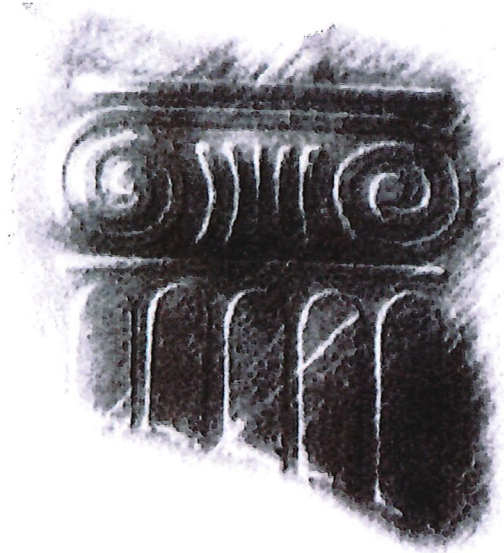


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ARBITRAL AWARD

Saipa Football Club, Islamic Republic of Iran

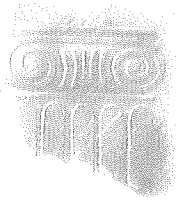
v.

Peykan Football Club, Islamic Republic of Iran

&

The Islamic Republic of Iran Football Federation, Islamic Republic of Iran

CAS 2021/A/8186 - Lausanne, February 2022



Tribunal Arbitral du Sport
Court of Arbitration for Sport
Tribunal Arbitral del Deporte

CAS 2021/A/8186 Saipa Football Club v. Peykan Football Club & Islamic Republic of Iran Football Federation

ARBITRAL AWARD

delivered by the

COURT OF ARBITRATION FOR SPORT

sitting in the following composition:

Sole Arbitrator: Mr. Espen Auberg, Attorney-at-Law, Oslo, Norway

in the arbitration between

Saipa Football Club, Islamic Republic of Iran

Represented by Mr. Saber Soroush and Mr. Ali Malihzadeh, Attorneys-at-Law in Tehran, Iran

- Appellant -

v.

Peykan Football Club, Islamic Republic of Iran

Represented by Dr. Vitus Derungs, Mr. Vahid Mirheydari and Mr. Naser Azri, Attorneys-at-Law in Zurich, Switzerland

- First Respondent -

and

The Islamic Republic of Iran Football Federation, Islamic Republic of Iran

Represented by Dr. Gholamreza Rafiei, Senior legal adviser of FFIRI in Teheran, Iran

- Second Respondent -

I. THE PARTIES

1. Saipa Football Club (the “Appellant” or “Saipa FC”) is a professional football club, registered with the Islamic Republic of Iran Football Federation (the “FFIRI”), which in turn is affiliated with the Fédération Internationale de Football Association (“FIFA”).
2. Peykan Football Club (the “First Respondent” or “Peykan FC”) is a professional football club, registered with the FFIRI, which in turn is affiliated with FIFA.
3. The Islamic Republic of Iran Football Federation (the “Second Respondent” or the “FFIRI”) is a nationwide governing football body in The Islamic Republic of Iran, and is a FIFA member.
4. The Appellant and the Respondents are hereinafter jointly referred to as the “Parties”.

II. FACTUAL BACKGROUND

5. Below is a summary of the main relevant facts, as established on the basis of the written submissions of the Parties, the hearing and the evidence examined in the course of the proceedings. This background information is given for the sole purpose of providing a summary of the dispute. Additional facts may be set out, where relevant, in connection with the legal analysis.
6. Both Saipa FC and Peykan FC competed in the FFIRI top division, the Persian Gulf Pro League, for the season 2020-2021. For that season the Persian Gulf Pro League consisted of 16 teams, whereas the two lowest ranked teams, i.e. the teams ranked 15 and 16, at the end of the season were relegated to the FFIRI second tier division. The teams in the Persian Gulf Pro League were primarily ranked based on number of achieved points, where three points were achieved for each victory and one point were achieved for each draw. In case two or more teams had an equal number of points, the rank was decided by goal difference. Each team played each other twice, home and away, so that each team played a total of 30 matches.
7. On 16 May 2021 Saipa FC, as the home team, and Peykan FC, as the away team, played a match in the 23rd round in the Persian Gulf Pro League, for the season 2020-2021 (the “Match”). 97 minutes and two seconds into the Match, at the score 1-2, Peykan FC, which at the time already had substituted five players, substituted a sixth player, Mr. Reza Habibzadeh. The Match continued for one minute and 57 seconds before the referee finished the Match. No goals were scored during the time Mr. Habibzadeh was on the pitch. The Match ended with the result 1-2 in favour of Peykan FC.
8. The 2020-2021 season of the Persian Gulf Pro League ended 30 July 2021, after each team had played 30 matches. Saipa FC ended the season ranked as team number 15 with 26 achieved points. This was the same number of points as the team that was ranked as number 14, and the rank between Saipa FC and the team that finished as number 14 was

decided by goal difference. Saipa FC was subsequently relegated to FFIRI second tier division.

III. PROCEEDINGS BEFORE DECISION MAKING BODIES OF THE FFIRI

9. Shortly after the Match, Saipa FC filed a complaint to the FFIRI Disciplinary Committee on the background that only five substitutions were allowed, and that the sixth substitution as well as the presence of an ineligible player were unauthorized. By majority vote, the FFIRI Disciplinary Committee issued an award on the matter the next day, 24 May 2021, and concluded that Match should be considered won by Saipa FC 3-0 by forfeit, and that Peykan FC should be fined 500,000,000 Iranian rials. The grounds of the award states, inter alia:

“(...) Peykan Club made two substitutions simultaneously as the fifth and sixth substitutions in the 97th minute, which is more than the authorized number of substitutes and is in contrary to the terms and conditions of football player substitution in football match; and whereas this behavior was specified in Article 68 of the disciplinary regulations of the Football Federation of the Islamic Republic of Iran in 2013, but in the disciplinary regulations of 2018, it has been held in abeyance with no executive protection. Therefore, pursuant to Articles 5 and 119 of disciplinary regulations of the Football Federation and as this issue has not been provided in the domestic law, the judicial body shall refer to FIFA international rules as the superior rules governing the matter. As a result, with the entry of FIFA disciplinary rules into the subject of the filed case, due to the occurrence of violations in performing excessive substitutions and the use of an ineligible player in the said match; and as according to Article 97 of Regulations for holding Premier League and first division football matches, all matches shall be held in accordance with the rules and regulations developed and published by the International Football Board and because according to FIFA regulations, if a player is ineligible and goes to the football field, the team that used the player belongs to shall be announced as the loser of the game, and as the “ineligible” is used for all ineligibilities whether objective or subjective (related to the person or any relevant issue), and because this behavior has led to a breach of the rules and a fair principles governing the match, regardless of the violations and negligence of the game officials that shall not deny the responsibility of the offending club; therefore, in view of the above-said and considering the violation of the entry of an ineligible player to the field, documented in Article 22 and paragraph A, paragraph 4 of Article 46 of FIFA Disciplinary Regulations approved in 2019, while declaring Peykan a loser in the match subject to this complaint with a result of 0-3, Paykan Club is sentenced to pay a fine of five hundred million rials (500,000,000/-IRR). Following Paragraph 4 of Article 103 of Football Federation Disciplinary Regulations ratified in 2018, the issued verdict is executable and it can be appealed to the Appeals Committee within a week. Moreover, for examining the violations of natural persons related to the subject, the file will stay open.”

10. Peykan FC appealed the decision from the FFIRI Disciplinary Committee to the FFIRI Appeals Committee. In its decision dated 4 July 2021, submitted to the parties 6 July 2021 (the “Appealed Decision”), the FFIRI Appeals Committee decided that the verdict issued by the FFIRI Disciplinary Committee was set aside and that the complaint filed by Saipa FC in terms of changing the result of the Match and to impose a fine on Peykan FC was rejected. The grounds of the Appealed Decision states, inter alia:

“(…) Considering the abovementioned description and the disputes and the evidence and reasoning of each party, given that, first, the disciplinary regulations of football do not have a clear definition and text as prescribed in the verdict subject to appeal for a punishment of an excessive player and Articles 5, 61 and 119 do not explicitly state this issue; and second, as according to Article 61 disciplinary rules the substitute player is not an ineligible player; third, as the FIFA rules are invoked if the internal rules are ambiguous and concise, and if there is a need to refer to FIFA, it is first necessary to seek the opinion of the board of directors, and the esteemed disciplinary committee has not observed the needed formalities to refer the matter to international rules in the light of the said article; fourth, since the team punishment imposition and the result of 3-0, which is one of the most severe disciplinary rulings, has not been appropriate here and has not corresponded to the defect created in the process of this match, therefore, the contested verdict was clearly in contrary to the principle of proportionality of the punishment and violation; fifth, in the event that a substitute player is defined as an ineligible player, the application of Article 22 of the FIFA disciplinary rules shall be in compliance with the terms and conditions set forth in this international instrument, specially this player in less than two minutes of his presence in the match did not have any special influence in the match process (including scoring a goal, taking a penalty, stopping the opponent's attack, assisting the goal, getting a clear scoring position from the opponent, etc.). sixth, maintaining the match table and the position of the teams during the whole matches of the league is one of the legal and moral requirements of the football authorities, including the judicial body, and if the sentenced verdict become executable, it causes serious damage to the principle of unity and protection of the teams' positions in the premier league and inflicts severe damage on the rights of third parties without a proper basis; seventh, what has happened is the result of the negligence and irresponsibility of the coaching staff and the head of the Paykan football team and the organizers of the match, among which the role of the organizers of the match is stronger and prevails over the violation of the agents of the Paykan team. Therefore, applying strict punishment of Paykan team seems unfair. Thus, according to the principle of legality of violations and punishments and pursuant to Article 106 of the Football Federation disciplinary regulations, the verdict issued by Disciplinary Committee and the complaint filed by Saipa Club in terms of changing the result of the match and a financial fine have been rejected and this verdict is irrevocable. In terms of prosecuting and punishing the perpetrators (natural persons), due to the openness of the case, the result of this incident will be decided after some investigation hearing the opinion of the esteemed disciplinary committee in the next position.”

IV. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT

7. On 27 July 2021, the Appellant filed a Statement of Appeal to the Court of Arbitration for Sport (the “CAS”), pursuant to Article R49 of the Code of Sports-related Arbitration (the “Code”), against the Appealed Decision. In its Statement of Appeal, the Appellant requested that the dispute should be referred to a sole arbitrator.
11. In the Statement of Appeal the Appellant requested an extension of 20 days for submitting the Appeal Brief due to the Covid-19 quarantine situation in Iran and the need to gather and translate documents.
12. In the Statement of Appeal, the Appellant also requested, inter alia, that the Match played between Saipa FC and Peykan FC 23 May 2021 should be declared forfeited, i.e. that Saipa FC should be declared winners of the Match.
13. On 27 July the CAS Court Office confirmed to the Parties that it had received the Statement of Appeal, and inter alia invited the Respondents to state whether they consented to the requested extension of 20 days for submitting the Appeal Brief and whether they agreed to the appointment of a sole arbitrator.
14. FFIRI submitted a letter 30 July 2021 where it consented to the requested extension of 20 days for submitting the Appeal Brief and to the request to appointment a sole arbitrator.
15. On 3 August 2021 the CAS Court Office informed the Parties that time-limit to file the Appeal Brief was extended by 20 days.
16. On 16 August 2021 the Appellant submitted the Appeal Brief.
17. On 23 August 2021 the CAS Court Office informed the Parties that it had received the Appellant's Appeal Brief and invited the Respondents to submit an Answer within 20 days, pursuant to Article R55 of the Code.
18. In a letter dated 15 September 2021 Peykan FC informed that it did not agree to the appointment of a sole arbitrator and therefore requested for a panel of three arbitrators to be appointed.
19. On 17 September 2021 the CAS Court Office informed the Parties that the Division President had decided that the dispute should be referred to a sole arbitrator, and that, following the Appellant's payment of the totality of the advance of costs, the Respondents were given a deadline of 20 days to submit Answers pursuant to Article R55 of the Code.
20. In a letter dated 17 September 2021 the Appellant applied for provisional and conservatory measures by requesting to postpone the start of the upcoming Iran football competitions. In addition, the Appellant requested that the procedure be conducted in an expedited manner.

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21. By letter dated 22 September 2021 the CAS Court Office invited the Respondents to comment the Appellant's request for provisional and conservatory measures within ten days, as well as the Appellant's request for an expedited procedure within two days.
22. Both Respondents rejected the request for an expedited procedure by letters dated 24 September 2021. Subsequently the CAS Court Office informed the parties in a letter 27 September 2021 that the proceedings would continue in their normal course as Article R52 (4) of the Code requires "*agreement of the parties*" for a procedure to proceed in an expedited manner.
23. With regards to the Appellant's Request for provisional and conservatory measures FFIRI submitted a letter dated 1 October 2021, and Peykan FC submitted a letter dated 4 October 2021. In the letters both Respondents objected to the request.
24. In accordance with Article R55 of the Code, and the suspension of the deadline awaiting the payment of the advance of costs, both Respondent filed their Answers on 7 October 2021.
25. By letter 11 October 2021 the CAS Court Office informed the Parties that the request from FFIRI for an extension by 10 days of the time limit to file a witness statement had been granted. In the same letter the CAS Court Office informed the Parties that pursuant to Article R54 of the Code and on behalf of the Deputy President of the CAS Appeals Arbitration Division, the Arbitral Tribunal appointed to decide the present case was constituted as follows:

Sole Arbitrator: Mr Espen Auberg, Attorney-at-Law in Oslo, Norway

26. On 15 October 2021, the CAS Court Office submitted the operative part of the Order on the Request for Provisional Measures issued by the Sole Arbitrator, which reads:

"1. The Request for Provisional and Conservatory Measures filed by Saipa Football Club on 17 September 2021 in the matter CAS 2021/A/8186 Saipa Football Club v. Peykan Football Club & Islamic Republic of Iran Football Federation, is dismissed.

2. The costs of the present Order shall be determined in the final award or any other final disposition of this arbitration."
27. On 17 October 2021, Peykan FC submitted a witness statement from Mr. Ahmad Mohammadi, who was the fourth official in the Match between the Saipa FC and Peykan FC in the 2020/21 Persian Gulf Pro League played 16 May 2021.
28. On 25 October 2021, following consultation with the Parties, on behalf of the Sole Arbitrator, the CAS Court Office confirmed that a hearing would be held on 12 November 2021 by video-conference, pursuant to Articles R44.2 of the Code.
29. On 1 November 2021, the CAS Court Office issued an Order of Procedure, which was duly signed and returned by Saipa FC 7 November 2021, Peykan FC 8 November 2021 and FFIRI 6 November 2021.

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30. On 7 November 2021, the Club Zobahan, which is currently competing in the Persian Gulf Pro League, filed request to intervene as *amicus curiae* in this procedure claiming a direct interest in the outcome of the procedure. The CAS Court Office invited the Parties to file their comments in this regard.
31. On 9 November 2021, the Club Zobahan further requested to be authorized to attend the hearing as observer. The same day, the CAS Court Office rejected such request.
32. On 11 November 2021, after consultation with the Parties, the CAS Court Office sent the Parties a draft hearing schedule, proposed by the Sole Arbitrator.
33. On 12 November 2021, a hearing was held by video-conference. In addition to the Sole Arbitrator and CAS Counsel Mr. Giovanni Maria Fares, the following persons attended the hearing:
34. For the Appellant, Saipa FC:
Mr. Saber Soroush, Counsel;

Mr. Ali Malihzadeh, Counsel;

Mr. Mehrdad Seraji, Managing director;

Mr. Nader Amini Parsa, Counsel

Mrs. Leila Davoudabadi, Head of International Relations.
35. For the First Respondent, Peykan FC:

Dr. Vitus Derungs, Counsel;

Mr. Vahid Mirheydari, Counsel;

Mr. Naser Azri, Counsel.
36. For the Second Respondent, FFIRI:

Dr. Gholamreza Rafiei, Counsel;

Mr. Amir Khosravi, Deputy General Secretary;

Mrs. Homeira Asadi Kavan Head of International Relations;

Mr. Mohammad Ali Bankehsaz, Interpreter;

Mr. Ahmad Mohammadi, Witness.
37. In the Course of the hearing, the Sole Arbitrator heard evidence from Mr. Mohammadi, who was the fourth official in the Match. The witness and the

interpreter were invited by the Sole Arbitrator to tell the truth subject to the sanction of perjury and confirmed that they would tell the truth. The Parties and the Sole Arbitrator had full opportunity to pose their questions to the witness and expert witnesses.

38. The witness, Mr. Mohammadi, explained that FFIRI's match regulations with regards to the number of substitutions had changed due to Covid-19, in accordance with FIFA guidelines. The changes allowed more stops in the game and maximum five substitutions, compared to maximum three before the changes. Further, the witness explained that before the match the teams are given five sheets that were used for substitutions. The witness explained that there was a high level of tension in the match, and as the match approached the final minutes, the tension increased. During an earlier substitution Peykan FC had written two substitutions on one sheet, which gave them an extra sheet that was used for the sixth substitution. At the last minute of the game, a request for substitution was made, and the witness simultaneously had to control the tension. The substitution was already published by the substitution signs, and according to the witness, the referee team processed the substitution without knowing that it was the sixth substitution, which was a human, non-intentional mistake. Only after the match, the referee team realised that there was a problem with substitutions.
39. During the hearing, the Parties were given full opportunity to present their cases, ask questions to the witness, to submit their arguments in closing statements and to answer the questions posed by the Sole Arbitrator.
40. Before the hearing was concluded, all Parties expressly stated that they had no objection to the procedure adopted by the Sole Arbitrator and that their right to be heard had been respected.
41. On 16 and 17 November 2021, the Second and First Respondents respectively, stated not having any objection as to the admission of the *amicus curiae* brief filed by the Club Zobahan. On its side the Appellant, on 18 November 2021, opposed the intervention of the Club Zobahan.
42. On 13 December 2021, the CAS Court Office informed the Parties that the Sole Arbitrator decided not to admit the submission of the Club Zobahan on the grounds that there was not agreement between the Parties in this regard and, in particular, that the Club Zobahan did not establish any particular public interest justifying its intervention as *amici curiae*.

V. SUBMISSIONS OF THE PARTIES AND REQUESTS FOR RELIEF

43. This section of the Award does not contain an exhaustive list of the Parties' contentions. Its aim is to provide a summary of the substance of the Parties' main arguments. In considering and deciding upon the Parties' claims in this Award, the

Sole Arbitrator has accounted for and carefully considered all of the submissions made and evidence adduced by the Parties, including allegations and arguments not mentioned in this section of the Award or in the discussion of the claims below.

A. Saipa FC's Submissions

44. Saipa FC's submissions may be summarized as follows:

- It is undisputed that Peykan FC used an illegal and extra substitution in the Match. This issue is not predicted in the FFIRI Disciplinary Code. As a consequence, based on the FFIRI Disciplinary Code Article 119, the issue is to be solved by FIFA regulations.
- Peykan FC's substitution of a sixth player in the Match was in breach of FIFA regulations. In this regard, FIFA Disciplinary Code Article 22 states that if a player is fielded in a match despite being ineligible, the team to which the player belongs will be sanctioned by forfeiting the match, i.e. to be considered to have lost the match 3-0.
- Saipa FC drew the attention to the FIFA Disciplinary Code Article 46 paragraph 4 which reads: *“if an ineligible player's participation in a match as a consequence of that player not fulfilling the conditions defined in the relevant FIFA regulations”*
- Further, Saipa FC made reference to FIFA Laws of the Game, law 2 which, with regards to the number of substitutions in official competitions states that *“the number of substitutes, up to a maximum of five, which may be used in any match played in an official competition will be determined by FIFA, the confederation or the national football association except for men's and women's competitions involving the 1st teams of clubs in the top division or senior 'A' international teams, where the maximum is three substitutes.”*
- The participation of the sixth illegal substitution shall be considered the player who is not fulfilling the conditions defined in the relevant FIFA regulations.
- The reference to FIFA regulations should be made as correctly done by the FFIRI Disciplinary Committee. The interpretation from the FFIRI Appeals Committee would lead to serious infringement due to the fact that clubs can make extra substitutions without any consequences.
- The argumentation of the relatively low contribution of the sixth substitute shall be ignored as the FIFA Disciplinary Code clearly defines illegible players and the consequence of using ineligible players. In these regulations, the relative contribution is not relevant. Further, the player played two minutes of football, which can be very decisive.
- Based on the different nature of the competitions, the forfeit or setting aside the club or associations may be ordered by the judicial bodies and in no way the

integrity will be corresponding to not declaring the match forfeited as wrongly did by the FFIRI Appeals Committee. The misinterpretation by the FFIRI Appeals Committee will cause the aim and meaning of the FIFA Disciplinary Code Article 22 paragraph 1 to be entirely meaningless.

- A chain of events led to the sixth substitution. Peykan FC misused a substitution sheet and substituted two players on one sheet. Then the fourth official made error.
- A pure field of play decision, such as awarding a penalty, cannot be reviewed by CAS as this could lead to a flood of cases. However, a substitution is not a field of play decision that can be compared to awarding a penalty, and can be reviewed by CAS, as indicated in CAS 2010/A/2090.
- If CAS rules that breaching the rules with regards to the number of substitutions will have no consequences, it will open the floodgates and lead to a many cases of illegal substitutions.

45. On these grounds, the Saipa FC made the following requests for relief:

*“-To rule that the appeal brought against respondents is admissible.
 -To set aside the decision passed by IRAN FA Appeal Committee (decision No.73).
 - To establish that the match shall be declared forfeited in favor of Saipa football club*

And alternatively, in case the panel decides that the match shall not be declared forfeited:

*-To annul the appealed decision and referring back the case to the Iran FA judicial bodies for re- adjudicating the case based on related regulation.
 - To order the respondents to pay the entire costs and any other expenses whatsoever nature arising from the CAS proceeding.
 - To order the respondents to pay any and all the legal fees and costs.
 -To rule any such other relief as court may deem necessary or appropriate.”*

B. Peykan FC’s Submissions

46. Peykan FC’s submissions may be summarized as follows:

- Firstly, the Appeal is to be rejected since the reasoning of the appeal focusing on eligibility is ill-founded. Saipa FC refers to Article 22 Paragraph 1 and Article 46 Paragraph 4 of the FIFA Disciplinary Code, which deal with the consequences of the participation of an ineligible player in a match. The match in question was a match of the domestic league of Iran, i.e. the Persian Gulf Pro League, and not organised by FIFA, but falls under the jurisdiction of the FFIRI. Since the FIFA Disciplinary Code do not stipulate otherwise, the provisions of the FIFA Disciplinary Code cited by the Appellant do not apply on the matter at stake.

- Peykan FC did not substitute any ineligible player. The notion of eligibility is to be understood as the individual entitlement of a player to be fielded in a football match, as a consequence to that player fulfilling the regulatory requirements of eligibility. All of the players substituted by Peykan FC were eligible.
- Secondly, the decision of the referee to allow a sixth substitution is a final and irrevocable field of play decision that cannot be reviewed by CAS. It was the fourth official's decision to allow the sixth substitution and Peykan FC cannot be blamed of any fault, as it could rightfully assume, based on the fourth official's decision to approve the sixth substitution, that its request for a substitution was correct and admissible. The fourth official's decision to allow a substitution is to be considered as a final and irrevocable field of play decision. Field of play decisions have been the subject of CAS decisions at many occasions already. In essence, the established approach of CAS is that field of play decisions cannot be reviewed unless there is persuasive evidence that a decision is based on arbitrariness or bad faith. Saipa FC has not argued or provided any evidence that the decision to admit a sixth substitution was based on bad faith or arbitrariness, and the decision to allow a sixth substitution cannot be reviewed by CAS.
- If the referee's decision to allow a sixth substitution is not be considered as a final and irrevocable field of play decision, a forfeit loss as a consequence to the sixth substitution is not a proportional and reasonable measure. The FFIRI regulations do not contain any express rule with regard to the number of substitutions that are allowed in a match nor a rule with regard to the consequences in case of a team making six substitutions. In view of such absence of any directly applicable and clear rule regarding the matter at stake, it is to be concluded that the FFIRI regulations contain a lacuna. In the absence of any directly applicable and clear rule of a federation for the relevant offence, the adjudicating body must make up for this lacuna by adopting a sanction which, in light of the facts of the case as established, is relevant to the type of misconduct, proportional, reasonable, just and fair. The FFIRI Appeals Committee rendered a decision in the matter at stake that was proportional, reasonable, just and fair.
- After the substitution, the match continued only for a few seconds until the referee ended the match. Therefore, the sixth substitution did not have an impact on the match and the result. It would not be compatible with any sense of justice to change the sporting result because a club, based on the approval of the fourth official, substituted a sixth player for a few seconds of an – already decided – match. In fact, the sixth substitution just a few seconds before the end of the match is so negligible that it should certainly not be given more weight than the actual sporting result of the match. A change of the match result could create massive collateral damage, i.e. effects for other teams of the same competition that were not at all involved in the match concerned and the fourth official's decision to allow a sixth substitution. The FFIRI Appeals Committee carefully took into account the lack of consequences of the sixth substitution in the match

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concerned, the low degree of fault of the first Respondent and the massive collateral damage a change of the result could have, and it is therefore proportional, reasonable, just and fair.

47. On these grounds, the Peykan FC made the following requests for relief:

“a) the Appeal be rejected;

b) all legal and procedural costs be borne by the Appellant.”

C. FFIRI’s Submissions

48. FFIRI’s written submissions are identical to the written submissions of Peykan FC, and are for that reason not repeated in the award. FFIRI’s arguments presented during the hearing can be summarized as follows:

- The referee played a part of the referee team. Allowing the sixth substitute is a field of play decision. Such a mistake can happen, but in this case it had little or no impact as the player was on the pitch for less than two minutes.
- One cannot assume that a decision from CAS that does not change the match result will have a precedence impact on future matches, as FFIRI is about to change its regulations. The changes to the regulations will cover similar situations and will contribute to avoid similar situations in the future.
- The judicial bodies of FFIRI are independent. If the player was ineligible the committees would have given a forfeit, but the player was not ineligible.
- In accordance with Laws of the Game law 6 referees work in a team, and it is the referees to a match work in a team and final decision will always be taken by the referee, who could have stopped the substitution.
- In accordance with the FFIRI disciplinary code Article 117, the decision making body can take into account the minutes the player has played.
- All players on the bench were eligible to play. The mistake made by the fourth official does not make the player who entered the pitch as the sixth substitute ineligible.
- In any case, forfeit not proportional, and there was no bad intention from the involved parties.

49. FFIRI made the following requests for relief:

“a) the Appeal be rejected;

b) all legal and procedural costs be borne by the Appellant.”

VI. JURISDICTION

50. The jurisdiction of CAS derives from Article R47 of the Code which reads:

“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.”

51. The jurisdiction of CAS is regulated in Article 64 paragraph 3 of FFIRI’s Statutes reads:

“Decisions made by Appellate Committee can only be contestable in the Court of Arbitration for Sport (CAS) in Lausanne, Switzerland.”

52. Furthermore, Article 111 of the FFIRI Disciplinary Code reads:

*“Referring to Court of Arbitration for Sport (CAS)
 Given the Articles of Association of Football Federation and Articles of Association of FIFA, Irrevocable verdicts. (final Verdicts) of judicial body of the federation, may be contestable observing the legal conditions mentioned in Formal and Substantive Regulations of the Court of Arbitration for Sport”*

53. Moreover, the jurisdiction of CAS derives from Article 58 (1) of the FIFA Statutes (September 2020 Edition), as it determines that “[a]ppeals against final decisions passed by FIFA’s legal bodies and against decisions passed by confederations, member associations or leagues shall be lodged with CAS within 21 days of receipt of the decision in question”. The jurisdiction of CAS is not contested by the Parties and is further confirmed by the Order or Procedure duly signed by all Parties.

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

VII. ADMISSIBILITY

55. The time limit for submitting a Statement of Appeal is 21 days from the receipt of the decision appealed against pursuant to the Code R49. The Statement of Appeal was filed by the Appellant on 27 July, 21 days after FFIRI had submitted the motivated Appealed Decision, on 6 July, hence within the deadline of 21 days.

56. The time limit for filing an Appeal Brief is ten days following the expiry of the time limit for the Statement of Appeal, pursuant to the Code Article R51. The time limit initially expired on 6 August 2021 but was extended with 20 days by the CAS Court Office as informed in letter 3 August 2021.

57. Hence, the time limit to submit the Appeal Brief expired 26 August 2021. The Appeal Brief was submitted 16 August 2021, within the time limit.

58. This Appeal Brief is filed in due form and time and is considered admissible.

59. Therefore, the appeal is admissible.

VIII. APPLICABLE LAW

60. Article R58 of the Code provides as follows:

61. *“Law Applicable to the merits. 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 that the Panel deems appropriate. In the latter case, the Panel shall give reasons for its decision.”*

62. The Appealed Decision was issued by the FFIRI Appeals Committee in accordance with the FFIRI Disciplinary Code. Article 5 of the FFIRI Disciplinary Code reads as follows:

“Article 5 Interpretation -

The judiciary should decide on the implementation and interpretation of these regulations in the following order:

A. Refer to the articles of association, regulations, by-laws, directives and instructions or decisions of the federation.

B. Refer to the statutes, rules, regulations, directives, instructions and decisions of FIFA and -Asian Football Confederation, Laws of the Game, International Futsal Regulations and beach soccer.

C. In the absence of a rule that can be invoked in the above regulations and their inadequacy, invoke the relevant laws -The Islamic Republic of Iran, which deems it a competent judicial body”.

63. Further, Article 119 of the FFIRI Disciplinary Code reads as follows:

“In case of occurrence of issues or disputes that are not legally enshrined herein or in other regulations of the football federation and FIFA, the judiciary will decide after inquiring the board of directors of the football federation.”

64. Applying these principles to the present matter, the dispute shall primarily be decided according to the applicable regulations, i.e. the FFIRI regulations. FIFA regulations are to be considered to the extent they are applicable in accordance with the FFIRI Disciplinary Code Article 119.

IX. MERITS

A. The main issues

65. The factual circumstances of the present matter are undisputed. The Parties agree that 97 minutes and two seconds into the Match, at the score 1-2, Peykan FC substituted a sixth player, and that the Match continued for one minute and 57 seconds before the referee blew the final whistle. Furthermore, the Parties agree that no goals were scored during the time the sixth substitute was on the pitch and that the Match ended with the result 1-2 in favour of Peykan FC.
66. The primary matter to be resolved by the Sole Arbitrator is what the consequences, if any, Peykan FC's fielding of the sixth substitution shall be. Whereas Saipa FC maintains that Peykan FC should be sanctioned by forfeiting the match, i.e. to be considered to have lost the match 3-0, the Respondents retain that Peykan FC cannot be sanctioned for fielding a sixth substitute, and in any case not with a forfeit.
67. In the consideration of the primary matter, it is essential to consider whether the FIFA's regulations are relevant to the dispute, as well as the extent of CAS' competence to review the Appealed Decision. Consequently, the main issues to be resolved by the Sole Arbitrator are:
- i. The relevance of FIFA's regulations
 - ii. The extent of CAS' competence to review the Appealed Decision
 - iii. Should Peykan FC's fielding of a sixth substitute lead to forfeit?
- i. The relevance of FIFA's regulations**
68. The Sole Arbitrator notes that the consequences of fielding a sixth substitute is not explicitly regulated in the FFIRI Disciplinary Code. Subsequently, it is necessary to explore if other regulations could be relevant. The FFIRI Disciplinary Code Article 119 states that issues that are not regulated in the FFIRI Disciplinary Code "*or in other regulations of the football federation and FIFA*" will be decided by the decision making body of FFIRI after they have inquired with the board of directors of FFIRI.
69. The wording of the FFIRI Disciplinary Code Article 119 prescribes that FIFA regulations could be relevant if the FIFA regulations cover the same competitions that are regulated by the FFIRI Disciplinary Code and the issue is not regulated in the FFIRI Disciplinary Code or other regulations of the FFIRI. In other words, only provisions in FIFA regulations that explicitly regulate competitions arranged by FFIRI, as a FIFA member association, are applicable in this regard.
70. To which extent the FIFA Disciplinary Code applies to matches arranged by FIFA's member association is regulated in its Article 2 paragraph 1, which reads:
- "Scope of application: substantive law
 This Code applies to every match and competition organised by FIFA and to matches and competitions in association football that do not fall under the jurisdiction of the confederations and/or the associations, unless otherwise stipulated in this Code."*

71. The Match, being a part of the Persian Gulf Pro League arranged by FFIRI, shall be considered as a “*competition in association football*” in accordance with the FIFA Disciplinary Code Article 2 paragraph 1. However, the FIFA Disciplinary Code is only applicable to competitions in association football if the relevant competition does not fall under the jurisdiction of, inter alia, an association. Only if “*otherwise stipulated*” in the FIFA Disciplinary Code, a provision in the Code shall apply to competitions in association football. An example of such an exemption is the FIFA Disciplinary Code Article 71 paragraph 1 which states that “*Article 62 paragraph 3 of this Code is considered mandatory in domestic competitions*”.
72. Saipa FC claims that Peykan FC’s substitution of a sixth player in the Match constitutes a breach of the FIFA Disciplinary Code Article 22 which stipulates that if a player is fielded in a match despite being ineligible, the team to which the player belongs will be sanctioned by forfeiting the match. Further, Saipa FC claims that the FIFA Disciplinary Code Article 46 paragraph 4 regulates the participation of an ineligible player that does not fulfil the conditions in the relevant FIFA regulations. The FIFA Disciplinary Code does not provide that Article 22 or Article 46 shall apply to competitions in association football.
73. In light of the foregoing, the Sole Arbitrator concludes that the consequences of Peykan FC’s fielding of a sixth substitute are not regulated by the FIFA Disciplinary Code.
74. For the sake of completeness, the Sole Arbitrator notes that even if the consequences of Peykan FC’s fielding of a sixth substitute were regulated by the FIFA Disciplinary Code, quad non, the provisions in the FIFA Disciplinary Code referred to by the Appellant, i.e. Articles 22 paragraph 1 and 46 paragraph 4, would not be relevant for determining the outcome of the dispute. The FIFA Disciplinary Code Article 22 paragraph 1 reads:
- “If a player is fielded in a match despite being ineligible, the team to which the player belongs will be sanctioned by forfeiting the match and paying a minimum fine of CHF 6,000. The player may also be sanctioned.”*
75. It is undisputed that the sixth substitute did not serve a suspension or for any other reason was ineligible to play the match as such. The Appellant claims, however, that the sixth substitute became ineligible as a consequence of entering the pitch as the sixth substitute, in breach of the FFIRI match regulations. The wording of Article 22 suggests that the notion of being ineligible is an individual feature. The concept of eligibility in Article 22 regulates whether an individual football player is eligible to play a match or not. A football player may be ineligible to play a match for many reasons, for example if the player is suspended in accordance with the FIFA Disciplinary Code Article 6 paragraph 2. The eligibility status of the player in question did not change as a consequence of him being the sixth substitute, and as such, he cannot be considered as ineligible in accordance with the FIFA Disciplinary Code Article 22 paragraph 1.

ii. The extent of CAS’ competence to review the decision

76. An essential issue is whether the decision of the referee team to allow the sixth substitution during the Match is a decision that can be reviewed by CAS.
77. CAS jurisprudence indicates that field of play decisions, even when a decision in hindsight is recognized as being wrong, can only be reviewed by CAS if there is persuasive evidence that the decision is the result of arbitrariness or bad faith. In this regard the Sole Arbitrator notes that in CAS 2015/A/3874¹, the CAS panel stated the following:
- “In this connection, the Panel notes the considerable protection afforded to referees’ field-of-play decisions, as reflected in long-established CAS jurisprudence. Thus, the CAS will not review a field-of-play decision unless there is persuasive evidence that there has been arbitrariness or bad faith in arriving at such decision, even when that decision is recognized as being wrong, with the benefit of hindsight”*
78. The Sole Arbitrator notes that there are no indications that the fielding of the sixth substitute in the Match was the result of arbitrariness or bad faith from any of the match officials. The Sole Arbitrator further notes that none of the Parties advanced any such arbitrariness or bad faith from the match officials. As referred by the witness statement from Mr. Mohammadi, who was the fourth official in the Match, the decision to allow the additional substitution was taken by the referee team based on a human, non-intentional mistake. Hence, the Sole Arbitrator is satisfied by the fact that, although wrong, the decision to allow the sixth substitution is not tainted by and arbitrariness or bad faith, with the result that the field of play doctrine should apply.
79. With regards to the Saipa FC’s claim that allowing a sixth substitution is not a pure field of play decision that can be compared to for example awarding a penalty, the Sole Arbitrator notes that CAS on numerous occasions has considered what should be defined as field of play decisions. In CAS 2015/A/4208 the Panel stated:
- “the established field of play doctrine permits review of “field of play” decisions “in so far as the rules of the game themselves provide”. If the rules do not provide for any review after the event or match has finished, then the CAS is directed to respect such a silence and draw the necessary consequences.”*
80. On this background, the Sole Arbitrator notes that a condition for a field of play decision to be reviewed, is that the possibility of reviewing the decision is regulated in the relevant regulations.
81. In this regard, the Sole Arbitrator notes that the FFIRI regulations do not provide for any review after a match has finished. In the absence of such rules, there is no foundation for considering the decision to allow a sixth substitution differently from

¹ CAS 2015/A/3874 FAA v. UEFA & FAS para. 213

other field of play decisions, with regards to CAS' competence to review the decisions.

82. On this background, the Sole Arbitrator concludes that the decision to allow the sixth substitution constitutes a field of play decision that cannot be overturned by CAS.

iii. Should Peykan FC's fielding of a sixth substitute lead to forfeit?

83. As the decision to allow the sixth substitution constitutes a field of play decision that cannot be overturned, the fielding of a sixth substitution cannot lead to Peykan FC losing the match by forfeit.
84. However, for the sake of completeness, the Sole Arbitrator notes that even if the decision to allow the sixth substitution in principle could be overturned by CAS, the fielding of the sixth substitute would in any case not lead to Peykan FC losing the match by forfeit.
85. In this regard, the Sole Arbitrator notes that there is an obvious lacuna in the relevant regulations, as the consequences of the use of a sixth substitute is not regulated by the either FFIRI regulations or the FIFA Disciplinary Code. In the lack of such regulations, a decision with regards to the consequences must be based on general sports law principles. Based on the Parties' submissions, the question before CAS is whether Peykan FC's fielding of a sixth substitute should result in Peykan FC losing the match by forfeit.
86. CAS has applied a restrictive approach with regards to overturning sport results. In the case CAS 2014/A/3703² the Panel stated as follows:
- “In addition, it is a general principle in the context of sports law that sporting results should, in principle, be left unturned, i.e. the sporting result shall be determined on the field and not by a court after the particular match or competition. In this respect, CAS has consistently applied a restrictive approach.”*
87. The Sole Arbitrator finds that, in line with CAS jurisprudence, it is established a general principle that sporting results should, as a starting point, be left unchanged. Furthermore, in line with CAS jurisprudence, it is established a principle that sporting results primarily shall be determined on the field and not subsequently by a decision-making body.
88. Although Peykan FC played a role in the process that led to the fielding of the sixth substitute, it was primarily the referee team that was responsible for this error. As explained by the witness, the fourth official in the Match, the referee team's decision to

² CAS 2014/A/3703 Legia Warszawa SA v. UEFA paragraph 111.

allow the sixth substitution was a human, non-intentional mistake. Peykan FC's degree of fault is insignificant.

89. In the Appealed Decision, the FFIRI's Appeals Committee concluded that Peykan FC's fielding of the sixth substitute should not lead to Peykan FC losing the match by forfeit.
90. It is well established in CAS jurisprudence that even though CAS has full power of review of the disputed facts and law in the exercise of its jurisdiction, CAS has to show restraint in evaluating whether a sanction is appropriate, as stated in CAS 2012/A/2762³:

“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”

91. FFIRI's Appeals Committee's reasons for the conclusion not to sanction Peykan FC with a loss by forfeit appear to be well founded. Indeed, the forfeit is one of the most severe disciplinary rulings, and that given the low degree of fault showed by Peykan FC, sanctioning Peykan FC with a forfeit could have been disproportionate.

B. Conclusion

92. On this background, the Sole Arbitrator concludes that Peykan FC's fielding of the sixth substitute is a field of play decision that cannot be reviewed by CAS, and that the Appealed Decision shall be confirmed.

X. COSTS

93. Article R64.4 of the Code, which is applicable to this proceeding, provides that:

“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,*

³ CAS 2012/A/2762 Bayer 04 Leverkusen v. UEFA paragraph 122.

- *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. The advance of costs already paid by the parties are not reimbursed by the CAS with the exception of the portion which exceeds the total amount of the arbitration costs.”

94. In line with this, Article R64.5 of the Code provides that:

“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 other 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 complexity and outcome of the proceedings, as well as the conduct and the financial resources of the parties.”

95. In light of the outcome of these proceedings, in which the petitions of Saipa FC have not been upheld, the Sole Arbitrator has decided that the arbitration costs, to be served to the Parties by the CAS Court Office, shall be borne entirely by Saipa FC.

8. Furthermore, pursuant to Article R64.5 of the Code, 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. In this regard the Sole Arbitrator has considered the complexity and outcome of the arbitration as well as the conduct and the financial resources of the Parties. In this respect Peykan FC and FFIRI are the prevailing parties. Peykan FC was represented by external counsels and the Sole Arbitrator rules that the Saipa FC shall pay a contribution towards the Peykan FC’s legal fees and other expenses incurred in connection with these arbitration proceedings in the amount of CHF 3,000. FFIRI, however, was not assisted by external counsels, and it must be assumed that its costs have been limited, and FFIRI shall be responsible for its own legal costs and expenses incurred in connection with these arbitration proceedings.

ON THESE GROUNDS

The Court of Arbitration for Sport rules that:

1. The appeal filed by Saipa Football Club on 27 July 2021 against the decision of the Islamic Republic of Iran Football Federation's Appeals Committee of 4 July 2021 is dismissed.
2. The decision of the Islamic Republic of Iran Football Federation's Appeals Committee of 4 July 2021 is confirmed.
3. The costs of the arbitration, to be determined and served to the Parties by the CAS Court Office, shall be borne entirely by Saipa Football Club.
4. Saipa Football Club shall bear its own costs and is ordered to pay to Peykan Football Club the total amount of CHF 3,000 (three thousand Swiss Francs) as a contribution towards its legal fees and other expenses incurred in connection with these arbitration proceedings.
5. The Islamic Republic of Iran Football Federation shall bear its own costs and other expenses incurred in connection with this arbitration.
6. All other and further motions or requests for relief are dismissed.

Seat of arbitration: Lausanne, Switzerland
Date: 8 February 2022

THE COURT OF ARBITRATION FOR SPORT



Espen Auber

Sole Arbitrator