



# The SAM Case

Mr Oliver Atom (Appellant)

v.

Fédération Internationale de Football Association

- FIFA (Respondent)

# A. Facts

1. Mr Oliver Atom ("**Mr Atom**" or the "**Appellant**"), born on 13 December 1981, is a football official from Tinyland, a small country of approximately half a million inhabitants. After working for the Football Federation of Tinyland ("**FFT**") for five years, occupying different positions, the Appellant became FFT's President on 3 May 2014. The Appellant's wife is a shareholder of the only football broadcaster in Tinyland.
2. On 24 May 2016, the Appellant and the Secretary General of FFT, Mr Mark Lenders ("**Mr Lenders**"), were invited on a trip to Fancycapital, capital of Bigland, by Mr Daniel Kaiser ("**Mr Kaiser**"), President of the Football Federation of Bigland ("**FFB**").
3. The Appellant and Mr Lenders accepted the invitation and flew from Modestcity, Tinyland, to Fancycapital, Bigland, on 21 July 2016. On 28 July 2016, the last day of the trip, Mr Kaiser invited the Appellant and Mr Lenders for dinner. He thanked them both for accepting the invitation and asked them to vote for Bigland in the election for the 2026 World Cup location.
4. Throughout 2016, Mr Kaiser also invited football officials from several other football delegations, including Mediumland and Hardland, for trips to Bigland in the exact same circumstances as the trip made by the Appellant and Mr Lenders.
5. On 2 February 2017, the Fédération Internationale de Football Association ("**FIFA**") held the final voting process to determine the 2026 World Cup location. Presidents of all 211 national football federations were given a single vote for either of the two finalists: Bigland and the Republic of Losingland.
6. On 3 February 2017, FIFA announced that Bigland would host the next World Cup and made public the votes of each president. The Appellant voted in favor of Bigland.
7. On 1 August 2017, a meeting of high-level football officials took place in Hardland. On that same day, Hardland's criminal authorities issued an indictment against five of the federation's officials present in the meeting. The officials were immediately incarcerated and charged with bribery. Mr Kaiser was also charged in these proceedings. Criminal proceedings lasted until September 2018, when the sentence was issued.

8. On 7 September 2018, a Hardlandian judge issued convictions for the five football officials, holding that they had sold the vote of the Football Federation of Hardland to a delegation of officials from Bigland in exchange for a luxurious all-inclusive trip to Bigland and multiple gifts. Mr Kaiser, of Bigland, was convicted of bribery. The evidence presented before the Hardlandian judge included, among others, statements by whistleblowers from Bigland, who detailed the intricacies of the international bribery scheme.
9. Although Mr Atom was not involved in the Hardland criminal proceedings, on 8 September 2018 he decided to transfer CHF 20,000 to Mr Kaiser as reimbursement for his and Mr Lenders' trip to Bigland.
10. FIFA, as the international football's governing body and organizer of the World Cup, received the documents from the criminal proceedings in Hardland. Thereafter:
  - (I) On 19 March 2019, the Chairman of FIFA's Investigatory Chamber opened an investigation against the Appellant.
  - (II) On 29 January 2020, the Investigatory Chamber of FIFA completed its investigation into the Appellant and submitted a final report together with the investigation file to the Adjudicatory Chamber of FIFA.
  - (III) On 27 May 2020, the Adjudicatory Chamber of FIFA issued a decision ("**Adjudicatory Chamber Decision**") finding the Appellant guilty of infringing several provisions of the [FIFA Code of Ethics](#) ("**FIFA Code**"). The grounds of this decision were notified to the Appellant on 31 July 2020.
  - (IV) On 3 August 2020, the Appellant submitted his intention to appeal to the FIFA Appeal Committee. On 10 August 2020, the Appellant filed an appeal to the FIFA Appeal Committee. On 26 March 2021, the FIFA Appeal Committee rendered its decision ("**FIFA Appeal Decision**") dismissing the Appellant's appeal against the Adjudicatory Chamber Decision, which was notified to the Appellant on 31 March 2021.
  - (V) The Appeal Decision confirmed the Adjudicatory Chamber's decision to impose on the Appellant a 15-years ban from participating in any football related activity both at the national and international level, coupled with a fine of CHF 50,000.
  - (VI) The key pieces of evidence relied upon to that effect by FIFA were:
    - a) The witness statement of one of the whistleblowers from Bigland that was marshalled within the framework of the Hardlandian criminal proceedings; and

b) Telegram messages between the Appellant and Mr Lenders, provided to FIFA by an anonymous source who allegedly hacked the Appellant's phone.

11. On 20 April 2021, the Appellant filed an appeal against the FIFA Appeal Decision. The Panel was constituted on 29 November 2021. Its members were Mr Chen Baozhai (Appellant's nominated arbitrator), Ms Sarah Oumaima (Respondent's nominated arbitrator) and Mr Andre Vax (President).
12. Apart from his professional activity as arbitrator, Mr Vax works as president of an NGO dedicated to eradicating diseases in developing countries. On 20 November 2021, Mr Vax published a comment on a post of his wife on LinkedIn in which he criticized people who refuse to be vaccinated against COVID-19. This remains the only comment made by Mr Vax on LinkedIn to date.
13. The Appellant has publicly campaigned against vaccination in Tinyland. Given that all Tinylandian political authorities have positioned themselves in favor of COVID19 vaccines, the Appellant has become the visible face of the anti-vaccination movement in Tinyland and even internationally. The Appellant also attracted worldwide criticism for organizing a football tournament while many countries, including Tinyland, were still in lockdown.
14. Five days before the hearing<sup>1</sup>, Ms Sarah Oumaima disclosed to the Parties that a former member of FIFA's in-house counsel team had just joined her firm as an associate. She further disclosed that during the last three years she has acted as Sole Arbitrator, President and Co-arbitrator in four arbitration proceedings to which FIFA was a party.
15. Three days before the hearing, a member of FIFA's legal team shared the post of Mr Vax's wife on LinkedIn. A member of the Appellant's legal team, who happens to be connected on LinkedIn with the member of FIFA's legal team, discovered the post (together with comments) and immediately invited Mr Vax to resign. He further informed the Panel that he would formalize the challenge at the hearing if Mr Vax failed to resign by then.

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<sup>1</sup> The Hearing is scheduled to start on the week of 7 March 2022 (*i.e.*, at the time of the oral rounds of the SAM).

## B. Available Evidence

- ❖ **Exhibit 1:** E-mail from Mr Kaiser inviting Mr Atom and Mr Lenders to Bigland.
- ❖ **Exhibit 2:** Plane tickets to Bigland in the name of Mr Atom and Mr Lenders.
- ❖ **Exhibit 3:** Bank statement from Mr Atom's bank with CHF 20,000 reimbursement.
- ❖ **Exhibit 4:** Statement of an unidentified whistleblower in the Hardland criminal proceedings.
- ❖ **Exhibit 5:** Screenshot of Telegram conversation between Mr Atom and Mr Lenders.
- ❖ **Exhibit 6:** Decision of the Appeal Committee of FIFA of 26 March 2021 dismissing the Appellant's appeal against the Adjudicatory Chamber Decision.
- ❖ **Exhibit 7:** LinkedIn comment of Mr Vax.
- ❖ **Exhibit 8:** Disclosure made by Ms Oumaima five days before the hearing.

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**From:** Daniel Kaiser <danielkaiser@ffb.com>  
**Sent:** 24 May 2016, 14:58  
**To:** Oliver Atom <atomoliver@fft.com>; M. Lenders <mark.lenders@coldmail.com>  
**Subject:** Trip to Bigland

Dear Oliver, dear Mark,

I hope all is well since we last saw each other.

I am delighted to invite you to visit our capital in Bigland, Fancycapital, and discuss future business opportunities between our federations.

Naturally, you would not need to worry about accommodation or flight tickets, since we will cover these expenses.

I was thinking that you should come for at least a week – say from July 21<sup>st</sup> to 29<sup>th</sup> – so you can make the most of your trip and we have enough time to discuss important matters.

Please, confirm your availability as soon as possible.

Best regards,

D.



Daniel Kaiser  
President of the Football Federation of Bigland

 Air Company **Air ticket**

**Boarding pass** BUSINESS CLASS

PASSENGER NAME: LENDERS, MARK/ MR. FLIGHT: PR013 ETKT: 581347789237158

**MCA**  **FCA**

CLASS: A BOARDING TILL: 11:00 GATE: 11 DATE: 21JUL TIME: 11:30

BAG 1PCS21KG

**Air ticket** 

**Boarding pass**

PASSENGER NAME: LENDERS, MARK/ MR.

FROM: MODESTCITY, TINYLAND TO: FANCYCAPITAL, BIGLAND

FLIGHT: PR013 CLASS: A DATE: 21JUL TIME: 11:30

FLIGHT: PR013 BOARD.TILL: 11:00

SEAT: **1A**

 Air Company **Air ticket**

**Boarding pass** BUSINESS CLASS

PASSENGER NAME: ATOM, OLIVER/ MR. FLIGHT: PR013 ETKT: 581347789237159

**MCA**  **FCA**

CLASS: A BOARDING TILL: 11:00 GATE: 11 DATE: 21JUL TIME: 11:30

BAG 1PCS21KG

**Air ticket** 

**Boarding pass**

PASSENGER NAME: ATOM, OLIVER/ MR.

FROM: MODESTCITY, TINYLAND TO: FANCYCAPITAL, BIGLAND

FLIGHT: PR013 CLASS: A DATE: 21JUL TIME: 11:30

FLIGHT: PR013 BOARD.TILL: 11:00

SEAT: **2A**

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<b>8</b> <b>Sept</b>	Transfer to Daniel F. Kaiser	08/09/2018	<b>20.000,00 CHF</b>
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**GENERAL INFORMATION**

Date of operation 08/09/2018	Date of transfer 09/09/2018	Type International bank transfer
Received transfer	Operation code 89	
Reference 1	Reference 2	Amount 20.000,00 CHF
To Daniel F. Kaiser	From Account 478997599613	Name Oliver Atom
Concept Reimbursement		

Statement in the matter of proceedings no. 8375/CoJ/HD

1. I, [REDACTED], born on [REDACTED] in [REDACTED], am a resident and national of Bigland. I am currently [REDACTED] at [REDACTED].

2. The purpose of the present statement is to share my recollection of:

- [REDACTED]  
[REDACTED]  
[REDACTED] (1.); and
- The discussion between Mr Daniel Kaiser and two individuals during a dinner which took place at the Lux Hotel in Fancycapital, Bigland, on 28 July 2016 (2.).

3. I am concerned that, should my identity be revealed, I will be subject to reprisals and intimidation. I have therefore chosen to provide the present statement under anonymity.

4. I nonetheless confirm that the present statement provides a true and accurate reflection of my recollection of the relevant conversations.

1. [REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**2. Mr Kaiser's meeting of 28 July 2016**

12. On 28 July 2016, I attended an informal dinner with two of my associates to celebrate a recently concluded business deal. We booked a table at "Nostimon", Lux Hotel's Michelin-starred restaurant. This is a very expensive restaurant which

we have visited only on very special occasions in the past, to celebrate important milestones in our business.

13. I arrived at the restaurant at 20:30, half an hour ahead of schedule, to catch up with some emails over an aperitif. As I was being escorted to my table, I noticed that Mr Daniel Kaiser had just entered the restaurant with a briefcase. I recognized him immediately as he is a very prominent figure in Bigland and I had actually seen him before at the restaurant. Mr Kaiser took a seat in a table very close to mine, where two individuals were waiting for him. I could not identify these individuals as I was just facing their backs.
14. Mr Kaiser's table was so close to mine that I inevitably heard most of what was being said very clearly. The conversation was in English.
15. Mr Kaiser excused himself for his late arrival and told the two individuals that he wanted to "reward their patience" with a "modest token of appreciation". This phrase caught my interest, so I took a glimpse at the table and saw Mr Kaiser pull out two shiny watches. I could not recognize the brand, but they looked very expensive.
16. One of the individuals said that there was no need for apologize for the delay since they had been having a wonderful time. Among other things, I believe he mentioned the suites with view over the park and jacuzzi, as well as the hotel's spa and free massages. He also mentioned that he had called room service and had been informed that he could have "anything" delivered to his room "anytime". It would all be on "Mr Kaiser's account". The other individual even said to Mr Kaiser that they were both "beyond words".
17. Mr Kaiser then went on to talk about where he was taking them that night after dinner. According to him, it was the most luxurious club in town, which had been renovated. I remember Mr Kaiser mentioning dancers and saying that just like other nights, the two individuals would not even have to "touch your wallets". Mr Kaiser

clearly knows that he is a very influential man, since he said that the individuals had only to say his name and everything would “be for free”.

18. After that I turned my attention to my emails for a while. In the meantime, an expensive bottle of champagne arrived at Mr Kaiser’s table. The bottle was consumed within 20 minutes or so, and another one arrived shortly.

19. My colleagues arrived soon after, so I stopped paying attention to the conversation. While my colleagues and I were checking the menu, I heard one of the individuals distinctively say something like: “We really appreciate the offer of a match between our national teams in Tinyland. We would be happy to talk to the broadcaster so that the revenues could be split at a 50-50 rate”. Mr Kaiser responded that he actually had in mind a full waiver of any revenue for his federation. His exact words were “You get to keep all the revenues”.

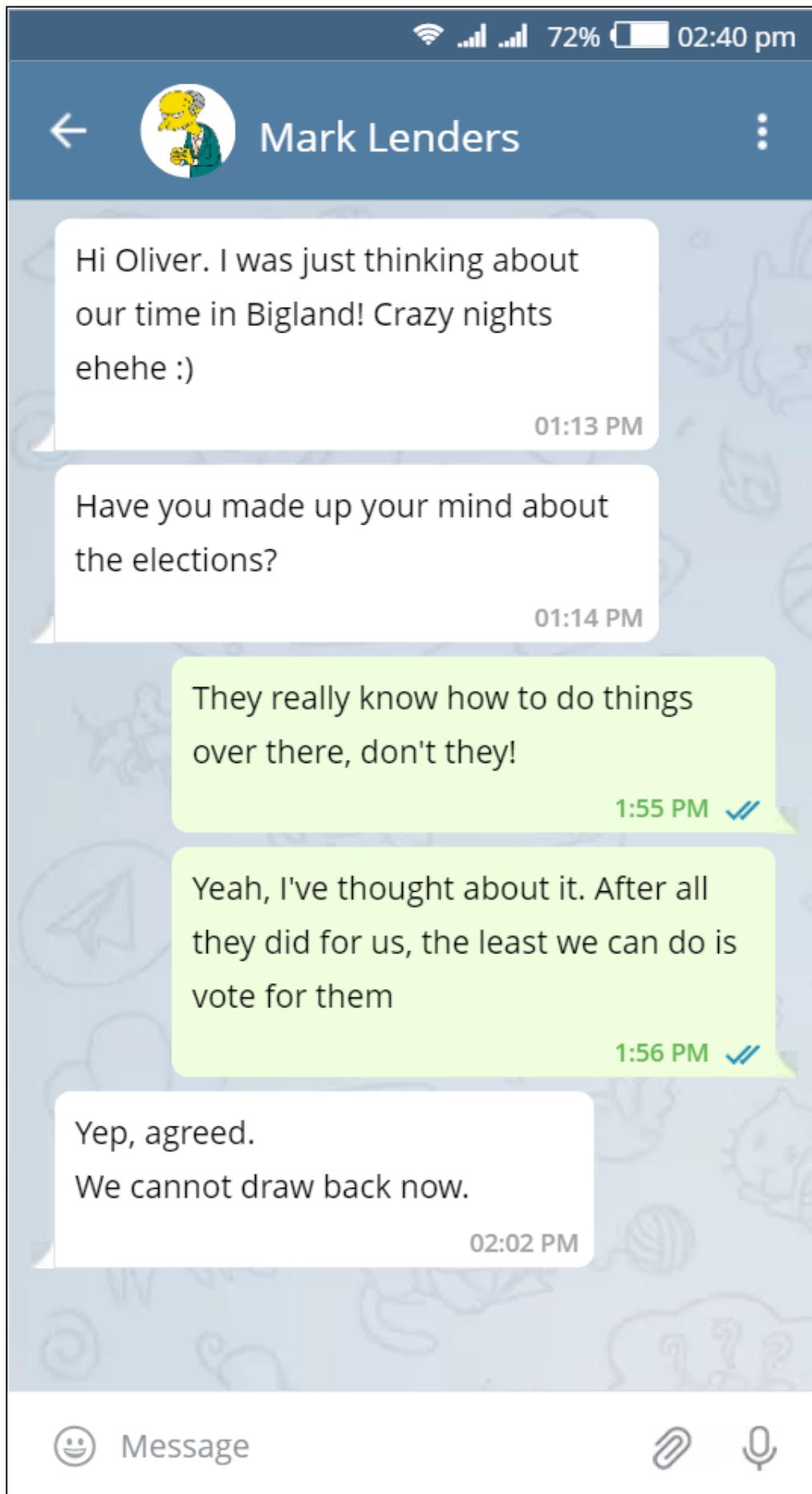
20. As the night went on it became increasingly difficult to follow the conversation, seeing as more people arrived at the restaurant and the overall atmosphere became busier. What I recall is that various dishes were served and several glasses of champagne were consumed by Mr Kaiser and the two individuals throughout the night.

21. At one moment, on my way to the restroom, I heard one of the individuals say to Mr Kaiser: “Judging by what we’ve seen all these days here in Bigland, this will be a world cup for the ages, we’re absolutely sure!”.

Name and signature: 



Date: 5 December 2017





## Decision

of the

## FIFA Appeal Committee

Mr Sam Gamgee [MLE], Chairman

Ms Eve Owyn [ROH], Member

Mr Saru Mane [ISG], Member

Taken at the Home of FIFA in Zurich, Switzerland

on 26 March 2021

**in the case of:**

Mr Oliver Atom [TIN]

(Appeal 205879 TIN ZH)

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*regarding:*

Appeal against the decision taken by the adjudicatory chamber of the FIFA  
Ethics Committee on 27 May 2020

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## I. Inferred from the file

1. Mr Oliver Atom (hereinafter “**Mr Atom**” or the “**official**”), a national of Tinyland, has been the President of the Football Federation of Tinyland (“**FFT**”), a member association of FIFA, since 3 May 2014. Before being elected President, from 29 June 2009 to 3 May 2014, Mr Atom occupied different positions in FFT, including that of vice-president.
2. On 1 August 2017, the Hardland Department of Justice issued a press release relating to an indictment made that same day (hereinafter the “**Indictment**”), charging five international football executives with "corruption, among other offenses, in connection with their participation in a scheme to enrich themselves through the corruption of international soccer". The Indictment was followed by arrests of various persons.
3. On 7 September 2018, the Hardland Judge of First Instance issued a decision, convicting five football officials of selling the vote of the Football Federation of Hardland to a delegation of officials from Bigland in exchange for a luxurious all-inclusive trip to Bigland, which included the distribution of gifts. Mr. Daniel Kaiser, president of the Football Federation of Bigland, was also convicted of bribery in these proceedings.
4. Based on the information received, the Chairperson of the investigatory chamber of FIFA determined that there was a *prima facie* case that Mr Oliver Atom had committed violations of the FIFA Code of Ethics, 2018 edition (hereinafter “**FCE**”). He therefore decided, on 19 March 2019, to open formal investigation proceedings against Mr Atom. On that same day, the investigatory chamber notified Mr Atom that investigation proceedings had been opened against him relating to possible violations of arts. 13, 14, 15, 18, 19, 20, 21 and 22 of the FCE. Mr Atom was also informed that the list of potential violations might be supplemented in case additional information should become available.
5. On 29 January 2020, the investigatory chamber completed the investigation proceedings and submitted a final report (“**Final Report**”), together with the investigation files, to the adjudicatory chamber, in accordance with art. 66 of the FCE.
6. On 17 February 2020, the Chairperson of the adjudicatory chamber informed Mr Atom that after having examined the Final Report and deeming it to be complete, he had decided to proceed with the adjudicatory proceedings in this case and asked for Mr Atom’s position on the investigatory chamber's Final Report. Moreover, Mr Atom was informed that he could request an oral hearing. Finally, the Chairperson informed Mr Atom of the composition of the adjudicatory chamber deciding the present case.

7. On 27 May 2020, a hearing before the adjudicatory chamber was held at the Home of FIFA in Zurich. The chief of investigation and the legal representatives of Mr Atom made submissions on the details of the case.
8. By decision of 27 May 2020 (Ethics 205879 TIN ZH), the adjudicatory chamber found Mr Atom guilty of infringements of arts. 21 (Commission), 25 (Abuse of position) and 27 (Bribery) of the FCE (hereinafter the “**Appealed Decision**”). Consequently, Mr Atom was banned from taking part in any kind of football-related activity at the national and international level (administrative, sports or any other) for 15 years as of the notification of the decision, in accordance with art. 7 par. 1 let. (j) of the FCE, and was ordered to pay a fine in the amount of CHF 50,000, as per art. 7 par. 1 let (e) of the FCE. The motivated decision was sent to the appellant, via his legal representative, on 31 July 2020.
9. On 3 August 2020, Mr Atom submitted his intention to appeal to the FIFA Appeal Committee.
10. On 10 August 2020, the appellant submitted his appeal brief to the Appeal Committee. The appellant requested, *inter alia*, that the Committee:
  - i. Uphold the appeal, annul the Appealed Decision, acquit Mr Atom and declare him innocent in respect of all charges put forward in the Final Report, as manifestly unfounded; and
  - ii. Cancel any sanction imposed on Mr Atom, including the provisional ban from taking part in any football-related activities for 15 years imposed by the chairperson of the adjudicatory chamber.
  - iii. Subsidiarily, in the event the appeal was not upheld on the merits, the appellant requested that any sanction imposed on Mr Atom be limited to a warning or a reprimand, pursuant to art. 7 par. 1 let (a) and (b) of the FCE.
11. On 17 August 2020, the secretariat to the FIFA Appeal Committee informed the Chairman of the adjudicatory chamber that they had received the appeal of Mr Atom in this case and asked him to provide the secretariat to the Appeal Committee with the adjudicatory file. The adjudicatory chamber complied with this request on 20 August 2020.
12. On 27 September 2020, the Chairman of the Appeal Committee informed the appellant that he had decided to hold a hearing in the present case and that such hearing would take place on 26 March 2021. The Chairman asked the appellant to confirm his attendance whether in person or by videoconference. The Chairman moreover informed that the letter had also been sent to the chief of investigation in order to confirm her attendance and whether she would call any witness.

13. On 1 October 2020, the chief of investigation confirmed her availability to attend the hearing and informed that no witness would be called by the investigatory chamber.
14. On 4 October 2020, the appellant confirmed his availability to participate in the hearing, but due to the COVID-19 pandemic requested to be heard via videoconference. On 8 October 2020, the Chairman of the Appeal Committee granted the request.
15. On 26 March 2021, a hearing before the FIFA Appeal Committee took place at the Home of FIFA in Zurich. The appellant attended the hearing by videoconference in Modestcity, Tinyland.
16. With regard to the facts of the present case, the Appeal Committee notes that the FIFA Ethics Committee has conducted an extensive investigation into Mr Atom's conduct. The Appeal Committee will individually address the results of the Ethics Committee's proceedings, together with the submissions of the appellant in the present proceedings, in the context of the legal and factual considerations to which they are relevant.

## **II. and considered**

### **A. Admissibility of the appeal and scope of review exercised by the FIFA Appeal Committee**

17. In the present case, the appellant was sanctioned, by way of the decision of the adjudicatory chamber of 27 May 2020, with a ban on taking part in any football-related activity for 15 years and a fine of CHF 50,000.
18. Moreover, the appellant was a party to the proceedings before the Ethics Committee since he was an "accused" individual within the meaning of art. 37 of the FCE. The appellant is directly concerned by the sanctions imposed on him by way of the Ethics Committee's decision and thus has a legally protected interest justifying amendment or cancellation of the relevant decision. Therefore, and in accordance with art. 81 of the FCE, the appellant is entitled to appeal the Ethics Committee's decision of 27 May 2020.
19. Therefore, the appeal lodged by the appellant against the Appealed Decision, communicated with grounds on 31 July 2020, is admissible and shall be examined by the Appeal Committee.

## **B. Submissions by the appellant regarding the Appealed Decision**

### **a) Procedural issue: Evidence**

#### **Submission by the Appellant**

20. The appellant raised an issue concerning the admissibility and evidentiary value of certain evidence. In summary, Mr Atom states that some evidence was:
- i. Illegally obtained (i.e., the screenshot of an alleged Telegram conversation between Mr Atom and Mr Lenders); and
  - ii. Not tested by him because he had no opportunity to cross-examine a witness from Bigland – who produced a statement in the criminal proceedings in Hardland, which was used by the adjudicatory chamber to reach the Appealed Decision – in a hearing, in violation of his right to be heard.

#### **Assessment by the FIFA Appeal Committee**

21. The arguments raised by the appellant on the inadmissibility of evidence are not related to a violation of human dignity. The Appeal Committee also notes, as rightly stated in the Appealed Decision, that the applicable case law has held that the use of illegitimately collected evidence is admissible where there is an overriding public interest such as the fight against corruption in sports.
22. The allegations that the Telegram conversation between Mr Atom and Mr Lenders may somehow have been manipulated or modified must also be dismissed. Mr Atom failed to provide any solid explanation that the conversation was modified. The Appeal Committee finds no reason to believe that the conversation is not true or accurate.
23. As to the fact that Mr Atom was not able to cross-examine the Bigland witnesses that produced whistleblower testimonies in the Hardland proceeding, the Appeal Committee fully agrees with the reasoning of the adjudicatory chamber in par. 108 of the Appealed Decision. In fact, the applicable case law found that the statements of persons who were not available for examination should not be rejected in their entirety but that this circumstance should be taken into account when weighing the evidentiary value of such statements. This is not a matter of admissibility of evidence, but rather of evaluation of evidence. The FIFA Ethics Committee has absolute discretion regarding proof.
24. The Appeal Committee is of the opinion that it is appropriate to accept the Bigland witness testimony and assess it together with all remaining evidence taking into account:

- i. The nature of the conduct in question and the seriousness of the allegations that have been made;
  - ii. The ethical need to expose and sanction any wrong-doing;
  - iii. The general consensus among sporting and governmental institutions that corrupt practices are a growing concern in all major sports and that they strike at the heart of sports credibility and must thus be fought with the utmost earnestness; and
  - iv. The limited investigative powers of sports governing bodies in comparison with public authorities.
25. The Appeal Committee further notes that the witness in question is a so-called “whistleblower”. This witness was only heard by the Hardlandian judge under tight security measures, for fear of reprisals.
26. In view of the above considerations, the Appeal Committee determines that the above-mentioned general submission of the appellant should be discarded.

**b) Merits**

**1. Preliminary remarks**

27. Before entering into the merits of the case, the Appeal Committee wishes to address a matter raised by the appellant: the standard of proof of ethics proceedings.
28. The appellant submits that personal conviction shall be exceptionally increased in this case to coincide not with a mere comfortable satisfaction, but with the standard of proof of beyond reasonable doubt.
29. Firstly, the Appeal Committee notes that the applicable case law alluded by the appellant is related to other sports and different regulations. The rules on standard of proof established in the FCE are quite clear and so is the applicable case law in relation to ethics proceedings. The Ethics Committee shall judge and decide on the basis of their comfortable satisfaction.
30. The Court of Arbitration for Sport (“CAS”) has held that in integrity-related cases, the evidence shall be assessed bearing in mind that corruption is, by nature, concealed as the parties involved will seek to use evasive means to ensure that they leave no trail of their wrongdoing. In this context, the weighing up of the evidence plays a major role when deciding on a comfortable satisfaction standard.
31. Important elements to reach this conclusion are all the relevant circumstances of the case assessed individually and/or combined, in what is commonly known as the context. As part of this context and for cases dealing with bribery and corruption, special attention shall be given to the paramount importance of fighting corruption of any kind in sport and also to the nature and restricted powers of the investigation

authorities of the governing bodies of sport as compared to national formal interrogation authorities.

32. In addition, as mentioned above, it is undeniable that corruption is, by nature, concealed as the parties involved will seek to use evasive means to ensure that they leave no trail of their wrongdoing. Consequently, direct evidence in relation to bribery and corruption activities will be rather the exception and indirect evidence the standard situation.
33. In view of the above, the standard of proof in the present matter shall be that of comfortable satisfaction, bearing in mind the seriousness of the offence committed and after evaluating all of the evidence cumulatively.

## **2. Brief summary of the relevant facts**

34. With regard to the facts of the present case, which are, if not indicated otherwise below, undisputed, reference is made to the pertinent findings in the Appealed Decision and in the Final Report.
35. In the Appealed Decision, charges against the appellant were assessed by the adjudicatory chamber, in relation to the voting process for the 2026 World Cup. The adjudicatory chamber found the appellant guilty, in connection with said charges, of having violated arts. 21 (Commission), 25 (Abuse of position) and 27 (Bribery) of the FCE.
36. The appellant and the Secretary General of Tinyland, Mr Mark Lenders, were invited on a trip to Fancycapital, capital of Bigland, by Mr Daniel Kaiser, President of the Football Federation of Bigland (“FFB”).
37. The appellant and Mr Lenders flew from Modestcity, Tinyland, to Fancycapital, Bigland in business class and stayed at a five-star hotel, with all expenses covered, had dinner in the hotel’s Michelin-star restaurant and attended a lavish party. They were also offered gifts, in particular watches.
38. During their stay, Mr Kaiser asked the appellant to vote for Bigland in the election for the 2026 World Cup location.
39. Additionally, the Appellant and Mr Kaiser agreed that should Bigland come to win the election for the next World Cup location, FFB would organize a friendly match with FFT in Tinyland without requiring any payment. It is undisputed that the Appellant’s wife is a shareholder of the only football broadcaster in Tinyland.
40. On 2 February 2017, FIFA held the final voting process to determine the 2026 World Cup location. Presidents of all 211 national football federations were given a single vote for either of the two finalists: Bigland and the Republic of Losingland. Bigland won. The appellant voted in favor of Bigland.

### **3. Summary of the position of the appellant**

41. In his appeal brief and his closing statement in the appeal hearing, the appellant submitted a number of arguments against the adjudicatory chamber's finding that Mr Atom breached the FCE. The Appeal Committee also notes that most of the arguments raised in the appeal proceedings are almost identical to the ones presented within the adjudicatory proceedings. Mr Atom's principal arguments are the following:
- i. With respect to the finding of bribery, on the basis of Mr Atom's voting in favor of Bigland allegedly in exchange for gifts and an all-inclusive luxurious trip to Bigland, Mr Atom declares that he is innocent. According to Mr Atom, he freely chose to vote for Bigland, which was a better candidate to receive the 2026 World Cup than Losingland.
  - ii. Mr Atom denies having discussed and/or obtained any undue advantage and argues that there is no evidence to support that such advantage was received.
  - iii. Even assuming, *arguendo*, that there was any type of undue advantage, Mr Atom notes that he restituted CHF 20,000 to Mr Kaiser, to cover the expenses of the trip to Bigland.
42. In terms of the underlying evidence, Mr Atom argues that there is no proof that the alleged Telegram conversation between him and Mr Mark Lenders is real and that no one was ever given the opportunity to interrogate the unidentified individual who allegedly hacked his phone.
43. In the same vein, Mr Atom argues that he was not given the chance to identify and interrogate the whistleblower from Bigland who produced a statement in the Hardland criminal proceedings. Mr Atom contends that such whistleblower could have lied for the benefit of Losingland. For that matter, Mr Atom argues that it is irrelevant that a Hardlandian judge did interrogate the whistleblower.

### **4. Assessment by the FIFA Appeal Committee**

44. In the present case, the Appeal Committee is tasked with assessing whether Mr Atom's conduct as outlined above violated art. 27 of the FCE on bribery. As to the remaining violations committed by the appellant (art. 21 and 25 of the FCE), the Appeal Committee agrees with the findings of the adjudicatory chamber that those violations are materially absorbed by the breach of art. 27 of the FCE.
45. For a violation of the prohibition of bribery pursuant to art. 27 of the FCE to occur, the following requirements must be cumulatively met:
- i. A person bound by the FCE,
  - ii. Must have accepted, given, offered, promised, received, requested or solicited,

- iii. A personal or undue pecuniary or other advantage,
  - iv. In order to obtain or retain business or any other improper advantage to or from anyone within or outside FIFA.
46. As to the first requirement, the appellant agrees that the same is fulfilled: Mr Atom, as an official of the FFT, a member association of FIFA, is bound by the FCE.
47. Thus, the analysis of the remaining requirements has to be performed by the Appeal Committee in respect of the findings made by the Adjudicatory Chamber.

#### Second requirement

48. As to the second requirement, the Appeal Committee notes that the acceptance of an advantage suffices in order for this requirement to be met. From a legal perspective, it is not decisive whether advantages were actually accrued (e.g., payments were actually made).
49. With this mind, the Appeal Committee agrees with the findings of the Adjudicatory Chamber that Mr Atom accepted the offers given by Mr Kaiser as an advantage, by accepting (i) to fly to Bigland in an all-inclusive luxurious trip, (ii) gifts, and (iii) the promise of hosting a match between FFT and FFB in Tinyland without the payment of any consideration from FFB. The Appellant's arguments in relation to the inadmissibility and/or irrelevance of the key evidence have been already dismissed above.

#### Third requirement

50. With respect to the third requirement, not every kind of benefit falls under the scope of art. 27 of the FCE. The advantage must be "personal" or "undue" in the light of the provisions of FIFA regulations or universally accepted legal principles. In particular, an advantage is to be considered undue if it has no proper legal basis.
51. The Appeal Committee accepts the findings of the Adjudicatory Chamber that the advantage was undue given that an all-inclusive luxurious trip to Bigland and watches are gifts or other benefits that manifestly fall outside the scope of art. 27 of the FCE.
52. The same applies to the undue advantage that was also offered by Mr Kaiser and accepted by the appellant in relation to a potential friendly match that FFB would organize with FFT in Tinyland without requiring any payment for FFB. FFB's upfront waiver of any compensation for such a match, indeed represents an undue advantage for the Appellant's wife, who is a shareholder of the only football broadcaster in Tinyland. In a normal world, such a broadcaster would have had to pay a portion of its revenue to the FFB. The fact that the friendly match never took place is irrelevant since the applicable rules are breached when the unlawful agreement takes place and not when the improper advantage is eventually received.

#### Fourth requirement

53. Finally, art. 27 par. 1 of the FCE states that the undue advantage must be given "in order to obtain or retain business or any other improper advantage".
54. Bearing in mind the preliminary remarks made above, the Appeal Committee is of the opinion that the gifts and offers to Mr Atom were incitements and/or rewards for his voting and support for Bigland in the 2026 World Cup election.
55. The timing of events confirms the Appeal Committee's assessment: the offers and promises, on one hand, and the acts of Mr Atom, on the other, took place almost concomitantly, as stated in the Appealed Decision.

#### Conclusion

56. In the light of the foregoing, the Appeal Committee concludes that in connection with the 2026 World Cup election, Mr Atom accepted several undue advantages from FFB for the execution of official acts and thereby breached art. 27 of the FCE.

#### **c) Sanction**

##### **1. Summary of the position of the appellant**

57. The appellant is of the view that the Appealed Decision has failed to observe the principle of proportionality as well as its own case law when determining the sanctions applicable in this case. In particular, Mr Atom makes reference to several cases where the sanction imposed was much lower compared to the one applied to the appellant.
58. In addition to that, Mr Atom also believes that the adjudicatory chamber failed to take into account several mitigating factors in his respect: the fact that the appellant refunded CHF 20,000 to FFB or all the valuable activities and services of Mr Atom in over ten years at the FFT. For all those reasons, in the event the Appeal Committee understands that Mr Atom has breached any provision of the FCE, Mr Atom submits that any sanction imposed should be limited to a warning or a reprimand.

##### **2. Assessment by the FIFA Appeal Committee**

59. After examining the appellant's arguments, the Appeal Committee considers that the sanction imposed by the adjudicatory chamber is adequate and proportionate for the following reasons:
  - i. First, with regards to the appellant's claim concerning the disproportionate nature of the sanction by comparison/referral to the decisions rendered by the adjudicatory chamber in other cases, the Appeal Committee would like to stress that other cases present both factual and legal aspects and particularities that differ significantly from those of the case at hand. The

Appeal Committee therefore considers that any comparison between other cases and the present proceedings is irrelevant.

- ii. In the Appealed Decision, the adjudicatory chamber has dealt with all relevant factors of the case, including Mr Atom's valuable services to football. No acts of mere negligence are at stake here but, rather, deliberate actions. What is more, the relevant acts are not merely attempted acts but have been completed. In view of these findings, the official's degree of guilt must be regarded as of utmost seriousness.
  - iii. The Appeal Committee also notes that, according to the applicable case law, another circumstance suited to mitigate the culpability of an offender is remorse or confession, which Mr Atom failed to demonstrate during the proceedings, in spite of the overwhelming evidence against him.
60. In addition, it is essential for sporting regulators like FIFA to impose sanctions sufficient to serve as an effective deterrent to individuals who might otherwise be tempted to consider involvement in such criminal activities, and that it is vital that the integrity of the sport is maintained.
  61. Finally, no doubt exists that corruption affects the very core of sports and is nothing less than life threatening for sports and sports organizations. If officials who are found guilty of corruption remained within the sports structures, this would cause irreparable damage to sports and football in particular. In cases like the present one, the only way to save sports from enormous reputational damage is a full sanctioning of the persons concerned. In addition, it must be noted that corruption offences are to be rated in every respect as reprehensible and that corruption allegations cause grave reputational damage due to their extensive media coverage. Consequently, FIFA has a direct and pressing interest in barring the persons concerned from sports and sports governance effectively.
  62. Consequently, the Appeal Committee, after carefully analyzing and taking into consideration the above circumstances, deems a ban on taking part in any football-related activity for 15 years to be appropriate for the violation of art. 27 of the FCE committed by the appellant.
  63. Lastly, and taking into account the sums from which Mr Atom profited in his trip to Bigland, the Appeal Committee concurs with the adjudicatory chamber that a fine of CHF 50,000 is appropriate.

### **III. has therefore decided**

1. The appeal filed by Mr Oliver Atom against the decision taken by the adjudicatory chamber of the FIFA Ethics Committee on 27 May 2020 is dismissed.
2. The decision 205879 TIN ZH taken by the adjudicatory chamber of the FIFA Ethics

Committee on 27 May 2020 is confirmed.

3. Mr Oliver Atom is found guilty of infringements of art. 21 (Commission), 25 (Abuse of position) and 27 (Bribery) of the FCE.
4. Mr Oliver Atom is banned from taking part in any football-related activity (administrative, sports or any other) at the national and international level for 15 years, in accordance with art. 7 par. 1 let. (j) of the FCE.
5. Mr Oliver Atom shall pay a fine in the amount of CHF 50,000 within 30 days of notification of the present decision, in accordance with art. 7 par. 1 let. (e) of the FCE.
6. Mr Oliver Atom shall bear his own legal and other costs incurred in connection with the present proceedings.
7. This decision is sent to Mr. Oliver Atom via his legal representative. A copy of the decision is sent to the FFT. A copy of the decision is also sent to the chief of the investigation.

FÉDÉRATION INTERNATIONALE  
DE FOOTBALL ASSOCIATION



**Mr Sam Gamgee**

Chairman of the FIFA Appeal Committee

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## LEGAL ACTION

According to art. 58 par. 1 of the FIFA Statutes, this decision may be appealed to the Court of Arbitration for Sport ("**CAS**"). The statement of appeal must be sent directly to the CAS within 21 days of notification of this decision.

The address and contact numbers of the CAS are the following:

Chateau de Bethusy Avenue  
de Beaumont 2 1012  
Lausanne Switzerland  
Tel: +41 21 613 50 00  
Fax: +41 21 613 50 01  
E-mail: [info@tas-cas.org](mailto:info@tas-cas.org)  
[www.tas-cas.org](http://www.tas-cas.org)



Clarice Vax  
CEO of Capital Rings



People, get vaccinated! We must trust science to get past this pandemic!



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Andre Vax · 2nd  
Independent Arbitrator

4mo ...

I fully agree with you, Clarice. It's very simple: people who oppose vaccine mandates pose a danger to public health. They undermine our ability to promptly reach the goal of collective immunity, thereby giving the virus more time to mutate, endangering the lives of others and putting pressure on the healthcare system. This "free-rider" attitude is incredibly unfortunate and egotistic. I think it largely derives from people's constant exposure to fake news and proneness to conspiracy theories, perhaps as a result of spending too much time on social media (which reminds me, I should probably log off now). I am sorry to say this but, to put it plainly, these are uneducated people who think only about themselves. There cannot be genuine intents behind the no-vax's battle I think it's everyone's duty to educate these people about the consequences of their stance and urge them to verify the sources of the information they read about vaccines.

Like | Reply

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**From:** Sarah Oumaima <Oumaima.Sarah@samming.com>  
**Sent:** 2 March 2022, 18:29  
**To:** Oliver Atom <atomoliver@fft.com>; FIFA Legal <fifa-legal@fifa.com>  
**Cc:** Andre Vax <a.vax@inlook.com>; Chen Baozhai <chenbaozhai68@fmail.com>  
**Subject:** Disclosure

Dear Madam/Sir,

Please note that a former member of FIFA's in-house counsel team has just joined my firm as an associate.

I take the opportunity to inform that in the past three years I have acted as Sole Arbitrator, President and Co-arbitrator in four arbitration proceedings to which FIFA was a party.

In no way do these circumstances affect my impartiality or independence. Thank you for your trust and confidence.

Yours sincerely,

Sarah Oumaima



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Tel. +996 875 985 3  
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**Samming Law**  
Firm of the year (2021)