# Decision

**of the**

# Adjudicatory Chamber

**of the**

# FIFA Ethics Committee

Mr Vassilios Skouris [GRE], Chairperson
Mr Jack Kariko [PNG], Member
Mr Flavio Zveiter [BRA], Member

taken on 11 February 2019

in the case of:

**Mr Chabour Goc Alei [SSD]**

Ethics 14/2018 (E17-00006)

## I. Inferred from the file

1. Mr Chabour Goc Alei (hereinafter: Mr Alei, the accused or the official), a national of the South Sudan, has been the President of the South Sudan Football Association (30.04.2012 to 07.02.2017) ("SSFA"), a member association of FIFA. Apart from that, he has served as member of the FIFA Fair Play and Social Responsibility Committee (21.06.2012 to 18.01.2017) (art. 24 par. 4 of the FIFA Statutes).

2. On 3 September 2018, based on a report of a forensic investigation performed by [Auditor 1] (hereinafter the "[Auditor 1] Report") into the SSFA and an ensuing preliminary investigation, formal investigation proceedings were opened against Mr Alei for possible breaches of articles 13, 14, 15 and 19 of the FCE 2018 edition (hereinafter "FCE"). Such proceedings were led by Mr Jiahong He, as chief of investigation (see art. 63 of the FCE).

3. With regard to the procedural history before the investigatory chamber, reference is made to the relevant section in the final report.

4. Investigation proceedings were concluded on 17 December 2018. The final report and investigation files were subsequently referred to the adjudicatory chamber (art. 65 and 66 of the FCE).

5. On 18 December 2018, Mr Vassilios Skouris, the chairman of the adjudicatory chamber, opened adjudicatory proceedings against Mr Alei. Furthermore, the chairman set a deadline for Mr Alei to provide his position on the final report and to request a hearing (see art. 71 and art. 69 of the FCE).

6. On 22 December 2018, in view of the absence of the pertinent request, the chairperson informed Mr Alei that a hearing would not be held, and that the adjudicatory chamber would decide the case using the file in its possession (see art. 69 par. 2 of the FCE). Finally, the chairperson informed the accused about the composition of the panel.

7. On the same day, Mr Alei requested an extension of the deadlines to request a hearing and to provide his position.

8. On 30 December 2018, Mr Alei was provided with an extension of the relevant time limits (7 and 18 January 2019, respectively).

9. On 3 January 2019, Mr Alei requested for a new extension of the mentioned deadlines and to be provided with further information about the findings of the investigation.

10. On 4 January 2019, Mr Alei was provided with an exceptional and final extension of the deadlines (15 January and 25 January 2019, respectively). Furthermore, the accused was informed that the findings of the investigation were established in the final report of the investigatory chamber.

11. On 17 January 2019, Mr Alei sent a copy of a certain twitter extract, by virtue of which the SSFA President informed about the celebration of the next SSFA General Assembly on 25 January 2019.

12. On 18 January 2019, in view of the absence of the pertinent request, the chairperson confirmed in a letter to Mr Alei that a hearing would not be held. Further, the chairperson acknowledged receipt of the twitter extract and informed the accused that said extract was irrelevant in respect of the adjudicatory proceedings.

13. On the same day, Mr Alei submitted his position to the chairman of the adjudicatory chamber.

14. On 22 January 2019, Mr Alei was reminded that he was entitled to submit his (complete) position and any further information and/or documents that deems pertinent for his defence until 25 January 2019.

15. On 8 February 2019, Mr Alei produced additional documents (32 files that had allegedly been found on the SSFA Facebook page) in view of an alleged interference of the judicial bodies of South Sudan in the SSFA.

16. On the same day, the chairperson acknowledged receipt of the relevant documents and informed the accused that the scope of the adjudicatory proceedings was limited to the allegations brought forward in the final report of the investigatory chamber.

## II. and considered

## A. Applicability of the FCE *ratione materiae* (art. 1 of the FCE)

1. The adjudicatory chamber notes that, according to the investigatory chamber's final report, there were several indications of potential improper conduct by Mr Alei. In particular, in the final report, possible violations of arts. 28, 25, 20 and 19 of the FCE (and their analogous provisions of the 2012 FCE) were identified.

2. Consequently, the FCE is applicable to the case according to art. 1 of the FCE (*ratione materiae*).

## B. Applicability of the FCE *ratione personae* (art. 2 of the FCE)

3. It is undisputed that, between 2012 and 2017, Mr Alei was the President of the SSFA and member of a FIFA committee. It is further undisputed that as such, he was subject to the FCE (art. 2 of the FCE).

## C. Applicability of the FCE *ratione temporis* (art. 3 of the FCE)

4. The relevant events took place between 2014 and 2015, at a time before the FCE came into force. With regard to the applicability of the FCE in time, art. 3 of the FCE (see also art. 3 of the 2012 FCE) stipulates that the FCE shall apply to conduct whenever it occurred. Accordingly, the material rules of the FCE shall apply, provided that the relevant conduct was sanctionable at the time (with a maximum sanction that was equal or more) and unless the 2012 FCE would be more beneficial to the party (*lex mitior*).

5. In this context, following the relevant case law and jurisprudence, the adjudicatory chamber notes that the spirit and intent of the 2012 edition of the FCE is duly reflected in the below articles of the FCE, which contain equivalent provisions:

   - Art. 28 of the FCE has a similar provision in the 2012 FCE (art. 21 par. 2);
   - Art. 25 of the FCE has a similar provision in the 2012 FCE (art. 13 par. 4);
   - Art. 20 of the FCE has a similar provision in the 2012 FCE (art. 20);
   - Art. 19 of the FCE has a similar provision in the 2012 FCE (art. 19).

6. In consideration of all the above, the adjudicatory chamber concludes that the 2012 FCE edition covers the same offence and that the maximum sanctions in the FCE are equal or less. Furthermore, from a material point of view, the adjudicatory chamber notes that none of the provisions of the 2012 FCE would be more beneficial to the accused (principle of "*lex mitior*"), since their application would lead to the same result.

7. Consequently, the FCE is applicable to the case according to art. 3 of the FCE (*ratione temporis*) and the equivalent provision in the 2012 FCE.

## D. Jurisdiction of the FIFA Ethics Committee

8. The scope of jurisdiction of the FIFA Ethics Committee is defined in art. 30 of the FCE, which is more restrictive compared to the equivalent provision in the 2012 FCE.

9. Art. 30 of the FCE defines a primary (par. 1) and secondary (par. 2) competence of the FIFA Ethics Committee. According to art. 30 par. 1, if the relevant conduct has been committed by an individual elected, appointed or assigned by FIFA to exercise a function, or if such conduct is related to the use of FIFA funds, the Ethics Committee shall be entitled to investigate and judge the respective matter.

10. The adjudicatory chamber notes that the President of the SSFA and a FIFA committee member, committed the relevant conduct, which is related to the use of FIFA funds (cf. par. I.1 above).

11. Consequently, the FIFA Ethics Committee is entitled to judge his conduct as per art. 30 par. 1 of the FCE.

## E. Assessment of potential infringements of the FCE committed by Mr Alei

### 1. The FIFA development funds received by the SSFA

12. During the relevant period between 2014 and 2015, the SSFA received, as part of the Financial Assistance Programme (FAP) -through which FIFA offered financial assistance and technical advice to the associations and confederations- the total amounts of USD 500,000 (for the year 2014); and, USD 682,750 (for the year 2015) on the SSFA dedicated FAP bank account (at the [Bank 1]).

13. At that time, the SSFA signatories for the mentioned FAP account were Mr Alei, Mr William Okot de Toby (former General Secretary of the SSFA) and Mr Abraham Tito (former accountant of the SSFA).

14. In 2016, FIFA requested to [Auditor 1] (South Africa) a forensic investigation of the SSFA, in order to review the FAP for the years 2014 and 2015 with the applicable FIFA policies and procedures for potential irregularities and conflict of interest. The results of that review (financial audit) were contained in the [Auditor 1] Report, on which the majority of the factual findings made in the final report of the investigatory chamber are based.

## 2. Possible violation of art. 28 of the FCE (Misappropriation of funds)

### a) <u>The relevant facts</u>

15. According to the [Auditor 1] Report and proceedings conducted by the investigatory chamber (and related Final report) various irregularities appear to have occurred in relation to the use of FAP and GOAL funds by the SSFA in the years 2014 and 2015. Furthermore several potential conflicts of interest involving Mr Alei were identified. In particular, the following facts presented below have been established.

*A. FAP funds not used in compliance with the respective budget* [Cf. Final Report pp. 6 and 7]

16. In 2014, the SSFA received FAP funds for a total amount of USD 500,000, among others, for developing ¨Youth football¨ (with a projected budget of USD 55,000), ¨Women's football¨ (with a budget of 75,000) and ¨Medical¨ (with a budget of USD 10,000). Therefore, the total budget approved by FIFA and allocated for those aforementioned categories was USD 140,000.

17. However, according to the [Auditor 1] Report, only a very small percentage, corresponding to less than USD 2,000, was actually spent by the SSFA from the mentioned categories. Instead, the association significantly exceeded the planned budget for the categories of "Others" (more than 247%), "Infrastructure" (more than 100%) and "Event Management" (more than 50%).

*B. Bank transfers without supporting document from FAP funds* [Cf. Final Report pp. 8 and 9]

18. In 2014, according to the SSFA FAP bank account statement of the [Bank 1], the federation ordered three transfers for the total amount of USD 375,000, in particular: (i) on 14 July 2014, a transfer of USD 125,000 to a SSFA bank account at the [Bank 2]. In addition, on 3 October 2014, two new transfers of (ii) USD 150,000 and (iii) USD 100,000 to an unknown bank account.

19. With respect to the first transfer, the SSFA provided a letter dated 11 July 2014 and signed by Mr Alei (and Mr Okot de Toby) requesting such transfer. No documents were provided for the two transactions on 3 October 2014. Furthermore, Mr Alei failed to provide any explanation for all those transactions.

*C. Flat exchange rate used for FAP funds* [Cf. Final Report pp. 9 and 10]

20. The company […] (hereinafter "[Company 1]") is a foreign exchange broker that offers currency exchange, for example from USD to South Sudanese Pounds (SSP).

21. According to the [Auditor] Report, Mr Alei owns 30% of the [Company 1].

22. Between 19 January and 4 June 2015, several withdrawals for a total of USD 234,000 were identified to have been made from the federation's FAP bank account, which were subsequently exchanged for SSP using the (exchange) services of the [Company 1].

23. According to the final report and investigation files, as a result of the unfavourable flat exchange rate used by [Company 1], as opposed to the one prevalent in the market at that time, the SSFA incurred a loss of approximately USD 129,194.

24. Finally, Mr John Lauro, SSFA Secretary General, confirmed not being aware that Mr Alei partially owned the [Company 1]. Mr Lauro mentioned ¨We also realized that all these exchange transactions were done by the same company ([Company 1] Bureau) to whether the company is related to Alei, we are not sure, but we realized that in the vouches [sic] there is his contacts and phone Number: 0955333394¨).

*D. Payments from FAP funds to entities or persons related to Mr Alei* [Cf. Final Report pp. 10 to 13]

<u>The company […] (hereinafter [Company 2])</u>

25. The [Company 2] is a company mainly dedicated to retail tech and e-commerce tech.

26. According to the [Auditor] Report, Mr Alei is the owner of the [Company 2].

27. On 19 March 2015, the SSFA used FAP funds for paying the total amount of USD 200,000 to [Company 2]. However, this transaction was not recorded on the FAP 2015 statement of accounts. Furthermore, Mr Okot de Toby and Mr Gabriel Geng, the then chairman of the board finance committee of the SSFA, claimed to have been unaware of such transaction at the time it occurred.

28. In addition, on 4 and 18 May 2015, the SSFA ordered two new transfers of USD 35,000 and USD 20,000, respectively, to the company of Mr Alei.

29. Mr Alei claimed that those transactions, which were approved by himself, were made to facilitate the exchange of USD for SSP during the South Sudanese civil war.

30. Moreover, between March and May 2015, the SSFA paid over USD 63,000 in relation to the purchase of various electronic (e.g. camera accessories, printer, HP laptops) and furniture items to [Company 2], with Mr Alei once again approving such transaction.

31. Finally, Mr Lauro confirmed that the contact details of the [Company 2] included the private phone number of Mr Alei. (¨(…) based on some internal checking, we realized that Mr. Alei's contacts is being provided in the company's vouchers and receipt eg. Phone number 0915333395¨).

[Company 2] and the company […] (hereinafter "[Company 3]")

32. In November 2015, the SSFA concluded two different ¨Internal Supply Agreements¨ with the company [Company 2] (for the supply of air condition systems, TVs and office furniture sets). In relation to these payments, SSFA made the respective payments on 11 and 17 November 2015 (of USD 25,000 and USD 50,000) to [Company 2], through [Company 3].

33. According to the final report and investigation files, the [Company 3] is connected to [Company 2] and to Mr Alei.

Payments in favour of Mr Alei´s brother

34. Between 2014 and 2015, Mr Alei approved the use of the FAP Funds for further no football related payments (i.e. purchase of a vehicle and software/computer services) for the total amount of SSP 62,000 in favour of his brother [A].

*E. Payments from FAP funds to Mr Alei [Cf. Final Report pp. 13 and 14]*

35. On 19 July and 12 August 2014, Mr Alei received USD 10,000 and USD 2,000 (described as ¨Loan to SSFA President¨), respectively, from the SSFA.

36. Mr Alei claimed that such payments were part settlements of the amounts owed to him by the SSFA. However, Mr Okot de Toby and Mr Geng stated (i) that those transactions were made without the approval of the SSFA Executive Committee and, furthermore, (ii) that Mr Alei never repaid this alleged ¨*loan*¨ to the SSFA despite being requested to do so.

*F. GOAL Project for the construction of the SSFA headquarters* [Cf. Final Report pp. 15 and 17]

37. […] (hereinafter "[Company 4]") is a company that *inter alia* undertakes structural, architectural or engineering work for building constructions as well as to prepare designs, drawings and specifications for such purposes.

38. According to the final report and investigation files, Mr Alei controls [Company 4] by holding 50% of shares in this company. His brother, [A], owns the other 50% of it.

39. In September 2012, FIFA approved a GOAL project for the construction of the headquarters of the SSFA in Juba. However, it appears the construction began only in May 2015 and was completed in September 2015. The total cost of the project was USD 990,000, of which USD 90,000 were payable to [Company 4].

40. According to the final report and investigation files, [Company 4] was selected directly by Mr Alei. During the investigation, SSFA officials confirmed that they were not aware of the selection process for the architect of the project.

41. Finally, for the sake of clarity, according to the [Auditor] report, [Company 4] was paid (at least) approximately USD 72,000 for its services.

## b) Summary of the findings of the investigatory chamber

42. The investigatory chamber concludes that it appears that Mr Alei misappropriated a significant amount of the FAP funds, as well as of the GOAL Project funds, paid to the SSFA in 2014 and 2015. Moreover, he was involved in several cases of conflict of interest, related to payments from the FAP funds and the GOAL Project. In particular, it appears that Mr Alei misappropriated FAP/GOAL funds, through (i) the failure to disburse the funds in compliance with the respective budget approved by FIFA; (ii) the use of funds for unbudgeted and inadequate payments. (iii) The disbursement of funds through bank transactions not supported by any evidence. (iv) The use of a flat and detrimental rate to exchange the SSFA FAP funds from USD to SSP, causing an undue profit to the company of Mr Alei. (v) The payments made from FIFA funds to entities and persons related to Mr Alei or belonging to him personally; and, (vi) the appointment as architect of the headquarters project of his own [Company 4], to which was paid a significant amount of FIFA GOAL funds.

## c) Mr Alei's position

43. Mr Alei asserted that the complaint against him was of a political nature motivated by the ¨Minister of Sport in the Republic of South Sudan and the current Secretry [sic] General for SSFA Mr Anthny [sic] John¨.

44. Further, Mr Alei denied having committed any wrongdoing during his mandate and claimed to have ¨invested a lot of money¨ in the SSFA.

## d) Legal assessment

45. Although art. 28 of the FCE does not include a specific definition of the concept of misappropriation of funds, a general description could be made in the following legal terms: the illegal use of funds of another person/entity for one's own use or other unauthorized purpose.

46. In this respect, as per the relevant regulations, the members associations shall disburse the development funds received from FIFA in compliance with the respective budget approved by the latter.

47. The adjudicatory chamber points out that Mr Alei, in his position as president of the SSFA, and as signatory/approval authority of all the relevant transactions in relation to FIFA funds, was personally responsible for the decisions taken in respect of the FIFA development projects, in particular the use of the respective funds. In the present case, it has been established that Mr Alei has mismanaged a significant amount of the FAP and GOAL funds received by the SSFA in 2014 and 2015, through his conduct as described in what follows.

*A. FAP funds not used in compliance with the respective budget and bank transfers without supporting document*

48. The adjudicatory chamber notes that of the total projected budget for the categories of Youth Football, Women's Football and Medical, i.e. USD 140,000, less than

USD 2,000 was used by the SSFA from the earmarked FAP funds paid by FIFA. Instead, the SSFA significantly exceeded the planned budget for other categories, as for example "Event Management" (more than 50%), which are not directly related to the development and promotion of youth football and/or women football (cf. para. 16 and 17 above).

49. Furthermore, in relation to the bank transfers of July and October 2014 (cf. para. 18 and 19 above), the adjudicatory chamber notes that Mr Alei himself signed the letter of 11 July 2014, in which he requested the [Bank 1] to transfer USD 125,000 to another bank account of the federation ([Bank 2]). Regarding the bank transfers of 3 October 2014, for a total amount of USD 250,000, Mr Alei did not provide any supporting documents in this respect.

50. Furthermore, despite the substantial amount of FAP funds involved in the referred transactions (USD 375,000), representing approximately 75% of all FAP funds received by the SSFA in 2015, Mr Alei did not provide any explanation for such transfers (two of which were made to an unknown account/beneficiary).

51. Equally, Mr Alei failed to involve, consult or seek prior approval by SFFA's competent bodies, i.e. executive committee. Mr Alei decided alone to approve the transfer of such amounts to another bank account of the federation (not designated for the FAP funds), as well as, to an unknown bank account without the knowledge of the members of the SSFA executive committee.

52. In this line, it is stressed that Mr Alei had a special responsibility as SSFA president (and FIFA committee member) to safeguard the FIFA FAP funds.

53. Consequently, Mr Alei did not perform his duties in the best interests of the SSFA and neither of FIFA: the adjudicatory chamber therefore concludes that the relevant FAP funds have not been used in accordance to their objective (or even in relation to any projects of the SSFA). Mr Alei, as a president of the SSFA, acted in clear violation of the respective FIFA development regulations and did not respect the agreed distribution of the FAP funds.

*B. Flat exchange rate used for FAP funds*

54. As mentioned previously (par. 20 to 24 above), the SSFA made a significant loss by using exclusively Mr Alei's company [Company 1] for exchanging the FAP funds (received in USD) into SSP with a detrimental/low exchange rate. Consequently, the company of Mr Alei made a potential gain of approximately USD 129,194 (corresponding to the respective loss of the federation).

55. The adjudicatory chamber notes that Mr Alei was one of the three signatories to the FAP account (and thus authorized to withdraw amounts from such account), and, indeed he authorized the FAP transactions of the federation.

56. In view of the above, Mr Alei gave his own company a financial advantage with those transactions, e.g. only between 19 January 2015 and 4 June 2015, [Company 1] made a potential gain of approximately USD 129,194, which caused a substantial loss to the SSFA. In light of the above, the adjudicatory chamber concludes that Mr Alei misappropriated a significant amount of the FAP funds paid to the SSFA.

57. Furthermore, the adjudicatory chamber considers that Mr Alei, using his position as SFFA President and [Company 1] shareholder, influenced the relationship between the federation and [Company 1]. Mr Alei found himself in a conflict of interest situation; in particular, it is stressed that Mr Alei conducted this business without the approval of the SFFA competent bodies (and without informing them of his relation to or interest in [Company 1]).

*C. Payments from FAP funds to Mr Alei and persons or entities related to him*

58. As described above, the following bank transfers were made by the SSFA, with the express approval of Mr Alei, in favour of [Company 2]: (i) on 19 March 2015, a transfer of USD 200,000; and, (ii) on 4 and 18 May 2015, respectively, the amounts of USD 35,000 and USD 20,000.

59. The adjudicatory chamber notes that such transactions were not recorded on the respective FAP statement of accounts, as well as the fact that different SSFA officials, for example the former General Secretary and the chairperson of the board finance committee of the SSFA, were unaware of such transfers.

60. The adjudicatory chamber notes that there was no legal basis for such transactions and, especially, that Mr Alei failed to explain why those payments were made (in favour of his own company). In this regard, to simply state that the payments were made to facilitate the exchange of USD to SSP during the war, without providing any solid justification, is not sufficient to reverse the adjudicatory chamber's impression that those transactions represent a misappropriation of funds.

61. Furthermore, between March and May 2015, Mr Alei approved the payment of over USD 63,000 in favour of [Company 2], in relation to the purchase of material (i.e. various electronic and furniture items). In this sense, the adjudicatory chamber notes that Mr Alei failed to give a rational or proper justification why those materials were purchased to his own company, in particular, without the approval of the SSFA executive committee.

62. Moreover, on 11 and 17 November 2015, the SSFA paid USD 75,000 to the [Company 3], by virtue of two ¨Internal Supply Agreement¨ concluded by the SSFA with [Company 2]. The adjudicatory chamber notes, on the one hand, that [C] signed (i) the ¨internal supply¨ agreements as Managing Director of [Company 2] and (ii) the invoice and cash receipts of [Company 3] as a Manager; on the other hand, note is taken that the email contact of [Company 3] is the same as the email address used by [Company 2] (maniar2003@yahoo.com). In light of the above, the adjudicatory chamber is comfortable satisfied that [Company 2] and [Company 3] are related entities, and thus [Company 3] is a company connected to Mr Alei, who approved such transactions.

63. Therefore, it is clear that Mr Alei proceeded to conduct several businesses with his own company without the approval of the SSFA competent bodies.

64. In view of all of these considerations, after having considered the submissions of the accused, the adjudicatory chamber concludes that at least USD 393,000 from the FAP fund were spent without any justification and approval from the relevant SSFA

bodies, and that the respective amount was paid to and received by companies related to Mr Alei.

65. In this line, Mr Alei personally approved the use of FAP funds for the purchase of his brother´s car without the approval of any SSFA governing body (cf. para 34 above).

66. With respect to the amounts of USD 10,000 and USD 2,000 (described as ¨Loan to SSFA President¨) received by Mr Alei from the SSFA, the adjudicatory chamber is bound to note that several indicators show that neither of those payments from FIFA FAP funds were loans.

67. Likewise, the adjudicatory chamber does not share the argument of the accused that these transactions were mistakenly recorded by the SSFA former accountant as loans made to him, when they were, in fact, settlements of the amounts owed to him by the SSFA.

68. In this regard, the adjudicatory chamber notes that the alleged loans and/or settlements are not supported by any written evidence, and in particular by no contract where the conditions - e.g. interest rate, reimbursement date, securities provided - of such transactions would be established by the parties (SSFA and the accused). Moreover, different SSFA officials, including the former General Secretary and the chairperson of the board finance committee, confirmed that those transactions were made without the approval of the SSFA Executive Committee.

69. In addition, the adjudicatory chamber finds that several years have already passed since the alleged payments took place, and, to date, Mr Alei has not repaid them to SSFA, despite being requested to do so by the federation (cf. para. 36 above).

70. All in all, there is no evidence showing that the amounts received were an actual loan and neither settlements of the amounts owed to him by the SSFA. In view of the above, the adjudicatory chamber concludes that the two payments from SSFA to Mr Alei, approved by the latter, of the total amount of USD 12,000 from FAP funds did not have a proper basis - neither a contractual nor a legal one - nor justification, and thus were misappropriated.

*D. GOAL Project for the construction of the SSFA headquarters*

71. The adjudicatory chamber notes that the company [Company 4] was selected directly by Mr Alei as the architect for the GOAL project (construction of the headquarters of the SSFA in Juba) approved by FIFA in 2012.

72. During the investigation, SSFA officials confirmed that they were not aware of the selection process of [Company 4] (or even of an open invitation to bid for the position), which entails that. Mr Alei proceeded to conduct business with his own company without the approval of the SSFA competent bodies (and without informing them of his relation to or interest in [Company 4]). In this context, it is highlighted that the SSFA made a considerable payment of approximately USD 72,000 (at least) to [Company 4] for its services.

73. Indeed, Mr Alei ordered payments from the SSFA – its FIFA GOAL funds – to [Company 4], a private company which he owned and was a partner in with his

brother. By this conduct, Mr Alei helped his company – and thus, himself – to gain financial benefits from SSFA/GOAL funds. He was involved and had financial interests on three different sides. He was both the payer and the payee of several substantial payments and involved himself in acts of self-dealing. In view of the above, Mr Alei without any doubt gained advantages for [Company 4] – and hence, for himself – from the SSFA.

74. Mr Alei proceeded accordingly despite knowing that there were potential frictions of said relationship SSFA and [Company 4] and, thus, he sought disclose it to the SSFA and FIFA. Any governing body of the federation as well as FIFA were not informed of the special relationship between Mr Alei and [Company 4]. Thus, Mr Alei failed to involve, consult or seek prior approval by SSFA and FIFA's competent bodies. Mr Alei decided alone to enter into the agreement with [Company 4] without having duly informed the members of the executive committee of this conflict of interest. Therefore, there was no proper basis nor justification for [Company 4] being designated the architect and being paid with FIFA GOAL funds.

75. On top of that, Mr Alei attempted to justify his behaviour by claiming that he had sold his shares in said company, but the adjudicatory chamber notes that he has failed to provide any evidence in this respect.

76. Therefore, the adjudicatory chamber concludes that Mr Alei by selecting his own company without justification and prior information of the relevant SFFA and FIFA bodies, and by unilaterally approving payments from FIFA GOAL funds to his (and his brother) private company, misappropriated a significant amount of the FIFA GOAL funds paid to the SSFA.

**e) <u>Conclusion</u>**

77. The adjudicatory chamber notes that a general description of the concept of misappropriation of funds could be the illegal use of funds of another person/entity for one's own use or other unauthorized purpose. Which, in the present case, translates into the misuse of FIFA funds for private gain (that of Mr Alei's or any person or entity related to him) or for a purpose that has not been authorized (by FIFA, as the initial owner, grantor and distributor of such funds).

78. In light of the above, the adjudicatory chamber recalls that at the time the relevant actions and events occurred, Mr Alei was president of the SFFA and FIFA committee member. In these capacities, Mr Alei was responsible for complying with the highest standards of care and protection of the FAP/GOAL funds. However, through his illicit conduct, Mr Alei infringed the core principles of the FCE and misappropriated funds of FIFA (directly and indirectly) for his own personal advantage or for unauthorized purposes.

79. The adjudicatory chamber concludes that Mr Alei has mismanaged a significant amount of the FAP/GOAL funds, through (i) the failure to disburse the funds in compliance with the respective budget approved by FIFA; (ii) the use of funds for unbudgeted and inadequate payments. (iii) The disbursement of funds through bank transactions not supported by any evidence. (iv) The use of a flat and detrimental rate to exchange the SSFA FAP funds from USD to SSP, causing an undue profit to

the company of Mr Alei. (v) The payments made from FIFA funds (some without proper supportive documents or explanation) to Mr Alei personally or to entities and persons related to him, and, (vi) the appointment as architect of the headquarters project of his own company [Company 4], to which was paid a significant amount of FIFA GOAL funds.

80. In this regard, the adjudicatory chamber underlines that FIFA entrusted the use and control of FAP/GOAL funds to Mr Alei, as president of the SSFA. FIFA provided funds of over USD 1,000,000 to the SSFA through the FAP and GOAL programme in 2014 and 2015, funds which the SSFA was entrusted to spend dutifully and competently, in accordance with the planned budget that had been approved. Nevertheless, Mr Alei disbursed the FIFA funds in disregard of the relevant FAP projected budget (and the respective FIFA development regulations) and without proper justification or approval from the other responsible bodies of the SSFA (in particular the executive committee).

81. Consequently, the adjudicatory chamber concludes that Mr Alei used the FAP/GOAL funds of the federation for his own illicit benefit (by paying them either to himself, his relatives or related companies), or for other unauthorized purposes.

82. In the light of the foregoing, the adjudicatory chamber finds that Mr Alei, on the different occasions as outlined above, misappropriated funds of FIFA, directly and indirectly through, or in conjunction with, third parties. Therefore, he has breached art. 28 par. 1 of the FCE.

## 3. Possible violation of art. 20 of the FCE (Offering and accepting gifts or other benefits)

### a) The relevant facts

*A. Unbudgeted and inadequate payments from FAP funds* [Cf. Final Report pp. 7 and 8]

83. Between 2014 and 2015, Mr Alei approved the use of FAP funds for various not football related payments (i.e. family issues, incentives, education fees, medical costs, private flights) in favour of several SSFA officials/staff and other individuals, for the total amount of approximately USD 14,000.

### b) Mr Alei's position

84. With regard to the position of Mr Alei, reference is made to the relevant section in the para. 43 and 44 above.

### c) Legal assessment

85. The adjudicatory chamber considers that there are important objective indicators to conclude that, by approving the following orders of payment, Mr Alei may have offered benefits in violation of art. 20 of the FCE:

- On 14 July 2014, Mr Alei approved the payment of SSP 18,000 as "incentive for organising South Sudan Premier League 2013" to the 11 members of the respective SSFA "Organizing Committee".
- On 18 November 2014, Mr Alei ordered the payment of USD 8,000 to a [B], for the purpose "Received 12 ft container of material from Italy", without any third party invoice provided.
- Furthermore, on 18 August 2015, with the previous Mr Alei's approval, the SSFA paid USD 1,500 in favour of Mr Abraham Tito (former official of SSFA) for "financial help for my air tickets back to United States of America".

86. None of the payments mentioned above complies with the requirements set out in art. 20 of the FCE, in particular, they did not have a trivial value (especially in the dire economic situation of South Sudan), and they involved a person bound by the FCE (Mr Alei) as well as other officials and persons outside FIFA

87. Moreover, the relevant payments approved by Mr Alei have not been supported by the authorization/ratification of any competent SSFA body or by any justificatory document, which rendered them undue pecuniary advantages/benefits (without proper basis).

88. Furthermore, the adjudicatory chamber would like to point out that these kind of cash payments are strictly prohibited by art. 20 par. 2 of the FCE.

89. It is also underlined that Mr Alei did not report such payments/benefits to any competent body at the SSFA nor FIFA.

### d) Conclusion

90. In view of the above considerations, the adjudicatory chamber concludes that Mr Alei, on the different occasions as outlined above, offered substantial benefits that did not meet the criteria set out in art. 20 of the FCE, and were therefore prohibited. Therefore, Mr Alei is found to have breached art. 20 par. 1 of the FCE.

## 4. Possible violation of art. 25 and 19 of the FCE

91. With regard to the obligations set forth in art. 25 (Abuse of position) and art. 19 (Conflicts of interest) of the FCE, the adjudicatory chamber is of the opinion that Mr Alei's conduct presently relevant clearly falls short of the ethical standards provided by those articles of the FCE as described above.

92. Notwithstanding the foregoing, bearing in mind that the relevant conduct took place within the same context, the adjudicatory chamber considers that the relevant conduct (which is in breach of arts. 25 and 19 of the FCE) is sufficiently covered by the provisions of arts. 28 and 20 of the FCE, violation for which Mr Alei has already been found guilty.

93. In the light of the aforementioned, any further legal considerations in this respect are redundant.

### 5. Overall conclusion

94. Taking the above considerations into account in their entirety, the adjudicatory chamber is comfortable to conclude that Mr Alei has violated the following provisions of the FCE:

- Art. 28 of the FCE (Misappropriation of funds);
- Art. 25 of the FCE (Abuse of position);
- Art. 20 of the FCE (Offering and accepting gifts or other benefits);
- Art. 19 of the FCE (Conflicts of interest).

95. Nevertheless, as explained above, the adjudicatory chamber considers that the conduct incriminated by arts. 25 and 19 of the FCE are included/assimilated in the content of arts. 28 and 20 of the FCE.

## F. Sanctions and determination of sanctions

96. First, the adjudicatory chamber would like to highlight that officials must behave honestly, worthily, respectably and with integrity. It is evident that in exercising his functions at SSFA and FIFA, Mr Alei disregarded those ethical principles for purposes such as obtaining a benefit for himself and related parties.

97. As a president of the SSFA and a FIFA Committee member, Mr Alei held a crucial position in association football both at national and international level. As such, he had a special responsibility to serve as a role model. Yet, Mr Alei has been found guilty of misappropriation of FIFA funds, as well as offering benefits, repeatedly over different periods. In addition, not acts of mere negligence are at stake here but deliberate actions (see art. 6 par. 2 of the FCE). By the same token, the relevant acts are not merely attempted acts but have been completed by Mr Alei. In view of all these circumstances, Mr Alei's degree of guilt must be regarded as very serious.

98. The adjudicatory chamber stresses that the accused acted in an intentional manner, Mr Alei's actions were deliberate actions, which involved private and personal interests (financial benefits) of himself and/or of his family.

99. The adjudicatory chamber further notes the absence of remorse or confession during the present proceedings. On the other hand, Mr Alei has not showed any intention to repay the above-mentioned misappropriated amounts to the SSFA or FIFA.

100. With regard to the type of sanction to be imposed on Mr Alei, the adjudicatory chamber deems – in view of the serious nature of his misconduct (cf. par. II.15 *et seqq*. above) – only a ban on taking part in any football-related activity to be appropriate in view of the inherent, preventive character of such sanction in terms of potential subsequent misconduct by the official. In the light of this, the adjudicatory chamber has chosen to sanction Mr Alei by banning him from taking part in any football-related activity (art. 7 par. 1(j) of the FCE; art. 56 par. 2(f) of the FIFA Statutes; art. 11(f) and art. 22 of the FDC). In addition, in relation to the scope and duration of the ban (see art. 9 par. 2 and 3 of the FCE), after having taken into account all relevant factors of the case, the adjudicatory chamber deems that a ten-year ban is adequate for the seriousness of the infringements of the FCE committed

by Mr Alei. Furthermore, considering that the breaches took place while Mr Alei served as president of the SSFA and FIFA committee member, and that FIFA funds are at stake, the adjudicatory considers that only a worldwide scope would be appropriate.

101. Mr Alei made significant profits by misappropriating funds of FIFA to himself or persons/entities related to him. The adjudicatory chamber thus considers a fine of CHF 500,000 to be proportionate.

102. In conclusion, Mr Alei is hereby banned for ten years from taking part in any football-related activity (administrative, sports or any other) at national and international level. The ban shall come into force as soon as the decision is communicated (art. 42 par. 1 of the FCE).

103. In addition, Mr Alei shall pay a fine of CHF 500,000.

## G. Procedural costs and procedural compensation

104. The procedural costs are made up of the costs and expenses of the investigation and adjudicatory proceedings (art. 54 of the FCE). As a principle, procedural costs shall be borne by the party that has been sanctioned (cf. art. 56 par. 1 of the FCE).

105. In the light of the above, the adjudicatory chamber rules that Mr Alei shall bear the procedural costs, and that in the present case, the costs and expenses of the investigation and the adjudicatory proceedings add up to CHF […].

106. According to art. 57 of the FCE, no procedural compensation shall be awarded in proceedings conducted by the Ethics Committee. Consequently, Mr Alei shall bear his own legal and other costs (if any).

## III. has therefore decided

1. Mr Chabour Goc Alei is found guilty of infringement of art. 28 (Misappropriation of funds) and art. 20 (Offering and accepting gifts or other benefits) of the FIFA Code of Ethics.

2. Mr Chabour Goc Alei is hereby banned from taking part in any kind of football-related activity at national and international level (administrative, sports or any other) for 10 years as of notification of the present decision, in accordance with Article 7 lit. j) of the FIFA Code of Ethics in conjunction with Article 22 of the FIFA Disciplinary Code.

3. Mr Chabour Goc Alei shall pay a fine in the amount of CHF 500,000 within 30 days of notification of the present decision. Payment can be made either in Swiss francs (CHF) to account no. […] or in US dollars (USD) to account no. […], with reference to case no. 14/2018 (E17-00006) in accordance with art. 7 let. e) of the FIFA Code of Ethics.

4. Mr Chabour Goc Alei shall pay costs of these proceedings in the amount of […] within 30 days of notification of the present decision, which shall be paid according to the modalities stipulated under point 3. above.

5. Mr Chabour Goc Alei shall bear his own legal and other costs incurred in connection with the present proceedings.

6. This decision is sent to Mr Chabour Goc Alei. A copy of the decision is sent to the CAF and to the SSFA, as well as to the Chief of the Investigation, Mr Jiahong He.

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## LEGAL ACTION:

In accordance with art. 82 par. 1 of the FCE and art. 58 par. 1 of the FIFA Statutes, this decision can be appealed against to the Court of Arbitration of Sport ("CAS") in Lausanne, Switzerland (www.tas-cas.org). The statement of appeal must be sent directly to CAS within 21 days of notification of this decision. Within another ten (10) days following the expiry of the time limit for filing the statement of appeal, the appellant shall file with CAS a brief stating the facts and legal arguments giving rise to the appeal (see art. R51 of the Code of sports-related arbitration).

FÉDÉRATION INTERNATIONALE
DE FOOTBALL ASSOCIATION

Vassilios Skouris
Chairperson of the Adjudicatory Chamber
of the FIFA Ethics Committee