



Tribunal Arbitral du Sport

Court of Arbitration for Sport

CAS 2019/A/6340 Liviu Ion Antal v. FIFA & Israel Football Association

ARBITRAL AWARD

delivered by the

COURT OF ARBITRATION FOR SPORT

sitting in the following composition:

President: Mr Lars Hilliger, Attorney-at-Law in Copenhagen, Denmark

Arbitrators: Dr Anna Bordiugova, Attorney-at-Law in Kyiv, Ukraine

Dr Jan Räker, Attorney-at-Law in Stuttgart, Germany

in the arbitration between

Liviu Ion Antal, Romania

Represented by Ms Anca Mituica, Attorney-at-Law, Bucharest, Romania

- Appellant -

and

1/Fédération Internationale de Football Association (FIFA), Zurich, Switzerland

Represented by Mr Jaime Cambreng Contreras, FIFA Head of Litigation

2/Israel Football Association, Tel Aviv, Israel

Represented by Mr Amit Pines, General Counsel

- Respondents -

I. PARTIES

1. Liviu Ion Antal (the “Player” or the “Appellant”) is a professional football player of Romanian nationality.
2. The Fédération Internationale de Football Association (“FIFA” or the “First Respondent”) is the world governing body of football, whose headquarters are located in Zurich, Switzerland.
3. The Israel Football Association (“IFA” or the “Second Respondent”) is the governing body of football in Israel, which in turn is affiliated with FIFA.

II. FACTUAL BACKGROUND

Background Facts

4. Below is a summary of the relevant facts and allegations based on the Parties’ written submissions and evidence adduced. Additional facts and allegations found in the Parties’ written submissions and evidence may be set out, where relevant, in connection with the legal discussion that follows. While the Panel has considered all the facts, allegations, legal arguments and evidence submitted by the Parties in the present proceedings, it refers in its Award only to the submissions and evidence it considers necessary to explain its reasoning.
5. On 27 June 2017, the Court of Arbitration for Sport (“CAS”) rendered its award CAS 2016/O/4841 (the “Ordinary CAS Award”) in an ordinary arbitration procedure between the Appellant and the Israeli football club Hapoel Tel-Aviv FC, which at that time was under judicial liquidation ordered by the Tel Aviv – Jaffa District Court.
6. The enforcement of the Appellant’s alleged claim against the said club was not a matter for consideration in the ordinary arbitration procedure as the case exclusively concerned the legitimacy of the claim.
7. The Ordinary CAS Award was issued with the following operative part:
 1. *The request for Arbitration filed on 31 October 2016 by Mr Antal Liviu Ion against Hapoel Tel Aviv FC is upheld.*
 2. *Hapoel Tel Aviv FC is ordered to pay, to Mr Antal Liviu Ion the amount of EUR 100,000 (one hundred thousand Euros).*
 3. *[...]*
 4. *[...]*
 5. *All further and other requests for relief are dismissed.*

8. On 23 May 2018, the Appellant wrote to the IFA to inform that Hapoel Tel-Aviv FC had not paid the outstanding amount due to the Appellant in accordance with the Ordinary CAS Award and, pursuant to article 12bis of the FIFA Regulations on the Status and Transfer of Players (the “RSTP”), requested the IFA to impose on Hapoel Tel-Aviv FC the following sanctions:

a.) A fine, to maximum established by the Israel Football Association Regulation;

b.) Cumulative, a ban from registration new players, for two entire registrations periods.

9. On 25 September 2018, and without any response from the IFA or Hapoel Tel-Aviv FC, the Appellant sent a follow-up letter to the IFA, requesting to be informed whether sanctions were imposed by IFA to Hapoel Tel-Aviv FC, and warning IFA that simultaneously disciplinary proceedings would be initiated against the IFA before the FIFA Disciplinary Committee (the “FIFA DC”).

10. On the same day, the Appellant filed a disciplinary complaint against the IFA with the FIFA DC, requesting the latter to initiate disciplinary proceedings against the IFA for its failure to comply with articles 59 and 61 of the FIFA Statutes.

11. By letter of 16 October 2018, and without any response from FIFA, the Appellant sent a letter to the FIFA DC asking for confirmation that his complaint of 25 September 2018 had been forwarded to the IFA.

12. On 17 October 2018, FIFA informed the Appellant that it had apparently not received any previous correspondence and requested to be provided with a copy of the aforementioned complaint, which was then forwarded by the Appellant to FIFA on that same day.

13. By letter of 29 October 2018 to the FIFA DC, the Appellant once again asked for confirmation that his complaint of 25 September 2018 had been forwarded to the IFA.

14. On 12 November 2018, the Appellant informed the FIFA DC that his complaint was still left unanswered and once again requested that disciplinary proceedings be initiated against the IFA.

15. By letter of 26 November 2018, the Deputy Secretary to the FIFA DC informed the Appellant as follows:

“First of all, we would like to draw your attention to the contents of art. 64 of the FIFA Disciplinary Code, pursuant to which the FIFA Disciplinary Committee can only enforce a decision passed either by a body, a committee or an instance of FIFA or a subsequent CAS appeal decision.

After a thorough analysis of the facts, we have to inform you that it seems that the FIFA Disciplinary Committee does not appear to be in a position to intervene in this matter, since

it is an internal matter under the remit of the Israel Football Association and governed by the applicable rules of said Federation.

However, and taking into account that the FIFA Disciplinary Committee is not in a position to intervene in this matter (i.e. no implication of any FIFA deciding bodies), we forward the file to the Israel Football Association for its consideration and action.

Notwithstanding the above, we would like to draw the parties' attention to the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards which is at the parties' disposal as far as the recognition and the enforcement of CAS awards is concerned.

Finally, we would like to point out that the foregoing is of a purely informative nature and, therefore, without prejudice to any decision whatsoever."

16. On 25 February 2019, the Appellant again requested the IFA to enforce the Ordinary CAS Award, also informing the IFA that *"in absence of any answer from you, we are ready to appeal, contrary to Israel Football Association and FIFA, on CAS any refusal to start disciplinary complaint against IFA."*

17. On 7 April 2019, the Appellant sent another complaint to FIFA, requesting the following:

"To apply, according to article 15 from FIFA Disciplinary Code, a fine to Israel Football Association for infringement of article 59 from FIFA Statute.

In case the Respondent Israel Football Association will continue the infringement, after the fine will be applied, to exclude Israel Football Association from any FIFA competition.

Subsidiary:

To apply Israel Football Association any sanction that will be considered appropriate for the infringement of article 59 from FIFA Statute."

18. On 5 and 23 May 2019, the Appellant sent follow-up correspondence to the FIFA DC, requesting confirmation of registration of the above-mentioned complaint.

19. By letter of 24 May 2019, FIFA informed the Appellant (the "FIFA DC Letter"), *inter alia*, that:

"[...] We refer to the abovementioned matter, and, in particular, to the correspondence dated 9 March 2019, 7 and 24 May 2019 (c.f. enclosed) sent by the legal representative of Mr. Antal Liviu Ion, regarding the request to open disciplinary proceedings against the Israel Football Association.

In this regard, we kindly refer you to our correspondence dated 26 November 2018, by means of which FIFA informed you that it seems that the FIFA Disciplinary Committee does

not appear to be in a position to intervene in this matter, since it is an internal matter under the remit of the Israel Football Association and governed by the applicable rules of said Federation.

As noted in such correspondence, the FIFA Disciplinary Committee can only enforce a decision passed either by a body, a committee or an instance of FIFA or a subsequent CAS appeal decision. However, the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards is at the parties' disposal as far as the recognition and the enforcement of CAS awards is concerned.

We forward the file to the Israel Football Association for its consideration and action.

Finally, we would like to point out that the foregoing is of a purely informative nature and, therefore, without prejudice to any decision whatsoever. [...]"

III. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT

20. On 14 June 2019, the Appellant filed his Statement of Appeal in accordance with Articles R47 and R48 of the CAS Code of Sports-related Arbitration (the "CAS Code") against the FIFA DC Letter of 24 May 2019.
21. On 27 June 2019, the Appellant filed his Appeal Brief in accordance with Article R51 of the CAS Code.
22. On 16 August 2019, and in accordance with Article R54 of the CAS Code, the Parties were informed by the CAS Court Office that the Panel had been constituted as follows: Mr. Lars Hilliger, Attorney-at-Law in Copenhagen Denmark (President of the Panel), Dr Anna Bordiugova, Attorney-at-Law in Kyiv, Ukraine (nominated by the Appellant), and Dr Jan Räker, Attorney-at-Law in Stuttgart, Germany (nominated by the Respondents).
23. On 11 and 12 September 2019, respectively, and following a granted extension of the time limit, the Second and First Respondents filed their Answers in accordance with Article R55 of the CAS Code.
24. When notifying the Respondents Answers, the CAS Court Office invited the Parties to indicate whether they wish that a hearing be held in this matter.
25. On 3 October 2019, the First Respondent informed the CAS Court Office that no hearing was necessary, whereas the Appellant and Second Respondent remained silent on such issue.
26. By letter of 10 October 2019, and in light of the Parties' positions, the latter were informed that the Panel had decided not to hold a hearing in this matter and to render an award on the sole basis of the Parties' written submissions.

27. By letter of 24 October 2019, the Appellant was notified that the Panel had taken note of the objection to lack of standing to sue/to be sued raised by the Respondents, and given that no hearing would be held in this matter, the Appellant was invited to file his comments on the above-mentioned objection within a 10-day time limit which expired on 4 November 2019 (since 3 November 2019 was a Sunday).
28. On 4 November 2019, the Appellant requested a 5-day extension to file his submission, which extension was granted by the Panel on 6 November 2019. In accordance with Article R32(1) of the CAS Code, the new time limit expired on 11 November 2019 since 9 November 2019 was a Saturday.
29. However, the Appellant only filed his submission by email on 13 November 2019, *i.e.* beyond the prescribed time limit, and the Panel consequently did not admit it to the file.
30. By letter of 18 November 2019 from the CAS Court Office, the Appellant was granted until 25 November 2019 to file, if he so wished, a reply strictly limited to FIFA's objection to the jurisdiction of the CAS in this matter.
31. The Appellant never filed such a reply.
32. The Respondents both duly signed and returned the Order of Procedure, confirming, *inter alia*, that their right to be heard had been fully respected during these proceedings. The Appellant failed to return a signed copy of the Order of Procedure.

IV. SUBMISSIONS OF THE PARTIES

33. In his Appeal Brief, the Appellant requested the following relief:
 1. *To set aside the refusal expressed by FIFA – Disciplinary Committee by the decision from 24 May 2019 and to establish the competence of FIFA to sanction its own member for the infringement of article 59.*
 2. *To apply, according to article 15 from FIFA Disciplinary Code, a fine to Israel Football Association for infringement of article 59 from FIFA Statute.*
 3. *In case the Second Respondent, Israel Football Association, will continue the infringement, after the fine will be applied, to exclude Israel Football Association from any FIFA Competition.*

Subsidiary:

 - 3.1 *To apply Israel Football Association any sanction that will be considered appropriate for the infringement of article 59 from FIFA Statute.*

34. The Appellant's submissions, in essence, may be summarised as follows:

- It follows, *inter alia*, from Article 2 of the FIFA Disciplinary Code (the “Disciplinary Code”) that it [...] *applies to any breach of FIFA regulations that does not fall under the jurisdiction of any other body.*”
- Furthermore, it follows from Article 3 of the Disciplinary Code that national associations, and thus also the IFA, are subject to such regulations, just as the “*judicial bodies of FIFA reserve the right to sanction serious infringements of the statutory objectives of FIFA if associations, confederations and other sports organizations fail to prosecute serious infringements or fail to prosecute in compliance with the fundamental principles of law.*”
- In addition, Article 59 of the FIFA Statutes states, *inter alia*, that member associations “[...] *shall agree to recognize CAS as an independent judicial authority and to ensure that their members, affiliated players and officials comply with the decisions passed by CAS. [...]*”
- This provision establishes a clear obligation for the member associations to ensure that their affiliated members will comply with the decisions passed by the CAS without distinguishing between ordinary procedures and appeal procedures.
- It is undisputed that until now the Appellant never received payment of any amount determined by the Ordinary CAS Award dated 27 June 2017, and it is also undisputed that the club Hapoel Tel-Aviv FC is currently participating in the Israeli Premier League organised by the IFA, notwithstanding that the latter is aware of the Ordinary CAS Award’s existence.
- Pursuant to its own Statutes, the IFA accepts and recognizes CAS decisions, and the IFA is, therefore, competent to ensure that its own member, Hapoel Tel-Aviv FC, complies with the provisions of the Ordinary CAS Award and, in accordance with the IFA regulations, to sanction the said club until the obligation of payment is fulfilled. The IFA never sanctioned Hapeol Tel-Aviv FC for not fulfilling its obligation to the Appellant in compliance with the Ordinary CAS Award.
- The Appellant never requested FIFA to enforce the Ordinary CAS Award, but only requested FIFA to sanction its own member for not ensuring that Hapoel Tel-Aviv FC fulfilled its obligations in compliance with the Ordinary CAS Award.
- FIFA has the competence to verify whether its own members comply with the decisions passed by the CAS and to sanction its own members for all infringements of their obligations. Any failure to do so, and through the FIFA DC Letter, engenders a situation of denial of justice contrary to the principle of legality.
- FIFA, as a superior arbitral body of IFA, is the only authority on the matter to verify whether the IFA ensured respect for the Ordinary CAS Award and to verify whether, in this situation, its own statutes were in fact respected, which FIFA never did.

- Instead, FIFA recommended that the Appellant should apply the 1958 New York Convention regarding the Recognition and Enforcement of Foreign Arbitral Awards (the “New York Convention”) in order to have the Ordinary CAS Award enforced. However, pursuant to the FIFA Statutes, *recourse to ordinary courts of law is prohibited unless specifically provided for in the FIFA Regulations*, which is not the case here.
- Furthermore, the New York Convention only deals with commercial disputes, while FIFA and CAS are competent to solve sports-related disputes, but not commercial disputes.
- Thus, FIFA’s recommendation to the Appellant would not only lead to an infringement of the FIFA Statutes, but would also narrow down the subject of such procedure to not including sportive arbitration, especially when it comes to decisions issued by the CAS in an ordinary procedure. In other words, an acceptance of FIFA’s recommendation would lead to an infringement of the principle of exclusive competence of the sportive international jurisdiction.

35. In its Answer, the First Respondent requested the following relief:

- (a) *Declaring the lack of jurisdiction of CAS in the present case;*
- (b) *Alternatively, declaring the present appeal inadmissible;*
- (c) *Subsidiarily, declaring the Appellant’s lack of standing to appeal in view of his prayers for relief 2 and 3 and dismissing the appeal;*
- (d) *In any event, ordering the Appellant to bear the full costs of these arbitration proceedings.*

36. The First Respondent’s submissions, in essence, may be summarised as follows:

- The present case stems from an earlier dispute between the Appellant and the Israeli football club Hapoel Tel-Aviv FC, which the Appellant sought to have resolved through an ordinary CAS procedure, which then resulted in the Ordinary CAS Award. In doing so, the Appellant automatically excluded the competence of the FIFA DC to handle the enforcement of the said award in compliance with Article 64 of the Disciplinary Code (2017 edition).
- CAS has no jurisdiction in this matter since the appeal has not been lodged against a appealable decision passed by a legal body of FIFA - the appeal is lodged against the FIFA DC Letter, but this correspondence neither meets the requirements established in Article 15 of the Disciplinary Code (2017 edition), nor does it contain the elements identified by the jurisprudence of the CAS which would allow to consider it as a decision.

- CAS case law states that, in order for a communication to be considered as a decision, it must contain a ruling and intend to affect the legal situation of the addressee of the communication or of other parties. A communication of a sport federation or association can only be considered an appealable decision if it is based on an *animus decidendi*.
- In this particular case, the appealed FIFA DC Letter lacks such *animus decidendi*. Its content and the intention behind it reveal that it only serves an informative purpose and was solely sent in order to forward the complaint to the IFA while informing the Appellant about the enforcement procedure at his disposal (i) given the impossibility to apply Article 64 of the Disciplinary Code and (ii) due to the absence of *locus standi* to request that a disciplinary proceeding be initiated, which constitutes the sole prerogative of the FIFA DC.
- The appealed FIFA letter has no impact on the legal situation of the Appellant, who, before and after the issuance of the said correspondence, has remained in the same legal situation he was in before, having to follow the New York Convention. It is obvious not only from the content and language of the letter, but most importantly from the absence of a direct and legitimate interest of the Appellant worthy of being protected. If the Appellant does not have a legal interest worthy of protection, his legal situation cannot be affected, and, therefore, the correspondence cannot constitute a decision.
- Alternatively, the fact that the appeal was not lodged against an appealable decision also results in its inadmissibility given the absence of object to appeal.
- In case the Panel should disregard all previous arguments by concluding that the FIFA DC Letter constitutes an appealable decision, the appeal should then be dismissed as a result of the Appellant's lack of standing to appeal due to the inexistence of an interest of the Appellant worthy of protection.
- The Swiss Civil Code provides for the possibility to challenge decisions of a Swiss private association in cases in which the decision concerned (allegedly) violates the law or the association's own statutes and other regulations. The right to appeal such a decision depends on the Appellant meeting the requisites such as standing to appeal, meaning that one has standing to sue/appeal and the claim/appeal is admissible provided that the person is invoking a substantive right of his own, *i.e.* a right deriving from contract, tort or another source (interest worthy of protection). Thus, having a legal interest is a condition for access to justice. The burden of proving a personal, direct and tangible legal interest lies with the party asserting standing.
- In this case, the Appellant may be considered to have standing if (i) he could demonstrate that he would be a party to the disciplinary proceedings that he has requested FIFA to initiate against the IFA or (ii) if, despite not being a party to such proceedings, he would be directly affected by the imposition (or non-imposition) of a sanction on the IFA. However, the Appellant would not be a party to any such disciplinary proceedings possibly initiated against the IFA, and FIFA is in any case not

bound, in principle, to pursue such alleged infringements unless its statutes or regulations provide otherwise, which is not the case here.

- Furthermore, the Appellant cannot be considered to be directly affected by any decision regarding a possible sanctioning of the IFA. It must be noted that the Appellant did not even argue that a possible sanction imposed on the IFA would unavoidably consist of the order to enforce the Ordinary CAS Award in Israel and, thus, automatically and compulsorily have an effect on his legal status.
- In other words, in the absence of an automatic link between the requested sanctioning and the Appellant's right being protected, it follows that the consequences of the Appellant's request for the imposition of sanctions on the IFA would, if any, only be indirect, therefore resulting in the lack of standing to appeal.
- Based on the above, it must be concluded that the Appellant does not have standing to request the imposition of sporting sanctions on the IFA and, accordingly, the appeal should be dismissed.
- With regard to the Appellant's argument regarding a situation of denial of justice, it must be recalled that it is not possible to qualify the FIFA DC Letter as a decision and at the same time argue that it suffered from a denial of justice, since such position is against the general principle of *venire contra factum proprium*.
- Furthermore, and with regard to the legal arguments of the Appellant, it is clear that the Appellant tries to have the Ordinary CAS Award enforced through FIFA's pressure on the IFA, which cannot be accepted. The enforcement of an ordinary CAS award (pursuant to the then regulations in force at the time) must be sought either through an enforcement mechanism foreseen in the IFA's own regulations or through the appropriate channels, *i.e.* the New York Convention.
- Making use of the New York Convention does not amount to a violation of Article 59 (2) of the FIFA Statutes, since this prohibition to refer to ordinary courts only relates to the adjudication of disputes amongst football stakeholders. The recognition and enforcement mechanism provided for in the New York Convention does not deal with the adjudication of disputes, nor is the convention limited to commercial awards.
- FIFA is not the "superior arbitral body of IFA" and is not an appeal instance of its member associations, which explains why the Appellant's statement in this regard is incorrect and unsubstantiated.

37. In its Answer, the Second Respondent requested the following relief:

1. *To reject the Appellant's request, and*
2. *To charge the Appellant with the costs of the IFA.*

38. The Second Respondent's submission, in essence, may be summarised as follows:

- As the governing body of football in Israel, the IFA is primarily subject to Israeli law in all of its activities, and its powers are always subject to Israeli law and the applicable jurisdiction of the competent Israeli courts.
- In addition, the IFA is a member of FIFA and UEFA, as a regulator of Israeli football, and the IFA is therefore also subject to the international rules of these organisations, where applicable.
- According to the Appellant's claim, on 25 July 2015, the Appellant signed an employment contract with the football club Hapoel Tel-Aviv (the Old Club).
- However, during the term of this contract, the entity which owned and managed the said club entered into insolvency and liquidation proceedings at the District Court of Tel Aviv as of 12 December 2016, following which a liquidator was appointed by the court on 4 January 2017 in order to manage the legal entity in liquidation.
- The legal entity which entered into the employment contract with the Appellant thus still exists and continues to hold the rights and the obligations that existed before the liquidation proceedings were initiated.
- The IFA never disputed that the Appellant is the creditor of the said entity in liquidation.
- Furthermore, the liquidator also has recognised the claim within the total debts of the entity in liquidation and, accordingly, placed the Appellant on the list of creditors under Israeli law.
- However, it must be stressed that the court which supervises the liquidation of the debtor did in fact approve the sale of the club Hapoel Tel-Aviv to a new legal entity, which is currently managing the club.
- Under Israeli law and the decision of the court, the new entity (the New Club) that acquired the assets acquired them free and clear of any previous debt that is attributed to the entity in liquidation, while the original entity continues to be dealt with by the liquidator.
- As such, the current Hapel Tel-Aviv (the New Club), which is playing in the Israeli Premier League, is a new and separate club.
- Concerning the Ordinary CAS Award regarding the dispute between the Appellant and the Old Club, it should be recalled that the IFA was not a party to those proceedings, and that there is no decision addressed to the IFA ordering it to enforce the award.

- The Appellant approached FIFA and the IFA to have the Ordinary CAS Award enforced, but neither FIFA nor the IFA is in a position to enforce this award.
- Until the 2019 edition of the FIFA Disciplinary Regulations came into force, FIFA had no power to enforce ordinary CAS awards, just as its national member associations, as the IFA, have no such powers under the FIFA Statutes or other FIFA regulations.
- The Appellant has failed to indicate any legal source that would have established any right of his own to request the IFA to enforce an ordinary CAS award or to indicate any legal source under which the IFA should have such powers that even FIFA does not have.
- Based on that, it is clear that the Appellant has no standing to sue IFA, and the IFA has no standing to be sued in this case, which is sufficient to dismiss the Appellant's appeal.
- In any case, the enforcement of the Ordinary CAS Award is not a real possibility.
- First of all, the Old Club is no longer affiliated with the IFA as it does not perform any football activities.
- Furthermore, should the IFA wish trying to enforce the Ordinary CAS Award, this would have constituted a violation of Israeli law and the decision of the District Court of Tel Aviv since there is no justification to select a specific creditor and promote him in the order of priorities, especially outside the scope of the liquidation proceedings and without any specific permission from the liquidator or the supervising court.

V. PRELIMINARY ISSUES

39. The Panel has first identified an issue with the timeliness of the filing of the Second Respondent's Answer.
40. The Panel notes that the Appeal Brief was notified to the Second Respondent on 16 August 2019.
41. On 5 September 2020, the Second Respondent sought, such as the First Respondent, for an extension of time until 12 September 2019 to file its Answer. After consultation of the Appellant and, in the absence of an answer from the latter, the Second Respondent's request for extension of time was granted.
42. On 12 September the Second Respondent eventually submitted its Answer to the CAS Court Office by facsimile only.

43. By letter of 23 September 2019 from the CAS Court Office, the Second Respondent was requested to provide, within three (3) days from receipt of this letter by DHL, a proof of sending of the original hardcopies of its Answer, by courier.

44. On 24 September 2019, the Second Respondent transmitted the original hardcopies of its Answer by courier.

45. The Panel reminds the content of Article R31 (3) of the Code which provides:

“The request for arbitration, the statement of appeal and any other written submissions, printed or saved on digital medium, must be filed by courier delivery to the CAS Court Office by the parties in as many copies as there are other parties and arbitrators, together with one additional copy of the CAS itself, failing which the CAS shall not proceed. If they are transmitted in advance by facsimile or by electronic mail at the official CAS email address (procedures@tas-cas.org), the filing is valid upon receipt of the facsimile or of the electronic mail by the CAS Court Office provided that the written submission and its copies are also filed by courier within the first subsequent business day of the relevant time limit, as mentioned above” (emphasised added).

46. In other words, the Parties may file their written submissions in advance by facsimile or email, but have a duty to send such written submissions by courier delivery, at the latest within the first subsequent business day of the relevant time limit.

47. In the present matter, the Panel notes that the Second Respondent’s time limit to file its Answer elapsed on 12 September 2019. It means that, pursuant to Article R31 (3) of the Code, the Second Respondent had the obligation to submit the original hardcopies of its Answer by 13 September 2019 at the latest.

48. By submitting such original hardcopies only on 24 September 2019, the Second Respondent failed to comply with Article R31 (3) of the Code.

49. Consequently, the Second Respondent’s Answer is inadmissible.

VI. JURISDICTION

50. The CAS is competent to determine its own jurisdiction and whether it may adjudicate the merits of the appeal. The so-called “*Kompetenz-Kompetenz*” of an international arbitral tribunal sitting in Switzerland is recognised by Article 186 (1) of the Swiss Law on Private International Law, which is applicable to CAS arbitration proceedings.

51. As this is an appeal arbitration, the Panel must address any jurisdictional issue, first by considering Article R47 of the CAS Code, which states as follows:

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.

52. The legal basis for an appeal against a decision issued by any legal body of FIFA is set out in Article 58 (1) of the FIFA Statutes, according to which:

Appeals against final decisions passed by FIFA's legal bodies against decisions passed by confederations, member associations or leagues shall be lodged with CAS within 21 days of notification of the decision in question.

53. The Appellant relies on Article R47 of the CAS Code and on Article 58 of the FIFA Statutes as conferring jurisdiction on the CAS while submitting that the FIFA DC Letter communicated to the Appellant on 24 May 2019 constitutes an appealable and final decision passed by a legal body of FIFA.
54. FIFA, on the other hand, submits that the FIFA DC Letter is not an appealable decision, *inter alia* because it is only an informative letter lacking *animus decidendi*, and that the appeal is consequently not admissible.
55. The Panel initially notes that, in accordance with the above-mentioned provisions, the CAS has the power to adjudicate appeals against a sport organisation provided notably that an actual *decision* has been issued, that it is final and that it is challenged in a timely manner.
56. Although the applicable regulations of FIFA do not provide any definition of the term *decision*, the possible characterisation of a letter as a decision was considered in several previous CAS cases (for instance CAS 2008/A/1633; CAS 2007/A/1251; CAS 2005/A/899).
57. The Panel endorses the characteristic features of a decision stated in those CAS precedents, pursuant to which “*the form of the communication has no relevance to determine whether there exists a decision or not. In particular, the fact that the communication is made in the form of a letter does not rule out the possibility that it constitutes a decision subject to appeal.*” (CAS 2008/A/1633)
58. Furthermore, “*In principle, for a communication to be a decision, this communication must contain a ruling, whereby the body issuing the decision intends to affect the legal situation of the addressee of the decision or other parties*” and “*an appealable decision of a sport association or federation is normally a communication of the association directed to a party and based on an animus decidendi, i.e. an intention of a body of the association to decide on a matter. [...] A simple information, which does not contain any ruling, cannot be considered a decision.*” (CAS 2008/A/1633).
59. It is up to the Panel to consider these general principles and apply them to the present case.

60. In the present case, the Panel initially notes that the Ordinary CAS Award was rendered on 27 June 2017, according to which the Israeli football club Hapoel Tel Aviv was ordered to pay a certain amount of money to the Appellant, which amount has still not been paid to the Appellant.

61. By letter of 26 November 2018 and following, *inter alia*, the Appellant's claim before the FIFA DC against the IFA, the FIFA DC informed the Appellant as follows:

“First of all, we would like to draw your attention to the contents of art. 64 of the FIFA Disciplinary Code, pursuant to which the FIFA Disciplinary Committee can only enforce a decision passed either by a body, a committee or an instance of FIFA or a subsequent CAS appeal decision.

After a thorough analysis of the facts, we have to inform you that it seems that the FIFA Disciplinary Committee does not appear to be in a position to intervene in this matter, since it is an internal matter under the remit of the Israel Football Association and governed by the applicable rules of said Federation.

However, and taking into account that the FIFA Disciplinary Committee is not in a position to intervene in this matter (i.e. no implication of any FIFA deciding bodies), we forward the file to the Israel Football Association for its consideration and action.

Notwithstanding the above, we would like to draw the parties' attention to the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards which is at the parties' disposal as far as the recognition and the enforcement of CAS awards is concerned.

Finally, we would like to point out that the foregoing is of a purely informative nature and, therefore, without prejudice to any decision whatsoever”.

62. The Panel notes that, as mentioned in the aforementioned letter, pursuant to the FIFA Disciplinary Code (2017 edition), the FIFA DC was not in a position to impose sanctions on anyone for not paying the outstanding amount to the Appellant in accordance with the Ordinary CAS Award for the mere reason that such arbitral award was rendered in the frame of a CAS Ordinary Arbitration Procedure and not a subsequent appeal decision.

63. Following several subsequent requests addressed to the IFA, in April 2019, the Appellant forwarded another complaint to FIFA requesting a fine to be imposed on the IFA in accordance with Article 15 of the FIFA Disciplinary Code for the alleged infringement of Article 59 of the FIFA Statutes.

64. This complaint led to the appealed FIFA DC Letter, in which the Appellant, *in essence*, was informed that (i) with reference to the letter of 26 November 2018, the FIFA DC did not find itself in a situation to intervene in this matter since it is an internal matter under the remit of the IFA and governed by the applicable rules of the said Federation, and (ii) since the FIFA DC could not enforce ordinary CAS awards, the Appellant could find the New

York Convention at its disposal as far as the recognition and enforcement of CAS awards are concerned.

65. In the light of these circumstances, the Panel notes initially that the FIFA DC Letter apparently does not intend to express or convey the content of a decision of any kind and, consequently, lacks any *animus decidendi*.
66. On the other hand, it only refers to the content of the previous letter of 26 November 2018, in which the FIFA DC explains why the latter is not in a position to intervene in this matter and, for informative purposes only, refers to the rules of the New York Convention, which, according to the information available, are at the Appellant's disposal.
67. Based on the above, the Panel therefore finds that the content of the FIFA DC Letter has no legal effect whatsoever on the legal situation of the Appellant since the Appellant's possibilities of having the Ordinary CAS Award enforced are exactly the same as prior to the FIFA DC Letter.
68. As such, the Panel finds that the FIFA DC Letter does not constitute a challengeable decision as it does not contain any ruling affecting the rights of the Appellant and does not materially affect the legal situation of the Appellant.
69. With regard to the Appellant's submission concerning the alleged denial of justice, the Panel notes that the lack of a formal decision does (potentially) only constitute a denial of justice if the party in question was in fact entitled to receive such formal decision.
70. As already mentioned above, the Panel finds that the Appellant has in fact no interest worthy of protection in receiving any decision from FIFA following the Appellant's complaint in April 2019.
71. Based on that, the lack of a formal decision does not constitute a denial of justice for the Appellant.
72. The Panel further notes, as a matter of form, that the absence of a formal and appealable decision from FIFA is not considered to be vital to the interests of the Appellant, in which regard the Panel refers both to the pending liquidation proceedings regarding the assets of the Old Club and to the possible application of the rules of the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards.
73. Based on the above, the Panel concludes that the FIFA DC Letter is not an appealable decision, for which reason, in accordance with Article R47 of the CAS Code and Article 58 of the FIFA Statutes, CAS has no jurisdiction to rule on the present appeal.
74. This conclusion makes it unnecessary for the Panel to consider the other requests submitted by the Parties.
75. Consequently, all other prayers for relief are rejected.

VII. COSTS

76. Article R64.4 of the Code provides as follows:

“At the end of the proceedings, the CAS Court Office shall determine the final amount of the costs of the arbitration, which shall include the CAS Court Office fee, the administrative costs of the CAS calculated in accordance with the CAS scale, the costs and fees of the arbitrators, the fees of the ad hoc clerk, if any, calculated in accordance with the CAS fee scale, a contribution towards the expenses of the CAS, and the costs of witnesses, experts and interpreters.

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

77. Article R64.5 of the CAS Code provides as follows:

“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 re-sources of the parties.”

78. As a general rule, the award must grant to the prevailing party a contribution towards its legal fees and other expenses incurred in connection with the proceedings. In the present case, in consideration of the outcome of the proceedings, the Panel finds that the costs of arbitration, as calculated by the CAS Court Office, shall be borne by the Appellant in their entirety.

79. Furthermore, and, *inter alia*, taking into consideration that the Respondents were apparently not represented by external counsel, the Panel rules that each Party shall bear its own legal fees and expenses in connection with these proceedings.

ON THESE GROUNDS

The Court of Arbitration for Sport rules that:

1. The Court of Arbitration for Sport has no jurisdiction to rule on the appeal filed by Mr Liviu Ion Antal on 14 June 2019 against the letter of FIFA Disciplinary Committee dated 24 May 2019.
2. The costs of the arbitration, to be determined and served to the Parties by the CAS Court Office, shall be borne by Mr Liviu Ion Antal in their entirety.
3. Each party shall bear its own costs and other expenses incurred in connection with this arbitration.
4. All other motions or prayers for relief are dismissed.

Seat of arbitration: Lausanne, Switzerland

Date: 6 April 2020

THE COURT OF ARBITRATION FOR SPORT

President of the Panel