiked with amphetamine.*

*Concerning Mr. Al Amir’s expertise, I would like to inform you that he is a knowledgeable legal counsel with a focus on sports law. Additionally, he is a highly experienced senior forensic toxicologist who has authored numerous scientific papers on the detection and quantification of banned substances. His research includes the validation and verification of analytical methods for drugs like isomeric amphetamines. Therefore, you can find a list of Mr. Al Amir’s published papers on this link: ...”.*

38. In a letter to the CAS Court Office dated 16 February 2024, then, the First Respondent replied, by reference to a document in Arabic, submitted together a hardly readable translation into English, in the following terms to the request to specify the “*exceptional circumstances*” on which he relied pursuant to Article R56 of the CAS Code in support of his request to hear the named witnesses:

*“I want to highlight that I was unable to submit any written defense brief in this procedure. Due to my incarceration from June 16 to August 28, 2023, I was unable to submit a defense brief during the period when all correspondence between the parties and the CAS Court took place. Therefore, the lack of internet access in prison has hindered my ability to submit any defense briefs.*

*Regarding the reasons for my detention in prison, it was due to suspicions of being in the company of an individual (my brother) who was found with just a fraction of cannabis on his work key. Nevertheless, the outcome of the case has absolved me of any wrongdoing and granted me freedom from imprisonment. I would like to include a copy of the award as evidence to support my argument. However, the document is currently*

*in Arabic, and I require additional time to have it translated into English. Therefore, I kindly ask for a 5-day extension to furnish you with a duly verified translated version of the award. Additionally, I have included the Arabic version and an unofficial translated copy of the award.*

*Furthermore, I only discovered that the tea I consumed at the wedding reception had been spiked with a powerful stimulant after my release from incarceration.*

*Ultimately, given the time spent in incarceration during the submission exchange period, coupled with the discovery of new evidence, it is my belief that these factors adequately meet the criteria for exceptional circumstances.”*

39. On 21 February 2024, a hearing was held in the present matter by videoconference. In addition to the Sole Arbitrator and Ms Andrea Sherpa-Zimmermann, CAS Counsel, the following persons attended the hearing:

For the Appellant: Mr Roberto Najera Reyes, FIFA Litigation Department

For the First Respondent: the Player himself, assisted by Mr Ahamad Alamir;

For the Second Respondent: Dr Ahamed bin Nasser, Dr Faisal Alobaidan, Dr Abdulaziz Alsheik, Mr Majd Albelaihed.

40. At the beginning of the hearing, the Sole Arbitrator invited the Parties to discuss the issue of the admissibility of the request submitted by the First Respondent to hear the witnesses and the expert declaration mentioned in the letters of 12 and 14 February 2024 (§§ 33 and 37 above). The Appellant in that regard insisted on its objection, because the conditions for the late submission of a request to hear witnesses and experts set by Article R56 of the CAS Code were not satisfied, since the First Respondent had ample opportunity to introduce timely his witnesses and expert, but was “*procedurally negligent*”. The Second Respondent confirmed that SAADC had been in contact with the Player on several occasions and that he had been invited to submit his defences. The First Respondent confirmed the contacts but declared that the conditions in which he found himself (incarceration) had prevented him from submitting a timely defence. On that basis, the Sole Arbitrator informed the Parties of his decision not to hear the witnesses proposed by the First Respondent, since no “*exceptional circumstances*” had been established. More specifically, the Sole Arbitrator noted that the First Respondent had been released from incarceration on 28 August 2023, and that the documentary evidence on file shows that around mid-November 2023 at the latest, when he received an email from the CAS Court Office (§ 27 above), he had become aware that arbitration proceedings were pending, and that at the end of December 2023 he addressed the CAS Court Office in their respect without mentioning any prior impediment. As a result, his request to hear witnesses submitted on 12 February 2024 appears to be belated. For the same reasons, with respect to the First Respondent’s request to hear Mr Alamir as an expert, the Sole Arbitrator indicated that Mr Alamir, who was attending the hearing as advisor, and speaking on behalf of the Player, could make submissions also on the basis of his scientific expertise, but only as a representative of the Player, and not in the formal position as an expert witness.

41. The Parties were then invited to submit their pleadings. In that context, the Parties



answered questions asked by the Sole Arbitrator and insisted for the granting of the relief respectively sought. More specifically, and *inter alia*:

- i. the Appellant's counsel underlined the absence of any evidence as to the "route of ingestion" of the Prohibited Substance, and that the standard sanction applicable in the case for the presence of a "non-specified" substance in the Player's samples (4 years of ineligibility) could not be reduced;
  - ii. the First Respondent's representative disagreed with the Appellant, submitting that Panadol had never been suggested to be a possible source of the AAF. In addition, he underlined that the First Respondent did not play the Match, that the Prohibited Substance had been found in a low concentration, an element indicating that the ingestion had taken place out-of-competition, that the First Respondent did not intend to improve his sporting performance and that he had no precedents. As a result, a reduction of the sanction otherwise applicable was justified, also taking into consideration the Player's availability to cooperate to anti-doping programs;
  - iii. the Second Respondent's representative explained that the Appealed Decision was based on a misunderstanding of the applicable rules, because the Prohibited Substance was treated as a "*Substance of Abuse*", as defined and treated according to the SAADC ADR. As a result, the Second Respondent requested the Sole Arbitrator not to impose any costs on the SAADC.
42. The Player rendered also some declarations stating that before the Match he had attended a wedding, at which he drank a couple of cups of tea, before returning to his football club. At the same time, he explained that it is a tradition to put some stimulants in the tea at wedding parties, in order to allow longer dancing.
  43. At the conclusion of the hearing, the Parties confirmed that they had no objections in respect of their right to be heard and to be treated equally in the arbitration proceedings. The First Respondent, however, reiterated his objection to the Sole Arbitrator's decision not to hear the witnesses he had specified.
  44. On 21 February 2024, the First Respondent provided the CAS Court Office with a translation of the decision mentioned in his correspondence of 16 February 2024 (§ 38 above).
  45. On 22 February 2024, the CAS Court Office forwarded to the other Parties the document transmitted by the First Respondent, granting them the opportunity to submit comments on its relevance.
  46. On 27 February 2024, the Appellant requested the Sole Arbitrator to reject the admission of the document and in any case to consider it irrelevant.
  47. On 6 March 2024, the First Respondent sent an additional correspondence to the CAS Court Office.
  48. On 6 March 2024, the CAS Court Office forwarded to the other Parties the

correspondence transmitted by the First Respondent, granting them the opportunity to submit comments on its admissibility. At the same time, the First Respondent was requested to refrain from transmitting unsolicited correspondence.

49. On 14 March 2024, the CAS Court Office in a letter to the Parties noted that no comments on the admissibility of the First Respondent's correspondence of 6 March 2024 were filed by neither FIFA nor SAADC.
50. On 15 March 2024, on behalf of the Sole Arbitrator, the CAS Court Office informed the Parties that the Sole Arbitrator had decided to not admit the letter of the First Respondent of 6 March 2024 to the file, and that the reasons thereof would be explained in the final Award.

#### **IV. THE POSITION OF THE PARTIES**

51. The following outline of the Parties' positions is illustrative only and does not necessarily comprise every submission advanced by the Parties. The Sole Arbitrator confirms, however, that he has carefully considered all the submissions made by the Parties, whether or not there is specific reference to them in the following summary.

##### **A. The Position of the Appellant**

52. In its Statement of Appeal, FIFA requested the CAS to issue an award:
  - “(a) admitting this appeal;*
  - (b) setting aside the Appealed Decision issued by the SAADC on 28 July 2022 “Case 22-00039/sample 6444283”;*
  - (c) imposing on Mr Abdullah Alrouwely a period of ineligibility of four years. The period of ineligibility already served by the Player during this provisional suspension shall be credited against the final sanction; and*
  - (d) ordering SAADC to make a substantial contribution to FIFA's legal and other costs.”*
53. In its Appeal Brief, FIFA confirmed its requests under points (a)-(c), introducing a slight modification only at point (d) of the relief sought, as follows:
  - “(d) ordering SAADC and the Player, jointly or individually, to bear the costs of these proceedings.”*
54. In support of its requests, in essence FIFA submits that the Appealed Decision is fundamentally flawed insofar as it is based on an improper evaluation of the Player's statements and of the applicable rules. More precisely, it erred when it imposed a three-month sanction on the Player, which does not find any legal justification under the circumstances of the case. In fact, the standard period of ineligibility for an AFF related to Amphetamine is 4 (four) years, and not two as the SAADC wrongly established.

Furthermore, even when an athlete can benefit from a reduction of this period, if he proves his lack of intention and his non-significant fault or negligence, the very first requirement before assessing these issues is the establishment, in a balance of probabilities, of how the prohibited substance entered his body. In the present case, the SAADC wrongly considered that the Player had established that the origin of the substance was the tea served at the wedding and that he took it for recreational consumption. In fact, beyond the mere oral statements made by the Player, there are no evidentiary elements that could prove his version of facts. Since the Player failed to establish how the Prohibited Substance entered his body, a sanction of 4 (four) years of ineligibility must be imposed on him.

55. In more details, the position of FIFA can be summarized as follows:

- i. as to the law to be applied to the merits of the dispute: although the Appealed Decision was issued in application of the SAADC ADR, pursuant to Article 82(3) FIFA ADR the applicable regulations in the framework of an appeal by FIFA against a decision of an anti-doping organisation (such as SAADC) are the FIFA Statutes and relevant regulations. As a result, the FIFA ADR (2021 edition) primarily and directly apply to the present dispute;
- ii. the ADRV committed by the Player: it is undisputed that a prohibited substance was present in the Player's body. The presence in the Player's samples of Amphetamine is therefore sufficient proof that the Player has committed an ADRV. Moreover, the Player accepted the ADRV by waiving the analysis of the "B" sample, and did not object to the sample collection procedure. Finally, the ADRV was also confirmed in the Appealed Decision. In view of the above, the ADRV committed by the Player is established;
- iii. the SAADC wrongly assessed the case, since it incorrectly found that (i) the standard period of ineligibility for the Player's ADRV was two years, (ii) the Player had been able to prove that the Prohibited Substance was ingested out-of-competition and was unrelated to sports performance and (iii) that he only deserved a three-month suspension. However, contrary to such findings, it should be considered that:
  - Article 20(1)(a) FIFA ADR establishes that the period of ineligibility shall be four years where *"the anti-doping rule violation does not involve a Specified Substance, unless the Player or other Person can establish that the anti-doping rule violation was not intentional"*;
  - in the case at hand, the ADRV does not involve a specified substance, since Amphetamine is within the list S6.A of the WADA Prohibited List, corresponding to *"Non-Specified Stimulants"*;
  - therefore, the standard period of ineligibility corresponds to four years, unless the Player can establish that his ADRV was not intentional;
  - in order to allow a conclusion that the ingestion was not intentional, the Player had to establish that the intake was out-of-competition and not related to his sport performance. In that event only could the standard sanction be set at two years of ineligibility;

- Article 23(2) FIFA ADR establishes the conditions for a reduction of the standard period of ineligibility based on “no significant fault or negligence”. In order to benefit from a potential reduction of the otherwise applicable standard period of ineligibility, the Player had to prove with concrete evidence and in a balance of probabilities:
  - a. how the Prohibited Substance entered his system;
  - b. the lack of intention when consuming the Prohibited Substance (*i.e.*, it was consumed out-of-competition and in a context unrelated to sports performance); and
  - c. that he bore no significant fault or negligence (if any);
- the Player failed to prove with concrete evidence any of the above-mentioned requirements and, consequently, no reduction can be discounted from the applicable four-year period of ineligibility. In particular, the Player failed to prove the origin of the Prohibited Substance, as he merely “believed” that the presence of the Prohibited Substance in his system was due to the ingestion of tea or coffee during a wedding celebration. The Player’s oral justifications are not grounded by any means of proof and cannot reach the level of balance of probabilities. *Inter alia*, the Player has not proven that the tea or coffee he drank contained Amfetamine and that he was not aware of such circumstance. As a result, since the origin of the Prohibited Substance has not been proven, no reduction from the applicable four-year period of ineligibility can be granted.

56. In light of the foregoing, the Appealed Decision must be set aside and the period of ineligibility corresponding to the ADRV committed should be imposed on the Player. However, the period of ineligibility already served should be credited against the final sanction.

## **B. The Position of the Respondents**

### **B1. The Position of the First Respondent**

57. The First Respondent did not lodge any answer to the appeal.

58. The First Respondent, however, attended the hearing before the Sole Arbitrator and requested that the appeal be dismissed. In support of his request, the Player referred to some events prior to the Match and the antidoping control he had to undergo. In essence, the Player submitted that:

- i. he attended a wedding;
- ii. on that occasion, he drank some cups of tea, which caused him a headache he treated with Panadol;
- iii. adding stimulants to beverages at wedding parties is a tradition in his region, in order to help people dance;
- iv. the concentration of Prohibited Substance found in his sample is very low;

- v. as a result, it is proven that he ingested the Prohibited Substance out-of-competition, in a context unrelated to sport, unaware of the contamination of the tea he was drinking and without any intention to improve his sporting performance.

**B.2 The Position of the Second Respondent**

59. The Second Respondent did not file any answer to the appeal.
60. The Second Respondent, however, attended the hearing before the Sole Arbitrator and requested not to be ordered to bear the costs of the arbitration.
61. In essence, the Second Respondent admitted at the hearing the mistake made by his hearing panel in the Appealed Decision and explained that this was due to a misunderstanding of the applicable rules, as the Prohibited Substance was wrongly treated as a “*Substance of Abuse*” under the SAADC ADR.

**V. JURISDICTION**

62. The jurisdiction of the CAS is not disputed by the Parties.
63. According to Article R47, first paragraph of the CAS Code:
- “An appeal against the decision of a federation, association or sports-related body may be filed with CAS if the statutes or regulations of the said body so provide or if the parties have concluded a specific arbitration agreement and if the Appellant has exhausted the legal remedies available to it prior to the appeal, in accordance with the statutes or regulations of that body”.*
64. The jurisdiction of CAS is contemplated by Article 57(5) of the FIFA Statutes as follows:
- “FIFA is entitled to appeal to CAS against any internally final and binding decision passed in particular by confederations, member associations or leagues in accordance with the provisions set out in the FIFA Anti-Doping Rules”.*
65. Article 77 [“*Appeals against decisions regarding anti-doping rule violations, Consequences, Provisional Suspensions, implementation of decisions and authority*”] of the FIFA ADR provides as follows:
- “2. In cases where art. 77 par. 1 (Appeals involving International-Level Players or International Competitions) is not applicable, the decision may be appealed to an appellate body in accordance with rules adopted by the NADO having jurisdiction over the Player or other Person. The rules for such appeal shall respect the following principles: a timely hearing; a fair, impartial and operationally and institutionally independent hearing panel; the right to be represented by counsel at the Player’s or other Person’s own expense; and a timely, written, reasoned decision. If no such body as described above is in place and available at the time*

*of appeal, the Player or other Person shall have a right to appeal to CAS.*

3. ... *In cases under art. 77 par. 2 ..., the parties having the right to appeal to the national-level appeal body shall be as provided in the NADO's rules but, at a minimum, shall include the following parties: ... (c) FIFA ..."*

66. Pursuant to Article 83 [*"FIFA not required to exhaust internal remedies"*] of the FIFA ADR:

*"Where FIFA has a right to appeal under this chapter and no other party has appealed a final decision within the Anti-Doping Organisation's process, FIFA may appeal such a decision directly to CAS without having to exhaust other remedies in the Anti-Doping Organisation process."*

67. The Sole Arbitrator, consequently, has jurisdiction to decide on the appeal filed by FIFA against the Appealed Decision.

## **VI. ADMISSIBILITY**

68. The statement of appeal was filed by FIFA within the deadline set in Article 82(1) of the FIFA ADR and complied with the requirements of Article R48 of the CAS Code. The admissibility of the appeal is not challenged by any Party.

69. The appeal is therefore admissible.

## **VII. SCOPE OF THE PANEL'S REVIEW**

70. According to Article R57, first paragraph of the CAS Code,

*"The Panel has full power to review the facts and the law. It may issue a new decision which replaces the decision challenged or annul the decision and refer the case back to the previous instance. ..."*

## **VIII. APPLICABLE LAW**

71. The law applicable in the present arbitration is identified by the Panel in accordance with Article R58 of the CAS Code.

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

*"The Panel shall decide the dispute according to the applicable regulations and, subsidiarily, to the rules of law chosen by the parties or, in the absence of such a choice, according to the law of the country in which the federation, association or sports-related body which has issued the challenged decision is domiciled or according to the rules of law the Panel deems appropriate. In the latter case, the Panel shall give reasons for its decision"*

73. Pursuant to Article 82(3) of the FIFA ADR:

*“Where FIFA appeals against a decision of an Association, Anti-Doping Organisation or Confederation to CAS under this chapter, the applicable law for the proceeding shall be the FIFA regulations, in particular the FIFA Statutes, the FIFA Anti-Doping Regulations and the FIFA Disciplinary Code.”*

74. In light of the foregoing, the “*applicable regulations*” in the present case for the purposes of Article R58 of the CAS Code are those adopted by FIFA, which shall apply primarily. The Sole Arbitrator notes however that the FIFA ADR do not differ in any material point from the SAADC Rules which fell to be applied before the SAADC hearing body.

## **IX. PROCEDURAL PRELIMINARY ISSUES**

75. At the hearing the Sole Arbitrator, having heard the Parties, announced his decision not to admit the deposition of the witnesses named by the First Respondent in his letter of 12 February 2024, and indicated that Mr Alamir, who was attending the hearing as advisor speaking on behalf of the Player, could make submissions also on the basis of his scientific expertise, but only as a representative of the Player, and not in the formal position as an expert witness.

76. Such decision was adopted on the basis of Article R56, first paragraph of the CAS Code, under which:

*“Unless the parties agree otherwise or the President of the Panel orders otherwise on the basis of exceptional circumstances, the parties shall not be authorized to supplement or amend their requests or their argument, to produce new exhibits, or to specify further evidence on which they intend to rely after the submission of the appeal brief and of the answer”.*

77. Article R56 of the CAS Code introduces a fundamental rule, intended to serve the purpose of concentration and rapidity in CAS proceedings: the parties are not authorized to specify further evidence after the submission of the appeal brief and of the answer. The rule corresponds to the obligation imposed on the parties to CAS arbitration to specify all the evidence on which they intend to rely to prove their respective case in the appeal brief (for the appellant) and in the answer (for the respondent).

78. Article R56 of the CAS Code allows however a deviation from the rule: further evidence, after the submission of the appeal brief and of the answer, can be specified if the parties agree or the President of the Panel gives an authorization “*on the basis of exceptional circumstances*”. The possibility to give an authorization, absent the parties’ agreement, represents an exception to the general prohibition, and as such is of strict interpretation. In addition, it leaves no room for an ordinary disregard based on a simple claim that otherwise the parties’ right to be heard would be infringed.

79. The Sole Arbitrator notes indeed that the application of Article R56 of the CAS Code has been endorsed by the Swiss Federal Tribunal (“SFT”): a party’s right to be heard is not violated if a CAS panel denies the filing of new evidence not submitted in timely manner (SFT, 1 October 2012, 4A\_312/2012; 28 February 2013, 4A\_576/2012; 5 August 2013, 4A\_274/2013). As the SFT held, in fact, *“it must be recalled that the right to adduce evidence, which constitutes one of the elements of the right to be heard, is not violated when evidence was not requested in a timely manner”,* and *“as to the right to adduce evidence, it must have been exercised timely and according to the applicable formal requirements”*. The right to be heard, in other words, has to be exercised in accordance with the applicable procedural regulations. In CAS proceedings, it has to be exercised in accordance with the CAS Code and is subject to its Article R56.
80. In the case of the Player, the Sole Arbitrator remarks that in the CAS letter of 15 November 2023 the First Respondent was invited to file an answer, together with the supporting documents and evidentiary requests. Notwithstanding, the First Respondent failed to submit an answer and only days before the hearing named some witnesses and an expert. The reason for such late submission was indicated to be a period of incarceration between 16 June 2023 and 28 August 2023. The Sole Arbitrator finds however that such condition had come to an end long before the First Respondent received the invitation to submit his answer and appears not to justify the late filing.
81. As a result, the Sole Arbitrator finds that the existence of *“exceptional circumstances”* has not been proved by the First Respondent. Therefore, his request to hear the witnesses and allow expert declarations at the hearing contained in his letter of 12 February 2024 could not be admitted.
82. The same conclusion applies to the letter sent by the First Respondent on 6 March 2024, after the hearing. In that correspondence the Player described his difficult personal situation, already mentioned at the hearing, and no indication was offered to explain why any indication, if additional to those already presented, could not be offered at the hearing. Therefore, that letter could not be admitted to the file.

## **X. MERITS**

### **A. The issues**

83. The object of this arbitration is the Appealed Decision, which found the Player responsible for the anti-doping rule violation contemplated by Article 2(1) of the SAADC ADR and imposed on him a period of ineligibility of three months pursuant to Article 10.2.4.1 thereof: the Player’s violation was found to be the result of the recreational use of a “Substance of Abuse”. FIFA disputes this conclusion and requests the Sole Arbitrator to find that the Player is responsible for an intentional anti-doping rule violation. The First Respondent submits that he ingested the Prohibited Substance out-of-competition, in a context unrelated to sport, unaware of the contamination of the tea he was drinking and without any intention to improve his sporting performance. The Second Respondent, on its side, admits that the Appealed Decision was wrong.



84. In light of the Parties' submissions, the issue whether an anti-doping rule violation was committed is not before the Sole Arbitrator. The presence in the Player's samples of the Prohibited Substance is not disputed. The Player is therefore responsible of the anti-doping rule violation contemplated by Article 6(1) ("*Presence of a Prohibited Substance or its Metabolites or Markers in a Player's sample*") of the FIFA ADR.
85. As a result, the issue to be examined in this arbitration relates only to the consequences to be applied to the Player for such violation.
86. In this respect, the Sole Arbitrator preliminarily notes that the Prohibited Substance:
  - i. is defined by the WADA Prohibited List as a "non-specified substance";
  - ii. is prohibited only "in-competition"; and
  - iii. is not a "Substance of Abuse", *i.e.* one of the substances specifically identified as such on the WADA Prohibited List because they are frequently abused in society outside the context of sport.
87. The rules to be applied, therefore, for a violation of Article 6(1) of the FIFA ADR are those set out at their Article 20(1)(a). As a result, the sanction provided for the violation committed by the Player is a period of ineligibility of four years. Such sanction, however, can be replaced with a period of ineligibility of two years, if it is proven by the Player that the violation was not intentional. Article 20(4) of the FIFA ADR (concerning "Substances of Abuse") does not apply. In addition, the sanction for the Player could be eliminated, if he proves that he bears "*no fault or negligence*" (Article 22 of the FIFA ADR), or reduced, if the Player proves that he bears "*no significant fault or negligence*" (Article 23 of the FIFA ADR): in this case, the sanction, as the Player's case involves a "non-specified substance", might be reduced based on the Player degree of fault, but the reduced period of ineligibility could not be less than one half of the period of ineligibility otherwise applicable, *i.e.* no less than one year.
88. The first question that the Sole Arbitrator has therefore to examine is whether the Player has established that the violation was not intentional for the purposes of Article 20(1)(a) of the FIFA ADR. In fact, only in the event that the anti-doping rule violation is held to be not intentional, is an examination relating to the Player's fault or negligence warranted at all.
89. In that respect, the Sole Arbitrator confirms that, even though Amfetamine is not prohibited "out-of-competition", the doping control was performed "in-competition", as also noted on the DCF. The fact that the Player did not play at the Match, but remained on the substitute's bench, is irrelevant. In the same vein, the fact that the Prohibited Substance may have been ingested "out-of-competition" (*i.e.*, ingestion in itself not constituting an ADRV, being prohibited only "in-competition") does not affect that conclusion, because its presence in the Player's sample was detected "in-competition": if proved, in fact, the assumption "out-of-competition" of a substance prohibited "in-competition" might be relevant merely for the purposes of the characterization of the violation as intentional.

90. In fact, pursuant to Article 20(3) of the FIFA ADR, the term “intentional” is meant to identify those players who engaged in conduct which they knew constituted an anti-doping rule violation or knew that there was a significant risk that the conduct might constitute or result in an anti-doping rule violation and manifestly disregarded that risk. An anti-doping rule violation resulting from an adverse analytical finding for a “non-specified substance” which is only prohibited “in-competition”, such as in the case of the Player, shall not be considered intentional if the Player can establish that the substance was used “out-of-competition” in a context unrelated to sport performance.
91. In the Player’s case, as a result of the burden of proof placed on him by Article 20(1)(a) of the FIFA ADR, it is thus for the Player to prove by a balance of probability, pursuant to Article 68(2) of the FIFA ADR, that the substance was used “out-of-competition” in a context unrelated to sport performance.
92. The Sole Arbitrator notes that the Player, notwithstanding the burden he has, provided no evidence at all of such circumstances. Before the SAADC he offered a possible explanation for the AAF, “believed” to be caused by the consumption of tea at a wedding before the Match, which had been contaminated with the Prohibited Substance. The Sole Arbitrator, indeed, cannot base his decision on speculative guess uncorroborated by sufficient evidence: a protestation of innocence, a clean career or the absence of incentives to dope are not sufficient elements to prove lack of intent.
93. The Sole Arbitrator actually remarks that the Player tried (even though too late) to introduce some evidence, by depositions, that he attended the wedding and that on such occasion he drank tea. Irrespective of the inadmissibility of the Player’s belated requests, those circumstances, even if confirmed, would not have led to the conclusion that the tea contained the Prohibited Substance, so that it caused a headache – elements for which no evidence was timely offered. In the same way, any low concentration of the Prohibited Substance found in the Player’s sample, claimed at the hearing, would not have demonstrated that the assumption, even if remote, occurred at the mentioned wedding or in any other context unrelated to sport performance.
94. In conclusion, the Sole Arbitrator finds that the First Respondent has not established, by balance of probability, that the ingestion of the Prohibited Substance occurred “out-of-competition” in a context unrelated to sport performance. In other words, the Sole Arbitrator concludes that the First Respondent has not proved that the anti-doping rule violation for which he is responsible was not intentional. In that regard, the Sole Arbitrator underlines that he is not confined to a binary choice: intention / non intention. For the purposes of a decision, it is sufficient for the Sole Arbitrator to find that the Athlete has not disproved intention.
95. As a result, for the above reasons, the Sole Arbitrator finds that the sanction of the ineligibility for 4 years is necessarily to be imposed on the Player, who has failed to prove lack of intent.
96. According to Article 29 of the FIFA ADR, the ineligibility should start from the date of the present Award. In accordance with Article 29(2) of the FIFA ADR credit is given to

the Player for the 3-month period of ineligibility served on a provisional basis, confirmed in the Appealed Decision (§§ 8 and 11 above).

## **XI. COSTS**

97. Article R64.4 of the CAS Code provides:

*“At the end of the proceedings, the CAS Court Office shall determine the final amount of the cost of arbitration, which shall include:*

- the CAS Court Office fee,*
- the administrative costs of the CAS calculated in accordance with the CAS scale,*
- the costs and fees of the arbitrators,*
- the fees of the ad hoc clerk, if any, calculated in accordance with the CAS fee scale,*
- a contribution towards the expenses of the CAS, and*
- the costs of witnesses, experts and interpreters.*

*The final account of the arbitration costs may either be included in the award or communicated separately to the parties ...”.*

98. Article R64.5 of the CAS Code provides:

*“In the arbitral award, the Panel shall determine which party shall bear the arbitration costs or in which proportion the parties shall share them. As a general rule and without any specific request from the parties, the Panel has discretion to grant the prevailing party a contribution towards its legal fees and expenses incurred in connection with the proceedings and, in particular, the costs of witnesses and interpreters. When granting such contribution, the Panel shall take into account the outcome of the proceedings, as well as the conduct and the financial resources of the parties”.*

99. In light of the foregoing, the Sole Arbitrator is of the view, having taken into account the outcome of the arbitration and in the light of all the circumstances and of the financial resources of the Parties, that the Player and SAADC shall bear, as to 50% each, the costs of the arbitration, as determined by the CAS Court Office at the end of the proceedings. SAADC shall be jointly liable for the payment of the Player’s share.

100. Each Party, including FIFA, not assisted by outside counsel, shall bear its own expenses.

## **ON THESE GROUNDS**

### **The Court of Arbitration for Sport rules that:**

1. The appeal filed by the Fédération Internationale de Football Association (FIFA) on 14 December 2022 against the decision rendered on 28 July 2022 by the Saudi Arabian Anti-Doping Committee (SAADC) is upheld.
2. The decision rendered on 28 July 2022 by the Saudi Arabian Anti-Doping Committee (SAADC) is set aside.
3. Mr Abdullah Alrouwely is declared ineligible for a period of four years from the date of the present Award. Credit is given for the period of suspension served by Mr Abdullah Alrouwely from 21 June 2022 to 20 September 2022.
4. The costs of this arbitration, to be determined and served to the Parties by the CAS Court Office, shall be borne by the Saudi Arabian Anti-Doping Committee (SAADC) and by Mr Abdullah Alrouwely as to 50% each. The Saudi Arabian Anti-Doping Committee (SAADC) shall be jointly liable for the payment of the Mr Abdullah Alrouwely's share.
5. Each Party shall bear the expenses it has incurred in connection with this arbitration.
6. All other motions or prayers for relief are dismissed.

Seat of arbitration: Lausanne, Switzerland

Date: 22 April 2024

**THE COURT OF ARBITRATION FOR SPORT**

Luigi Fumagalli  
Sole Arbitrator