



TAS / CAS

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

CAS 2024/A/10836 Al Nasr Club v. Amash Mohamed Al Daihani et al.

ARBITRAL AWARD

delivered by the

COURT OF ARBITRATION FOR SPORT

sitting in the following composition:

President: Prof Luigi Fumagalli, Professor and Attorney-at-Law, Milano, Italy
Arbitrators: Mr Manfred Peter Nan, Attorney-at-Law in Amsterdam, The Netherlands
Mr James Drake KC, Barrister in London, United Kingdom

between

Al Nasr Club, Kuwait

Represented by Mr Ali Abbes and Mr Mohamed Rokbani, Attorneys-at-Law in Monastir, Tunisia

- Appellant -

and

Mr Amash Mohamed Al Daihani

- First Respondent -

Mr Abdullah Issa Al Mutairi

- Second Respondent -

Mr Fawaz Falah Al Mutairi

- Third Respondent -

Mr Fahd Obaid Al Mutairi

- Fourth Respondent -

Mr Ali Hussein Al Mutairi

- Fifth Respondent -

Mr Radan Saad Al Daihani

- Sixth Respondent -

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Mr Nasser Adhal al Suwait

- Seventh Respondent -

Mr Mishari Faihan Al Mutairi

- Eighth Respondent -

Mr Faisal Dakhil Al Adwani

- Ninth Respondent -

Mr Dakhil Sabah Al Adwani

- Tenth Respondent -

All represented by Mr Pedro Macieirinha, Attorney-at-Law in Vila Real, Portugal

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ABBREVIATIONS

12 January 2023 Election	The election of the Second Board at the meeting of the General Assembly held on 12 January 2023
15 February 2024 Election	The election of the Third Board at the meeting of the General Assembly held on 15 February 2024
Appealed Decision	The award rendered by NSAT on 12 August 2024 in the Joined Cases
Appellant	Al Nasr Club
Articles of Association	The Articles of Association of the Club
Award of 30 October 2023	The award issued on 30 October 2023 by the arbitration chamber of the NSAT hearing the NSAT Case 2023-1
Award of 7 April 2024	The award issued on 7 April 2024 by the arbitration chamber of the NSAT hearing the NSAT Case 2023-2
Board	The Board of Directors of the Club
CAS	Court of Arbitration for Sport
CAS Code	The Code of Sports-related Arbitration
Club	Al Nasr Club
Court Case	The dispute concerning the enforcement of the Award of 30 October 2023 submitted to the Kuwait Court (Procedure No 241-242-254/2024 referee 4)
Court Decision	The Decision issued by the Kuwait Court on 12 May 2024
Eighth Respondent	Mr Mishari Faihan Al Mutairi
Electoral Committee	The Electoral Committee of the Club
Executive Office	The Executive Office of the Club
Fifth Respondent	Mr Ali Hussein Al Mutairi
First Board	The Board for the term 2019-2022 elected on 13 January 2019
First Respondent	Mr Amash Mohamed Al Daihani
Fourth Respondent	Mr Fahd Obaid Al Mutairi
General Assembly	The General Assembly of the Club
Handover	The handover of the Club's affairs made on 26 December 2023, from the Second Board, represented by the Mr Khaled Chrída, to the First Board, also represented by Mr Khaled Chrída

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Joined Cases	The NSAT Case 2024-1, the NSAT Case 2024-2 and the NSAT Case 2024-3
KFF	Kuwait Football Federation
Mr Khaled Chrida	Khaled Shuraida (Chrida) Al Mutairi
Mr Nasser	Mr Nasser Badr Al Daihani
Ninth Respondent	Mr Faisal Dakhil Al Adwani
NSAT	National Sports Arbitration Tribunal
NSAT Case 2023-1	The NSAT proceedings registered under reference No 20230118001
NSAT Case 2023-2	The NSAT proceedings registered under reference No 20231120001
NSAT Case 2024-1	The NSAT proceedings registered under reference No 20240123001
NSAT Case 2024-2	The NSAT proceedings registered under reference No 20240212001
NSAT Case 2024-3	The NSAT proceedings registered under reference No 20240502001
Order of Procedure	The Order of Procedure issued on 3 February 2025 by the CAS Court Office on behalf of the President of the Panel
Parties	The Appellant and the Respondents
Respondents	The First Respondent, the Second Respondent, the Third Respondent, the Fourth Respondent, the Fifth Respondent, the Sixth Respondent, the Seventh Respondent, the Eighth Respondent, the Ninth Respondent and the Tenth Respondent
Second Board	The Board for the term 2023-2027 elected on 12 January 2023
Second Respondent	Mr Abdullah Issa Al Mutairi
Seventh Respondent	Mr Nasser Adhal al Suwait
SFT	Swiss Federal Tribunal
Sixth Respondent	Mr Radan Saad Al Daihani
Special Committee	The 5-member temporary committee of the Club mentioned in Article 20 of the Articles of Association
Tenth Respondent	Mr Dakhil Sabah Al Adwani
Third Board	The Board for the term 2024-2028 elected on 15 February 2024
Third Respondent	Mr Fawaz Falah Al Mutairi

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I. PARTIES

1. Al Nasr Club (the “Club” or the “Appellant”) is a Kuwaiti professional football club, founded on 8 June 1965, and based in Farwaniya. It is affiliated to the Kuwait Football Federation (the “KFF”), the national football association in Kuwait. The Club is represented in this arbitration by Mr Khaled Shuraida (Chrída) Al Mutairi (“Mr Khaled Chrída”).
2. Mr Amash Mohamed Al Daihani (the “First Respondent”), Mr Abdullah Issa Al Mutairi (the “Second Respondent”), Mr Fawaz Falah Al Mutairi (the “Third Respondent”), Mr Fahd Obaid Al Mutairi (the “Fourth Respondent”), Mr Ali Hussein Al Mutairi (the “Fifth Respondent”), Mr Radan Saad Al Daihani (the “Sixth Respondent”), Mr Nasser Adhal al Suwait (the “Seventh Respondent”), Mr Mishari Faihan Al Mutairi (the “Eighth Respondent”), Mr Faisal Dakhil Al Adwani (the “Ninth Respondent”), Mr Dakhil Sabah Al Adwani (the “Tenth Respondent”) are (or were) officers of the Club. Their exact position within the Club will be better identified, where relevant, in the present Award.
3. The First, the Second, the Third, the Fourth, the Fifth, the Sixth, the Seventh, the Eighth, the Ninth, and the Tenth Respondents together are referred to as the “Respondents”.
4. The Appellant and the Respondents together are referred to as the “Parties”.

II. FACTUAL BACKGROUND

5. Below is a summary of the main relevant facts and allegations based on the Parties’ oral and written submissions as lodged with the Court of Arbitration for Sport (the “CAS”). Additional facts and allegations may be set out, where relevant, in connection with the legal discussion that follows. Although the Panel has considered all the facts, allegations, legal arguments and evidence submitted by the Parties in the present proceeding, this Award refers only to the submissions and evidence it considers necessary to explain its reasoning.¹
6. On 13 January 2019, a meeting of the General Assembly of the Club (the “General Assembly”) was held to elect the members of the Board of Directors (the “Board”) for the term 2019-2023. As a result of the election, the Board was composed of the following 11 members (the “First Board”):
 - Khaled Chrída, designated as President
 - Ilaj Khalaf Ilaj
 - Ali Hassan Dassim
 - Dakhil Al Adwani (*i.e.*, the Tenth Respondent)

¹ Several of the documents submitted by the parties and referred to in this award contain various misspellings: they are so many that the Panel, while quoting them, could not underscore them all with a “*sic*” or otherwise. In any case, the Panel will refer to the unchallenged English translation, submitted by the Parties, of the Arabic original documents. The Panel notes that some discrepancy in the English spelling of Arabic names, due to their transliteration. The Panel however adopts in this Award, for the sake of consistency, the spelling most commonly used.

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- Radan Daihani (*i.e.*, the Sixth Respondent)
- Abdulaziz Al Mutairi
- Hijab Al Mutairi
- Fawaz Falah Al Mutairi (*i.e.*, the Third Respondent)
- Mutlak Al Adwani
- Abdulah Al Mutairi (*i.e.*, the Second Respondent)
- Fahd Al Mutairi (*i.e.*, the Fourth Respondent).

7. On 7 July 2022, the circular 36 of Year 2022 adopted by the Public Authority of the Sport of the State of Kuwait established, *inter alia*, that:

“1. In accordance with the provisions of the statutes of sports clubs, the electoral cycle of the boards of directors of comprehensive clubs and some specialized clubs is coming to an end, and therefore the date set for holding the ordinary general assemblies for the elections of the boards of directors of comprehensive clubs will be on 12/01/2023 and specialized clubs on 15/01/2023, for the boards of directors of clubs whose electoral cycle ends on the mentioned dates.

As for the other clubs whose electoral cycle ends on other dates, their board elections will be held at the end of their electoral cycle.

2. The boards of directors of the comprehensive clubs whose board elections will be held on 12/01/2023 and the specialized clubs whose board elections will be held on 15/01/2023, in coordination with the electoral committee, must take the procedures stipulated in the statutes in this regard from inviting the ordinary periodic general assembly, opening the door for candidacy, receiving candidacy applications and requests to withdraw candidacy (according to the dates specified in the statutes of these clubs, taking into account that the invitation to the ordinary periodic general assembly should be 45 days before the date set for the electoral assembly, provided that the invitation shall mention the specific time to start voting from 9:00 AM to 9:00 PM

3. The boards of directors of the clubs and the electoral committee shall facilitate the receipt of applications for candidacy for membership of the boards of directors from all those who wish to do so during the official working hours in the club, whether they are individual candidates or slate candidates, with the need for the electoral committee to verify the availability of the candidacy conditions stipulated in the statute, as well as the payment of the candidacy fee and the writing of minutes and signing them from the relevant body, whether the minutes of opening and closing the door of candidacy or the minutes of accepting the candidacy application, taking into account the period specified for opening and closing the door of candidacy in accordance with the provisions of the statute.

4. The electoral committee shall coordinate with the Authority to prepare the election papers at least two days before the date of holding the elections, in which the names of the candidates are listed according to the list provided by the candidates based on the group system or by alphabetical letters for individual candidates, and the maximum number of candidates to be elected, provided that the names of candidates for membership of the Board of Directors are announced twice on the club's bulletin board, the first one at least fifteen days before the date of holding the elections and the second one at least two days before the date of holding the elections.

5. Prepare election and sorting venues that are commensurate with the number of General Assembly members in each club, allocating separate committees for women and men. It should be noted that the Authority will, in its role, verify the suitability of election venues to facilitate the process for General Assembly members. Attendance and voting in the elections shall be in accordance with the provisions

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of the Articles of Association.”

8. On 12 January 2023, according to the new rules, a new election (the “12 January 2023 Election”) of the Board for the term 2023-2027 took place. As a result, a new Board was elected with the following members (the “Second Board”):
 - Khaled Chrida, re-elected as President
 - Ilaj Khalaf Ilaj
 - Ali Hassan Dassim
 - Abdulaziz Al Mutairi
 - Fawaz Falah Al Mutairi (*i.e.*, the Third Respondent)
 - Mutlak Al Adwani
 - Ali Hassan Al Mutairi (*i.e.*, the Fifth Respondent)
 - Mishaal Hijab Al Mutairi
 - Sultan Al Mutairi
 - Dhari Al Daihani
 - Amash Al Daihani (*i.e.*, the First Respondent).
9. On 15 January 2023, Mr Nasser Badr Al Daihani (“Mr Nasser”) in a letter to the Board President (“*Apology for continuing as the head of the committee*”) resigned his position as the President of the electoral committee of the Club (the “Electoral Committee”). This letter reads as follows:

“with reference to the above subject and regarding my assignment by the General Assembly to head the election campaign after the end of the election process and the completion of its procedure in an easy, smooth and fair manner and due to my special circumstances, I submit my apology request for continuing in the committee, hoping to present the matter to the General Assembly at its next meeting, wishing you and all members success in what serves the club and the sports movement in general”.
10. On 18 January 2023, the Eighth Respondent and the Ninth Respondent, members of the Club, filed with the National Sports Arbitration Authority (“NSAT”) a claim against the elected members of the Second Board and Mr Nasser, in his capacity as President of the Electoral Committee. This procedure was registered under reference No 20230118001 (the “NSAT Case 2023-1”). In the course of the proceedings Mr Dabbous Hassan Al-Dasam, as the Acting President of the Electoral Committee, as well as the other members of the Electoral Committee, intervened. In their petition, as amended in the course of the proceedings, the claimants requested the NSAT to declare, *inter alia*, the invalidity of the 12 January 2023 Election, as well as of the General Assembly of 4 July 2023 in the meantime held.
11. On 18 June 2023, the Electoral Committee took note of the resignation of Mr Nasser, appointed Mr Dabbous Hassan Al-Dasam as its new President until the next General Assembly, scheduled to take place on 4 July 2023, and submitted a proposal for the election of a new member.
12. On 4 July 2023, the Annual Ordinary General Assembly was held. On that occasion, *inter alia*,

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the resignation of Mr Nasser was accepted and a new member of the Electoral Committee was elected.

13. On 30 October 2023, the NSAT issued an award (the “Award of 30 October 2023”) declaring *“the invalidity of the elections of Al-Nasr Sports Club held on 12/1/2023 and the consequences and decisions that resulted from them, and the restoration of the situation to what it was before 12/1/2023.”* All other requests were dismissed.
14. A dispute concerning the enforcement of the Award of 30 October 2023 was submitted to the Kuwait Court (Procedure No 241-242-254/2024 referee 4: the “Court Case”) by Mr Khaled Chrida in his capacity as President of the Board. In such proceedings also the following individuals were named or intervened as respondents: Mr Faisal Dakhil Al Adwani (*i.e.*, the Ninth Respondent), Mr Mishari Fayhan Sahmi Al Mutairi (*i.e.*, the Eighth Respondent), Mr Dabbous Hassan Al Dassam (the Acting President of the Electoral Committee) and Mr Nasser. In his petition, Mr Khaled Chrida requested the Kuwait Court, hearing the case on appeal, to set aside a previous enforcement order that the Club be handed over to Mr Nasser in execution of the Award of 30 October 2023.
15. In the meantime, as a result of the Award of 30 October 2023, the First Board, in office before the 12 January 2023 Election, found itself to be reinstated in its position. As Mr Khaled Chrida was the President both of the First Board and of the Second Board, he considered himself to have the quality to represent the Club and to execute the Award of 30 October 2023, handing over the Club’s affairs from the Second Board (whose election had been set aside) to the First Board, in office before it. The effects of the Award of 30 October 2023 are disputed between the Parties and are at the heart of the present arbitration. In addition, much of the events hereinafter summarized are disputed by the Respondents. More specifically, the Respondents dispute even the actual holding of some of those meetings, as well whether all members entitled to participate were invited to attend.
16. On 20 November 2023, in fact, a claim was submitted with NSAT (registered under reference No 20231120001: the “NSAT Case 2023-2”) by Mr Saad Al Dhafiri, Mr Fahd Al Salman, Mr Youssef Shuraidda Al Adwani, Mr Eid Abdullah Al Mutairi, Mr Nasser Al Marri, members of the Club, against the Mr Khaled Chrida, in his capacity as President of the Board. In such claim, as supplemented on 23 January 2024, the NSAT was requested:
 - to annul the suspension of the claimants’ Club membership decided by the Board;
 - to declare the nullity of the handover of the Club’s affairs from the Second Board to the First Board (that had in the meantime taken place), claiming that Mr Khaled Chrida lacked standing and quality due to the end of his mandate on 12 January 2023;
 - to declare the nullity of all decisions taken by the Board, the executive office of the Club (the “Executive Office”) and the Electoral Committee after the handover;
 - to declare the nullity of the call for the ordinary general assembly to elect the new board for the period 2024-2028 to be held on 15 February 2024 and all its effects.
17. On 25 December 2023, the Executive Office of the Second Board met and decided to implement the Award of 30 October 2023 and

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“to restore the situation to what it was before the elections of the electoral cycle 2023/2027 held on 12/1/2023 by handing over and receiving all the administrative, material and in-kind matters of the club to the previous Board of Directors and enforcing the requirement to implement the arbitral decision referred to in accordance with its operative part.”

18. On 26 December 2023, as a result, a handover of the Club’s affairs was made from the Second Board, represented by the Mr Khaled Chrida as its President, to the First Board, also represented by Mr Khaled Chrida as its President (the “Handover”). The protocol of the Handover reads as follows:

“On Tuesday, 26/12/2023, at 9:30 PM, the majority of the members of the club’s Board of Directors for the 2023/2027 electoral term (annulled) were present at the club’s headquarters to implement the decision of the Council/Executive Office held on 25/12/2023, which included approval to implement the arbitration decision issued by the National Sports Arbitration Authority in the sports dispute No. 20230118001) and issued in the arbitration request submitted by both (Mishari Faihan Al-Mutairi) and (Faisal Dakhil Al-Adwani) and appended with the executive formula - and filed in execution file No. 234283140) and to restore the situation to what it was before the elections held on 12/01/2023 - and to implement the requirements of the letter issued by the Counselor/Head of the Farwaniya Execution Department with outgoing number 2023003425) dated 26/12/2023 and addressed to Mr./President of Al-Nast Sporting Club (Khaled Shuraida Al-Mutairi) and including notification of the obligation to work on implementing the judgment as stated in its pronouncement by handing over and taking over all administrative, material and in-kind matters of the club and all its assets and contents and handing over the executive positions to the previous Board of Directors - in implementation of the aforementioned arbitration decision according to its pronouncement.

Based on the above, all works, documents, and assets related to the club’s management were handed over by the annulled council according to the majority of those present, whose names are as follows:

No.	Name	Position	Signature
1	Mr. Khaled Shuraida Al-Mutairi	Chairman of the Board	//Handwritten Signature//
2	Mr. A'laj Khalaf Al-Alaj	Vice Chairman of the Board	//Handwritten Signature//
3	Mr. Ali Hassan Al-Dasam	Secretary General	//Handwritten Signature//
4	Mr. Mutlaq Abdullah Al-Adwani	Treasurer	//Handwritten Signature//
5	Mr. Abdulaziz Mutlaq Al-Mutairi	Assistant Secretary General	//Handwritten Signature//
6	Mr. Ali Hussein Al-Mutairi	Assistant Treasurer	Did not attend
7	Mr. Meshal Hijab Al-Mutairi	Board Member	//Handwritten Signature//
8	Mr. Sultan Khaled Al-Mutairi	Board Member	//Handwritten Signature//
9	Mr. Dhari Dakhil Al-Mutairi	Board Member	//Handwritten Signature//
10	Mr. Fawaz Falah Ghanim Al-Mutairi	Board Member	Did not attend
11	Mr. Ammash Mohammed Al-Dihani	Board Member	Did not attend

The majority of those present from the club’s Board of Directors who were in charge of management before 12/01/2023 decided to agree to take over the reins of affairs in the club’s management and receive all the club’s in-kind and material matters and all its assets and contents from the members of the annulled council, thereby restoring the situation to what it was in implementation, of the arbitration decision issued by the National Sports Arbitration Authority in the sports dispute No. 20230118001) and filed in execution file No. (234283140). The majority in the club’s Board of Directors before 12/01/2023 received according to the following list:

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No.	Name	Position	Signature
1	Mr. Khaled Shuraida Al-Mutairi	Chairman of the Board	//Handwritten Signature//
2	Mr. A'laj Khalaf Al-Alaj	Vice Chairman of the Board	//Handwritten Signature//
3	Mr. Ali Hassan Al-Dasam	Secretary General	//Handwritten Signature//
4	Mr. Dakhil Sabah Al-Adwani	Treasurer	Crossed out according to AoA
5	Mr. Abdulaziz Mutlaq Al-Mutairi	Assistant Treasurer	//Handwritten Signature//
6	Mr. Radan Saad Al-Dihani	Assistant Secretary General	Did not attend
7	Mr. Mutlaq Abdullah Al-Adwani	Board Member	//Handwritten Signature//
8	The late Hijab Atallah Al-Mutairi	Board Member	(Deceased - crossed out)
9	The late Falah Ghanim Al-Mutairi	Board Member	(Deceased - crossed out)
10	Mr. Abdullah Issa Al-Mutairi	Board Member	Did not attend
11	Mr. Fahad Obaid Al-Mutairi	Board Member	Did not attend

Based on the above, the handover and takeover of the club's management and the restoration of the situation to what it was before the elections held on 12/01/2023 and the implementation of the arbitration decision filed in execution file No. (234283140) were approved as stated in its pronouncement."

19. In a document dated 27 December 2023, the Head of the General Directorate of Implementation of the Kuwait Ministry of Justice attested that the Handover was made in accordance with the Award of 30 October 2023.

20. On 27 December 2023, the Executive Office of the First Board decided to hold elections of the new Board members for the term 2024-2028 and

"to start the procedures for inviting the General Assembly for election on Thursday, 15/2/2024 in accordance with the provisions of the statute and to instruct the Electoral Commission to take its affairs in accordance with its competence contained in the statute, taking into account the dates, periods and procedures prescribed in this regard."

21. On the same 27 December 2023, a meeting of the Electoral Committee took place. Mr Nasser was absent. The minutes of such meeting read, in the pertinent portions, as follows:

"The meeting began with a speech from Mr. Dabbous Hassan Al-Dasm (the oldest member).

[...]in view of the failure of Mr. Nasser Badr Muslim (Chairman of the Committee) to provide evidence of his apology for continuing to be a member of the Committee, which he had previously submitted of his own volition and for his own circumstances, despite his knowledge of the developments and the return of the situation to what it was before 12/1/2023, as it is unacceptable to force him to continue to be a member of the Committee. Therefore, the Committee unanimously decided to continue to carry out its duties prescribed by the Statute and to assign Mr. Dabbous Hassan Al-Dasm (as the oldest member) to carry out the duties of the Chairman of the Committee until the Chairman's letter of apology is presented to the General Assembly at its next meeting. [...]

After that, the committee reviewed the arbitral decision issued in the sports dispute No. (20230118001) , which ruled the invalidity of the Al-Nasr Sports Club elections held on 12/1/2023 and the consequent effects and decisions, and the restoration of the situation to what it was before 12/1/2023 - and the initiative of the invalidated Board of Directors to implement the requirement of that ruling as soon as it is appended to the executive form by handing over the management of the club to the previous Board of Directors, which took control of the club until new elections are held.

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Whereas, the requirement to restore the situation to what it was before 12/1/2023 requires that the procedures be consistent with the Club's Articles of Association by inviting the General Assembly of the Club to convene to elect a new Board of Directors for the session 2024-2028. As such, the Committee reviewed its agenda and took the following decisions: [...]

** The Electoral Committee shall assume all its competences according to the date specified for the periodic ordinary general assembly of the club to elect the members of the Board of Directors of the club for the next electoral cycle 2024/2028, which is on Thursday, 15/2/2024, from 9 am to 9 pm at the headquarters of Al-Nasr Sports Club.*

** The date and date of the regular general meeting of the club shall be announced in one of the local newspapers for a period of three consecutive days starting from 28/12/2023 until 30/12/2023, taking into account the dates of the announcement stipulated in the articles of association at least forty-five days before the date of the specified meeting). [...]"*

22. On 15 January 2024, the Executive Office of the First Board held a meeting adopting resolutions to replace the Tenth Respondent, who had been acting as the Club's Treasurer, with an Acting Treasurer, and to exclude Mr Nasser from the Club, in the following terms:

***"Item 1:** Considering the non-attendance of Mr. Dakhil Sabah Al-Adwani (Treasurer) and his noticeable absence from attending the club to exercise his competences and his failure to attend meetings, which reflected negatively on the proper functioning of the club's management, especially the financial aspects and the club's obligations towards the players, employees and employees of the club and its financial obligations towards others.*

***Ruling:** After reviewing the approved articles of association of the club regarding the competencies of the board of directors in the absence of any of the holders of leadership positions and pursuant to the provisions of paragraph (26) of Article (36) of the articles of association, it was approved to authorize and assign Mr. Abdulaziz Mutlaq Al-Mutairi (Assistant Treasurer) to carry out all the tasks and competencies of the treasurer to manage the financial affairs of the club and to address the General Sports Authority to approve his signature accompanied by the signature of the Chairman of the Board of Directors until elections are held and a new board of directors is formed.*

****Article Two:** - Reviewing the investigation procedures with Mr. Nasser Bader Muslim Al-Dihani for the facts assigned to him in the memorandum of the Electoral Commission and committing explicit violations of the provisions of the statute, represented in taking actions that would harm the reputation of the members of the Electoral Commission by a statement and a hint, as well as deliberately raising disputes and exceeding the powers of the Secretary-General over the competence of the Chairman of the Board of Directors in his claim.*

Representing the club before third parties without authorization. The Bureau Council also reviewed the procedures for summoning the aforementioned in writing through the postal mission and his failure to attend the investigation session on the specified date.

***Decision** - The memorandum of the Electoral Commission containing the complaint against Mr. Nasser Bader Al-Dihani and the serious violations of the statute attributed to the aforementioned was reviewed. The procedures for summoning the investigation and its results were also reviewed, and his guilt and refusal to attend were proven after notifying him.*

According to the provisions of Article (54) of the statute, it was approved to dismiss Mr. Nasser Bader Muslim Al-Dihani from the membership of the club and notify him of this decision."

23. On 21 January 2024, the First Board ratified the decisions taken by its Executive Office on 27 December 2023 and on 15 January 2024.

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24. On 23 January 2024, a claim was submitted by Mr Mishaal Hijab Al Mutairi, a member of the Club, before the NSAT (registered under reference No 20240123001: the “NSAT Case 2024-1”) against Mr Khaled Chrida, in his capacity as President of the Board, with similar requests for relief as in the NSAT Case 2023-2, as follows:
 - to annul the Handover for lacks of standing of the President due to the end of his mandate on 12 January 2023;
 - to annul all decisions taken by Mr Khaled Chrida, the Board and the Electoral Committee;
 - to declare the nullity of the call of the General Assembly for 15 February 2024, and of all its effects;
 - to declare the nullity of the result of the election for the term 2024-2028.
25. On 12 February 2024, another claim (registered under reference No 20240212001: the “NSAT Case 2024-2”) was filed by the Respondents with the NSAT against a number of individuals, including Mr Khaled Chrida and Mr Nasser, requesting *inter alia* the following:
 - to annul the result of the election declared on 23 January 2024;
 - to hand over the Club to the Mr Nasser, in his capacity as President of the Electoral Committee, to conduct its affairs and complete the procedures for the election of a new Board according to the Club’s Articles of Association (the “Articles of Association”).
26. On 15 February 2024, the General Assembly, in a meeting presided over by the members of the Electoral Committee (chaired by Mr Dabbous Hassan Dassim), noting that only 11 candidates were standing for election to the 11 Board seats, elected “*by acclamation*” a new board for the term 2024-2028 (the “15 February 2024 Election”) composed as follows (the “Third Board”):
 - Khaled Chrida
 - Ali Hassan Hussein Al-Dasam
 - Mutlaq Abdullah Misfar Al-Adwani
 - Abdul Aziz Mutlaq Mohammed Al-Mutairi
 - Asbeih Eid Asbeih Al-Adwani
 - Sultan Khalid Mutlaq Al-Mutairi
 - Dhari Dakhil Eid Al-Mutairi
 - Mishari Jumaan Attallah Al-Mutairi
 - Yusuf Falakh Huwaidi Al-Mutairi
 - Khalid Abdullah Mutlaq Al-Mutairi
 - Mutlaq Bandar Sherida Al-Mutairi.
27. On 4 April 2024, Mr Nasser, in his capacity as President of the Electoral Committee, called a meeting of the General Assembly, to be held on 23 May 2024, to elect a new Board in order to implement the Award of 30 October 2023.

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28. On 7 April 2024, the NSAT rendered an award with respect to the NSAT Case 2023-2 (the “Award of 7 April 2024”), dismissing *inter alia* a challenge to the Handover, to the call of the General Assembly for the 15 February 2024 Election and to its result. In fact, the Award of 7 April 2024 held the following:

“First: To accept the requests of the First to Fourth Claimants in form.

Second: To reject the request of the Fifth Claimant in form due to the lack of his capacity by being removed from the membership records of Al Nasr Sports Club.

Third: Regarding the original arbitration request and the additional requests, the Arbitration Chamber ordered the as follows:

- 1. To cancel the decision issued by Al Nasr Sports Club management, which included suspending the membership of the First to Fourth Claimants and preventing them from entering the club and practicing their activities as working members of the club and all the consequences resulting from that.*
- 2. To reject the Claimants’ request to invalidate the Respondent’s receipt in his capacity as Board Chairman of Al Nasr Sports Club, due to the validity of all receipt procedures, as detailed in the reasons.*
- 3. To reject the Claimants’ request to invalidate the decisions and procedures taken by the club Board prior to 12/1/2023, its Executive Office, and the Electoral Committee, issued by them, based on restoring the situation to its previous before the aforementioned date, as detailed in the reasons.*
- 4. To reject the Claimants’ request to invalidate the call to the regular periodic general assembly to elect members of the Board for the 2024/2028 Session on 15/2/2024, and the invalidity of the decisions and effects resulting from that, due to the validity of the announcement of the call to the general assembly and the effects resulting from that, including the victory of the Respondent - in his capacity - as Board Chairman, as detailed in the reasons.*

Fourth: Arbitration expenses [...]

Fifth: To reject all requests otherwise.”

29. In its reasoning the NSAT considered with respect to the Award of 30 October 2023 that its execution “includes returning ... of the previous board as formed on 12/1/2019 with all its powers”, as confirmed by “the statement of facts issued by the Farwaniya Execution Department of the Ministry of Justice on 27/12/2023, which indicates the full execution of the Award” following the Handover. The NSAT in addition noted that:

“the Articles of Association are devoid of organizing the issue of the continuation of the Boards after the end of the electoral cycle for emergency reasons, and therefore the principle is that the Board remains till this emergency is removed and new elections are held and the club is handed over to the Board that wins. The club Articles of association also implicitly included in its provisions that indicates the continuation of the Board after the end of its electoral cycle for a compelling reason till new elections are held, in addition to the fact that it is customary for the Board that electoral cycle was ended to continue practicing the work of the Board till the next meeting of the general assembly is held, and then the General Assembly approves all decisions, procedures and actions carried out by the old Board by renewing or forming a new Board.

Therefore, the dispute of the Respondents regarding the validity of the club Board procedures prior to 12/01/2023 and the full execution of the Arbitration Award ... dated 30/10/2023 are interpretations that are not based on a valid basis in reality or law, which requires that this request be rejected.”

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30. On 7 April 2024, the NSAT joined the NSAT Case 2024-1 with the NSAT Case 2024-2.
31. On 2 May 2024, a claim was filed before the NSAT by Mr Bandar Rifaa Al Mutairi, a member of the Club, against Mr Nasser, requesting the declaration of the invalidity of all procedures for the calling by Mr Nasser on 4 April 2024 of the General Assembly for the 2024-2028 elections. This procedure was registered under reference No 20240502001 (the “NSAT Case 2024-3”).
32. On 12 May 2024, the Kuwait Court issued a decision in the Court Case (the “Court Decision”), holding as follows:

“First: To accept the entry of the second and third Appellants, Faisal Dakhil Sabah Al Adwani, Dabous Hassan Hussein Al Dasm, as litigants in the first and second appeals.

Second: To accept the joint intervention made by Nasser Badi Al Daihani in the Appeals.

Third: To accept the Appeals in form, and in their subject matter to cancel the appealed judgment and judge again to reject the objection in form for the full execution of the objected award. The first, second and third Appellants were obliged to pay the correction statement in the first appeal with the expenses and in an amount of fifty dinars for attorney fees. They were obliged to pay in an amount of one hundred Kuwaiti dinars for actual attorney fees.”
33. The Court Decision, in the portions regarding the enforcement of the Award of 30 October 2023, reads as follows:

“... the request to continue the execution of the objected judgment in the manner they presented [i.e., by handing the Club over to Mr Nasser] is flawed and differs from the arbitration award, subject matter of the execution, conclusions and wording. The arbitration award did not, explicitly or implicitly, state that the club shall be handed over to Nasser Badr Al Daihani, whether personally or in his capacity as Chairman of the Election Committee designated to manage the club. Instead, the judgment declared the nullification of the El Nasr Sporting Club elections held on 2023/01/12. Especially as the Appellee, Dabous Hassan Hussein Al Dasm, submitted with his documents before the First Instance Court a copy of the resignation letter of the Defendant, Nasser Badr Al Daihani, supervising the elections dated 15/1/2023, i.e. more than ten months before the issuance of the arbitration award, the subject matter of execution, therefore the club may not be handed over to him, whether according to the arbitration award or according to the club’s bylaws. Accordingly, as the situation before 12/1/2023, which required the arbitration award to return the situation to that date according to its wording, is that the management of El Nasr Sporting Club was under the management of a board headed by the Appellant, Khaled Shuraida Al Mutairi. [...]”
34. On 10 June 2024, a petition was filed with the Court of Cassation of Kuwait by Mr Mishari Faihan Al Mutairi (the Eighth Respondent) and by Mr Faisal Dakhil Al Adwani (the Ninth Respondent) to challenge the Court Decision, and requesting (i) the *interim* stay of its execution, and (ii) its setting aside. The proceedings so started are still pending and the Panel has not been informed of any decision on the petition.
35. On 19 June 2024, the NSAT issued a procedural order to join the NSAT Case 2024-3 to the two already joined NSAT Case 2024-1 and NSAT Case 2024-2 (the “Joined Cases”).
36. On 12 August 2024, the NSAT rendered an award in the Joined Cases (the “Appealed Decision”), in which it held that:

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“First: The Arbitration Chamber is not having the jurisdiction to consider any request directed to the Third Respondent, the General Manager of the General Sports Tribunal.

Second: Accepting the arbitration requests in the sports disputes attached No. (20240123001) and No. (20240212001) in form.

Third: Handing over the club to the Respondent, Mr. Nasser Badi Muslim Al Daihani, in his capacity as Electoral Committee Chairman of Al Nasr Sports Club to complete the procedures for implementing the arbitration ruling issued in sports dispute No. (20230118001) by calling for an extraordinary General Assembly for the club and forming a temporary committee to manage the club affairs and calling for the election of a new board for the club according to Article (20) of the articles of associations of Al Nasr Sports Club, and according to the lists of members of the General Assembly of Al Nasr Sports Club approved by the General Sports Tribunal for 2022/2023.

Fourth: The invalidity of handing over of the Respondent, Mr. Khaled Shuraidda Al Mutairi, the club due to the lack of his capacity and interest and the invalidity of the meetings of the Board and the Executive Office and the resulting effects and decisions.

Fifth: Accepting the request to invalidate the General Assembly and all procedures for calling for the 2024/2028 elections on 23/05/2024 and the resulting decisions for non-compliance with the procedures stipulated in Article (20).

Sixth: Charging each party with its fees and expenses.

Seventh: Rejecting all other requests and plea.”

37. In support of the Appealed Decision the NSAT:

- a. ruled, with respect to *“the validity of the Respondent Mr. Khaled Shuraidda Al Mutairi’s hand over of the club and the validity of the meetings of the Board and the Executive Office”*, as challenged in NSAT 2024-2, that Mr Nasser remained the head of the Electoral Committee, as his resignation of 15 January 2023 was invalid because it did not comply with the Articles of Association. Since the 12 January 2023 Election, along with all resulting decisions and effects, had been declared void, the situation was restored to its status before that date, meaning that the First Board, which had already completed its 4-year term, was no longer in power. As a result, Mr Khaled Chrida’s election as President was invalid, and he did not hold that position. Furthermore, since his receipt of office was unlawful, all subsequent meetings of the Board and the Executive Office were also null and void;
- b. with respect to *“the validity of the call for elections for the Board of Al Nasr Sports Club for the 2024/2028 Session”*, as challenged in NSAT 2024-3:
 - a. underlined in general terms that:
 - Article 20 of the Articles of Association outlines the procedures for dissolving the Board, revoking the membership of most or all Board members, or accepting their resignation. In such cases, the Electoral Committee must call an extraordinary General Assembly following the established procedures. During this meeting, a temporary 5-member committee (the “Special Committee”) is formed to assume the Board’s powers, excluding any members of the dissolved or resigned Board. This committee must then organize an ordinary General Assembly to elect a new Board within 90 days, ensuring the elected Board serves at least six months. The former Board

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members affected by dissolution or resignation are barred from running in these elections;

- Article 16 stipulates that the General Assembly meets every four years to elect new Board members and address other matters within its jurisdiction. The Electoral Committee must announce the meeting at least 45 days in advance in a local newspaper for 3 consecutive days, adhering to Articles 14 and 15 of the Articles of Association;
- b. found with regard to the application of those rules to the specific case that:
- Mr Nasser's resignation was invalid, meaning he remained the Chairman of the Electoral Committee and had the authority to call the General Assembly to elect a new Board;
 - however, the procedures he followed did not comply with Article 20 of the Articles of Association, as the situation was more akin to the dissolution or dismissal of a Board, rather than to a routine call of the General Assembly;
 - consequently, his direct call of 4 April 2024 for elections violated the Articles of Association. In fact, Mr Nasser had to convene the Electoral Committee to carry out its duties under Article 20. If the Electoral Committee members failed to respond, he was entitled to individually call for an extraordinary General Assembly to appoint a Special Committee with Board powers. This Special Committee would then organize an ordinary General Assembly to elect a new Board within 90 days pursuant to Article 18 of the Articles of Association.

III. PROCEEDING BEFORE THE COURT OF ARBITRATION FOR SPORT

38. On 29 August 2024, the Club filed with the Court of Arbitration for Sport ("CAS") a Statement of Appeal in accordance with Article R47 of the Code of Sports-related Arbitration (the "CAS Code") to challenge the Appealed Decision. In its Statement of Appeal, the Appellant nominated Mr Pierre Muller, former Judge in Lausanne, Switzerland, as an arbitrator.
39. On 3 September 2023, the CAS Court Office informed NSAT that an appeal had been lodged against the Appealed Decision, but that the appeal was not directed against the NSAT. As a result, the CAS Court Office informed the NSAT that, in the event it intended to participate in the proceeding, it had to file an application to that effect, pursuant to Article R41.3 of the CAS Code.
40. On 12 September 2024, the counsel for the First Respondent, the Third Respondent, the Fifth Respondent and the Ninth Respondent, "*despite not representing all the Respondents, and still engaging the necessary contacts to comply*", proceeded with the nomination of Mr James Drake KC, Barrister in London, United Kingdom, as an arbitrator.
41. On 12 September 2024, the NSAT notified the CAS Court that it did not wish to participate in the arbitration and provided some documents concerning the Appealed Decision.
42. On 17 September 2024, the CAS Court Office, noting the nomination of Mr Drake as an

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arbitrator by the First Respondent, the Third Respondent, the Fifth Respondent and the Ninth Respondent, invited the remaining Respondents to confirm that they agreed with such nomination.

43. On 17 December 2024, the counsel for the First Respondent, the Third Respondent, the Fifth Respondent and the Ninth Respondent provided the CAS Court Office with a power of attorney granted him by all Respondents and confirmed the nomination of Mr Drake as an arbitrator.
44. On the same 17 December 2024, the CAS Court Office noted that, as a result, all Respondents were represented by the same counsel.
45. On 18 December 2024, the counsel for the Respondents requested to be provided with certified English translation of the documents provided by the NSAT in its correspondence of 12 September 2024.
46. On 19 September 2024, the CAS Court Office replied to the Respondents' letter of 18 September 2024, stating, *inter alia*, that:
 - i. the decision titled "*Arbitral Award 0123+0212+0502*" was already attached to the Statement of Appeal, with an English translation provided by the Appellant. If the Respondents disputed its accuracy, they had to provide their own translation, and the Panel would decide which of the diverging translations prevails;
 - ii. no appeal had been filed against the "*First Correction Award*", and therefore the Appellant had not submitted it;
 - iii. the CAS request to the NSAT for an unmarked copy of the Appealed Decision was solely to verify the Appeal's timeliness, which appeared *prima facie* to be satisfied;
 - iv. CAS and NSAT are not responsible for translations.
47. On 19 September 2024, the CAS Court Office informed the Appellant that Mr Pierre Muller had not accepted his nomination, and invited it to nominate a new arbitrator from the CAS List.
48. On 24 September 2024, the Appellant nominated Mr Manfred Peter Nan, Attorney-at-Law in Amsterdam, the Netherlands, as an arbitrator.
49. On 25 September 2024, the Respondents requested, pursuant to Article R55 of the CAS Code, that the deadline for their Answer be set aside pending the Appellant's payment of its share of the advance of costs.
50. On 5 October 2024, the Appellant filed its Appeal Brief with the CAS Court Office, in accordance with Article R51 of the CAS Code.
51. On 10 October 2024, the CAS Court Office informed the Parties that the Appellant had paid the advance of costs for the arbitration, and accordingly reset the deadline for the Respondents' Answer.
52. On 28 October 2024, the Respondents requested an extension of 20 days to file their Answer.

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53. On 29 October 2024, the CAS Court Office granted the Respondents an extension of 10 days pursuant to Article R32 of the CAS Code, and invited the Appellant to comment on the Respondents' request for a further 10 day extension.
54. On 4 November 2024, the Respondents filed their Answer pursuant to Article R55 of the CAS Code.
55. On 12 November 2024, in accordance with Article R54 of the CAS Code, and on behalf of the Deputy President of the CAS Appeals Arbitration Division, the CAS Court Office informed the Parties that the Panel appointed to decide the present matter was constituted as follows:

President: Prof Luigi Fumagalli, Professor and Attorney-at-Law in Milano, Italy;
Arbitrators: Mr Manfred Peter Nan, Attorney-at-Law in Amsterdam, The Netherlands; and
Mr James Drake KC, Barrister in London, United Kingdom.
56. On 13 November 2024, the Respondents transmitted to the CAS Court Office as a new document, discovered only after the Appealed Decision had been rendered, a decision issued on 5 November 2024 by the Court of First Instance of Kuwait (Case No 60/2024), described as invalidating Mr Khaled Chrida's capacity as President of the Board. The Respondents indicated that this document was important for a proper decision in the present case, as evidence to prove the factual background and support the legal grounds of their Answer.
57. On 15 November 2024, the CAS Court Office invited the Appellant to comment on the admissibility and the content of the document submitted by the Respondents.
58. On 18 November 2024, the Appellant requested an extension of 10 days to provide its comment on the document submitted by the Respondents. At the same time, the Appellant requested that a hearing be held in this case.
59. On 20 November 2024, the CAS Court Office informed the Parties that the Panel had decided to hold a case management conference (CMC) in the present case, either on 2 or 4 December 2024, and that they were invited to confirm their availability on these dates.
60. On 21 November 2024, the Respondents stated that they wished a hearing to be held and confirmed their availability either on 2 or 4 December 2024 for the CMC.
61. On 22 November 2024, the Appellant confirmed its availability to attend the CMC on 2 December 2024, and, in a letter to the CAS Court Office, wrote the following:

"We take note of the document sent by the respondent's counsel.

That document is not relevant and has no effect of the determination of the quality of the president of the club.

The judgement provided by the respond was based on the challenged award rendered by the Kuwaiti National Sports Arbitration Tribunal (Kuwait) on 12 August 2024 which invalidated the general assembly of 23/05/2024.

The award of the Kuwaiti National Sports Arbitration Tribunal is still challenged under this procedure before CAS and hence still not binding.

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More precisely, the judgment provided by the respondent's counsel is based on the decision subject to our appeal against the award of 12 August 2024 which invalidated the general meeting.

Consequently, and as long as the said arbitral award is the subject of this appeal, the status of the president remains existing."

62. On 22 November 2024, the CAS Court Office confirmed that the CMC would take place on 2 December 2024.
63. On 2 December 2024, a CMC was held with the participation of the Panel and the Parties' counsel. On that occasion, some organizational matters with regard to the conduct of the arbitration were discussed.
64. On 3 December 2024, the CAS Court Office informed the Parties on behalf of the Panel of the following:

"As discussed during the CMC yesterday, the Parties will find enclosed an Excel chart, which they are requested to fill in according to the instructions of the Panel. The Parties are required to return the jointly agreed, consolidated chart by 13 December 2024.

Within the same deadline, the Parties are required to inform whether they would be available for a hearing on the following dates: 31 January 2025, 4 or 5 February 2025. In principle, the hearing shall take place in person, subject to later confirmation. However, the Parties shall have the opportunity to express their position on the format of the hearing (without prejudice to the Panel's final decision in this respect) and are, in any event, requested to indicate, approximately, how many attendees will participate in the hearing."

65. On 2 December 2024, the Appellant, in a letter to the CAS Court Office, wrote what follows:

"Unfortunately, we discovered that two respondents are not called in the present procedure namely:

- *Mishal Hijab AL MUTAIRI, claimant in the procedure NSAT number 20240123001 [defined in the present Award as the NSAT Case 2024-1: note of the Panel].*
- *Bandar Rifaa AL MUTAIRI, claimant in the procedure NSAT number 20240502001 [defined in the present Award as the NSAT Case 2024-3: note of the Panel] (not directed against AL NASR Club).*

Due to the complexity of the case and the multiplicity of the parties especially with the consolidation of three procedures, we didn't take care of adding all parties.

We kindly ask the honourable panel if it is possible to add the missing parties or at least to continue with the case without their presence in the procedure."

66. On 10 December 2024, the CAS Court Office invited the Respondents to comment on the correspondence submitted by the Appellant and requested the Respondents' counsel to confirm he still represents all Respondents.
67. On 13 December 2024, the Respondents' counsel in a letter to the CAS Court Office confirmed that he represented all Respondents and indicated that:
 - a. under Article R48 of the Code, the Appellant is required to properly name and provide the full details of all Respondents. However, two possible Respondents, Mr Mishal Hijab Al Mutairi and Mr Bandar Rifaa Al Mutairi, were not included in the present procedure;

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- b. at this stage, it is not possible to add new parties to the proceedings under Article R41.2 of the Code;
- c. since Mr Mishal Hijab Al Mutairi and Mr Bandar Rifaa Al Mutairi were the only parties involved in their respective NSAT cases (NSAT Case 2024-1 and NSAT Case 2024-3) against the Appellant, the resulting decisions are final and binding, and cannot be reconsidered by the Panel. The effects of these decisions must be taken into account in the present case and the claim against all Respondents must be rejected.

68. On 13 December 2024, the Respondents sent an email to the CAS Court Office as follows:

“1- The parties on dispute reached to a jointly agreed Excel Chart that is promptly provided to the Court, as attached document. (Document 1)

2- The Respondent’s wish to highlight that despite such document, it’s not dispensed what was mentioned in the par. 136° to 153° from the Answer on this matter.

3- The Respondent’s also inform that his Lawyer will only be available for the Hearing on 31 January 2025, since on 4 February 2025 and 5 February 2025 already have scheduled other hearings, as per the attachment.”

69. On 16 December 2024, the Appellant’s counsel in an email to the CAS Court Office, wrote the following:

“[...] we prefer that the hearing will be held by video conference for more flexibility from our side but in case that the panel will decide to hold the hearing in person, I will inform you about my availability to attend in person before 10 days from the fixed date.

Additionally, we draw your kind attention that the transfer window will end on 31 January 2025 and we need at least 10 days to prepare the hearing in a good conditions especially with the complexity of the case which necessitates a deep update.

Therefore, we kindly request that the hearing will be fixed between 10 and 14 February 2025 and if not possible the date of 5 February 2025 will be better than the other proposed dates.”

70. On 16 December 2024, the CAS Court Office invited the Parties to provide the approximate number of participants at the hearing.

71. On 17 December 2024, the CAS Court Office received a statement signed by Mr Mishal Hijab Al Mutairi (i.e., one of the individuals mentioned in the Appellant’s letter of 2 December 2024) as follows:

“I, the undersigned Mishaal Hijab Atallah Al Mutairi – Member of the General Assembly of Al-Nasr Sports Club [...] declare by virtue of this declaration – that I no longer have any interest in the electoral dispute subject to arbitration decision No. (20240123001) issued by the National Sports Arbitration Authority in the State of Kuwait, which is the subject of an appeal before the CAS – in case No. 10836/4/2024 CAS, and I also request by virtue of this letter from the International Court of Arbitration for Sports CAS to remove my name from the parties to the dispute and I have no intention of continuing the dispute.”

72. On 17 December 2024, the CAS Court Office invited the Parties to comment on the statement of Mr Mishal Hijab Al Mutairi.

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73. On 18 December 2024, the Respondents' counsel provided the information regarding the persons who would attend the hearing and with respect to the statement signed by Mr Mishal Hijab Al Mutairi stated that:

"[...] since he is not a party, any statement related to the present procedure shall be considered irrelevant.

Such statement doesn't prejudice the merits on dispute.

Indeed, what shall be considered is that decision NSAT 20240123001, in which Mishal Hijab Al Mutairi was a party, was favorable for the Respondents, and in accordance with the Answer already provided by them in the present proceeding. [...]"

74. On 18 December 2024, the Appellant, in a letter to the CAS Court Office wrote the following:

- a. with regard to "Mr. Hijab AL MUTAIRI claimant in the procedure NSAT number 20240123001" (i.e., the NSAT Case 2024-1): Mr Mishaal Hijab Atallah Al Mutairi officially renounced to his right to participate in the present CAS proceedings and explicitly stated that he no longer has any interest in the electoral dispute underlying the Appealed Decision. By doing so, Mr Hijab Al Mutairi waived his right to be heard and to defend his position as respondent, meaning that any decision issued by CAS in this case will have no effect on him. CAS jurisprudence confirms that an appeal should be dismissed only if the decision impacts a third party not included in the proceedings. In addition, a party has standing to be sued before CAS only if it has a direct stake in the dispute, which is not the case here, due to Mr Hijab Al Mutairi's explicit waiver;
- b. with regard to "Bandar Rifaa AL MUTAIRI, claimant in the procedure NSAT number 20240502001 (not directed against AL NASR Club)" (i.e., the NSAT Case 2024-3): Mr Bandar Rifaa Al Mutairi filed an arbitration claim against Mr Nasser, not against the Club or Mr Khaled Chrída. This dispute is separate from the NSAT Case 2024-1 and the NSAT Case 2024-2, which were directed against the Club and Mr Khaled Chrída. Since Mr Al Mutairi's claim was not against the Club, there was no reason for him to be involved in the present appeal. If necessary, he could request to intervene, but he was not originally a party to this procedure. The appeal was filed in fact by Mr Khaled Chrída, as president of the Club, against the same respondents as in the NSAT proceedings leading to the Appealed Decision. However, Mr Nasser, the respondent in the NSAT Case 2024-3, did not appeal the Appealed Decision or call Mr Bandar Rifaa Al Mutairi as a respondent before CAS. Moreover, the NSAT's decision to consolidate the NSAT Case 2024-3 with the other two cases was contested because the parties involved were different. In fact, while the NSAT Case 2024-1 and the NSAT Case 2024-2 had the Club as the main respondents, the NSAT Case 2024-3 only involved Mr Nasser. Additionally, the Club was never requested to respond to the NSAT Case 2024-3 and did not receive the case file. The procedural history confirms that the Club was only invited to respond to NSAT Case 2024-2, not to Mr Al Mutairi's claim. Given these circumstances, the NSAT's decision to consolidate the cases failed to consider the distinct nature of each dispute;
- c. in conclusion:

"it is clearly established that the absence of Mr. Hijab AL MUTAIRI and Bandar Rifaa AL MUTAIRI in the present procedure has no effect on the admissibility of the procedure and especially on the substance of the future award which may contradict the contested decision and

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therefore no res-judicata effect exist with regard to the two persons for the following reasons:

- *Mr. Hijab AL MUTAIRI clearly expressed that he has no interest in this dispute and expressly requested to not be part of the dispute.*
- *Mr Bandar Rifaa AL MUTAIRI never cited in his claim AL NASR Club which was not a party in his initial request and cannot benefit from any effect with regard to Al NASR club. However, if the panel allows it, a joinder or intervention on the basis of article 41/2-3-4 may be initiated in order to participate Bandar Rifaa AL MUTAIRI in this procedure.”*

75. On 19 December 2024, the Appellant’s counsel informed the CAS Court Office that “*during the hearing, only the club’s chairman will be present [...]*”.
76. On 7 January 2025, the CAS Court Office informed the Parties that, following discussion with Counsel for the Parties, the hearing in the matter would be held on 20 February 2025 in Dubai, United Arab Emirates. Furthermore, the Parties were invited to provide, no later than 14 January 2025, the names of all individuals who would be attending the hearing and to submit a tentative hearing schedule by 28 January 2025.
77. On 10 January 2025, the Respondents provided the list of persons attending the hearing and on 20 January submitted a tentative hearing schedule.
78. On 21 January 2025, the CAS Court Office invited the Appellant to provide any comments by 24 January 2025 on the tentative hearing schedule and informed the Parties that the issue of the missing respondents might be addressed at the hearing.
79. On 21 January 2025, the Appellant informed the CAS Court Office that it had no objections to the tentative hearing scheduled. At the same time, it noted that Mr Khaled Chrida would attend the hearing only by videoconference due to special medical circumstances that prevent him from flying to Dubai.
80. On 22 January 2025, the CAS Court Office acknowledging the receipt of the Appellant’s email requested to provide supporting evidence in relation to the special medical circumstances for the CAS Court Office and the Panel’s perusal.
81. On 3 February 2025, the CAS Court Office issued an order of procedure (the “Order of Procedure”) on behalf of the President of the Panel and invited the Parties to return a signed copy of it, which the Appellant did on 4 February 2025 and the Respondents on 5 February 2025.
82. On 18 February 2025, the Appellant in a letter to the CAS Court Office requested to be authorized by the Panel, pursuant to Article R56 of the CAS Code, to produce new “*relevant*” documents, “*collected from the club recently*”, intended to clarify “*some facts newly raised by the respondents in their answer*” as follows:
 - “• *Regarding the fact that Mr. Nasser AL DAIHANI has been recognized by the executive department of justice as a chairman of electoral committee:*
We hereby attach a letter from the executive department to Mr. Dabbous DASSIM in his capacity of chairman of the electoral committee sent on 27 December 2023 to remedy with the incorrect similar letter given to NASSER AL DAIHANI sent previously on 26 December 2023.

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- *Regarding the cancellation of the membership of Dakhil AL ADWANI*
We hereby attach the board decision to cancel the membership of many members including Dakhil AL ADWANI for failure to pay their membership fees.
- *Regarding the procedure of cancellation of the membership of Nasser AL DAIHANI:*
We attach the invitation sent to NASSER AL DAIHANI to attend the board meeting of 15/01/2024 to defend himself, the decision to withdraw his membership ... and its postal notification.
- *Regarding the false accusation for lack of calling many board's members to assist the meeting of handover made on 26 December 2023*
... we hereby attach the proof of sending the invitations by registered letter to all absent members
...
 - *Ali Hussein AL Mutairi*
 - *Fawaz AL Mutairi*
 - *Amash AL Daihani*
 - *Radan Al Daihani*
 - *Abdallah Al Mutairi*
 - *Fahd Mutairi*".

83. On 19 February 2025, the Respondents disputed the admissibility of the late production of documents by the Appellant, requesting their exclusion from the file. At the same time, the Appellant disputed the authenticity of the documents submitted, and indicated that "*all the alleged notifications are invalid, and [that] they were never sent nor received by the recipients*".
84. On 20 February 2025, the hearing in this case was held in Dubai, United Arab Emirates. The Panel was assisted by Mr Giovanni Maria Fares, CAS Counsel. The Panel was joined at the hearing by:
- i. for the Appellant: Mr Ali Abbes, counsel, Mr Mohamed Rokbani, co-counsel, and Mr Khaled Chrída (by video);
 - ii. for the Respondents: Mr Pedro Macieirinha, counsel, Mr Victor Fernandes, co-counsel, Mr Mutlaq Al Jadei, co-counsel, Mr Fawaz Falah Al Mutairi, Mr Ali Hussein Al Mutairi, Mr Dakhil Sabah Al Adwani and Mr Nasser.
85. At the hearing, as a preliminary matter, the Parties confirmed that they had no objection to the appointment of the Panel.
86. The Panel then heard declarations of Mr Khaled Chrída, Mr Nasser, Mr Fawaz Falah Al Mutairi (*i.e.*, the Third Respondent), Mr Ali Hussein Al Mutairi (*i.e.*, the Fifth Respondent) and Mr Dakhil Sabah Al Adwani (*i.e.*, the Tenth Respondent). In that context, the Third, the Fifth and the Tenth Respondents denied having ever been invited to the meeting they were entitled to attend at the time the Handover was effected.
87. The Parties, then, made submissions by counsel with respect to their respective cases.
88. At the end of the hearing, the Parties confirmed having no objection regarding the conduct of the proceeding and that their right to be heard had been respected.

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89. On 2 March 2025, the Appellant transmitted to the CAS Court Office some new documents and a note explaining them.
90. On 10 March 2025, the Respondents objected to the admissibility of the Appellant's production of documents.
91. On 11 March 2025, the CAS Court Office informed the Parties that the Panel would rule on the admissibility of the filing in the Arbitral Award.

IV. THE PARTIES' SUBMISSIONS

92. The following summary of the Parties' positions is illustrative only and does not necessarily comprise each and every contention put forward by the Parties. The Panel, however, has carefully considered all the submissions made by the Parties, even if no explicit reference is made in what immediately follows.

A. The Appellant

93. In its Statement of Appeal, the Appellant requested the Panel to:
 - “• *Admit the appeal against the decision of the Kuwaiti National Sports Arbitration Tribunal (Kuwait) dated on 12 August 2023 under reference:*
20240122001/20240123001/20240212001/20240502001
 - *Annul the award taken by NSAT in its entirety.*
 - *The respondent shall bear all expenses and costs.*
 - *The respondent should pay 10000 CHF as a contribution to lawyers' fees.”*
94. In the Appeal Brief, the Appellant modified its requests for relief as follows, asking the Panel to decide as follows:
 - “a. *Mainly to Annul in full the challenged Decision passed by The Kuwaiti Sports Arbitration Tribunal number 20240122001/20240123001/20240502001 of August 12, 2024 due to infringement of res judicata principle.*
 - b. *Alternatively, to annul in full the challenged decision due to the validity of the handover made from the annulled board represented by his president Mr. Khaled Chrída to the existing board before the election represented also by Mr. Khaled Chrída and all future decisions and procedure especially the call and the result of the general assembly of February 15, 2023.*
 - c. *Order the Respondents, to bear in full the procedural costs of these arbitration proceedings as well as a contribution of the legal fees, costs and expenses borne by the Appellant, in relation to this Appeal in an amount in an amount to be determined at the discretion of the Panel.*
 - d. *Grant any other relief or orders it deems reasonable and fit to the case at stake.”*
95. In its submissions, the Appellant first describes the facts it indicates to be relevant, with respect to the election of the Board in 2019 and in 2023, the Court Case, the various proceedings before the NSAT and the events giving rise to the present dispute. In that regard, the Appellant underlines *inter alia* that:

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- i. in January 2019, the First Board was elected, consisting of 11 members led by Mr Khaled Chrída. Later, in July 2022, the Kuwaiti Public Authority for Sport issued a circular setting new election rules for sports clubs, leading to the 12 January 2023 Election. On that occasion the Second Board was elected, again with Mr Khaled Chrída as President. Shortly after, some disputes arose;
 - ii. several members challenged the validity of the elections before the NSAT, citing procedural irregularities. On 30 October 2023, the NSAT issued the Award of 30 October 2023, declaring the 12 January 2023 Election invalid and reinstating the First Board. However, disagreements persisted, leading to further legal battles. Some members argued that Mr Khaled Chrída's mandate had expired, making his decisions, including the Handover, and subsequent call for elections in February 2024, null and void;
 - iii. despite the legal challenges, the elections for the 2024-2028 term took place on 15 February 2024, with a Third Board elected. More disputes followed, with various claims before the NSAT challenging the Handover, the General Assembly, and the legitimacy of the newly elected Third Board. On 7 April 2024, the NSAT issued the NSAT Decision 2024-1, affirming the validity of the election of 15 February 2024 and rejecting the challenges;
 - iv. parallel to these cases, the matter reached the Kuwaiti Court, which upheld the validity of the Handover, the General Assembly, and the Third Board. Subsequent claims continued to be filed, and on 21 August 2024, the NSAT, after joining multiple disputes into a single case, issued the Appealed Decision.
96. The Appellant's submissions as to the legal aspects of the dispute can be summarized as follows:
- i. the NSAT Rules of Procedure, and additionally the Kuwaiti and the Swiss laws apply to the present dispute;
 - ii. the admissibility of the appeal against the Appealed Decision is not affected by the omission to name as respondents two individuals (Mr Mishal Hijab Al Mutairi and Mr Bandar Rifaa Al Mutairi) who were parties to the Joined Cases (§ 74 above);
 - iii. as to "*the appealed award shall be annulled in accordance with res-judicata principle*". Under Swiss law, for the *res judicata* exception to apply and render a new claim inadmissible before a court or arbitral tribunal, two key conditions must be met: (1) identity of the parties – the same parties must be involved in both proceedings; and (2) identity of the subject matter – the dispute must relate to the same facts and legal rights as those previously resolved. If these conditions are met, a court or tribunal may raise the *res judicata* exception either upon request by a party or *ex officio*, preventing re-litigation of an already settled dispute. In this case, the effect of *res judicata* applies because (a) of the identity of the subject matter of the dispute, (b) the requests for relief are not new, (c) the disputed points were definitely decided, and (d) all procedures were initiated by the Club's members:
 - a. all procedures initiated before the NSAT and the Kuwait Court concern the same facts and subject matter, particularly regarding the Handover and its effects (including the General Assembly of 15 February 2024 and the election of the Third Board). According to the jurisprudence of the Swiss Federal Tribunal ("SFT"), *res*

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judicata applies to all facts existing at the time of the first judgment, regardless of whether they were known, stated, or used as evidence (SFT, 27 May 2014, 4A_508/2013);

- b. the Joined Cases before the NSAT had the same scope as the previously decided NSAT Case 2023-2. Additionally, one of the requests for relief (the invalidity of the Handover executed by Mr Khaled Chrída) is identical to the issue raised in the ordinary court case (the Court Case). Therefore, the scope and subject matter of the NSAT proceedings regarding the Joined Cases are the same as those of the previous cases before both the NSAT and the ordinary court;
 - c. all issues and requests for relief in dispute have already been definitively decided by the NSAT and the ordinary court of Kuwait, thereby having *res judicata* effect;
 - d. the dispute concerns the electoral process of a sports club, comparable to parliamentary or presidential elections, where a large number of members have voting rights. It is unacceptable for small groups of members to repeatedly contest the validity of the elections once a decision has been made, as this would lead to contradictory rulings. *Res judicata* applies to claimants based on their status as club members, not their individual identities. Since the claimants in the current proceedings are also club members, they cannot re-litigate matters already definitively decided by the NSAT or the ordinary courts. Swiss law and CAS jurisprudence confirm that once a matter has been adjudicated by a competent body, it cannot be re-examined in subsequent proceedings. The NSAT ignored the issue of *res judicata* and failed to address them in its reasoning. Consequently, the claims in the Joined Cases are inadmissible, as they concern issues already ruled upon in the NSAT Case 2023-2 and by the Kuwait Court;
- iv. regarding the merits of the case, the remaining issues before the Panel should be determined as follows:
- a. “*As to the validity of the club’s handover made on December 27, 2023*”, the Panel should consider the following circumstances:
 - on 12 January 2019, the First Board was elected for a four-year term, consisting of 11 members led by Mr Khaled Chrída. At the end of this mandate, a new election was held on 12 January 2023, resulting in the Second Board, led, once again, by Mr Khaled Chrída. However, a claim was submitted to NSAT, seeking to annul the election;
 - on 30 October 2023, the Award of 30 October 2023 was issued, declaring the 12 January 2023 Elections invalid and reinstating the First Board. As a result, Mr Khaled Chrída, having been president of both the annulled and reinstated Boards, maintained his authority to represent the Club and execute the decision. The Articles of Association contained no provisions regarding the handover process following an annulled election;
 - on 27 December 2023, the transition was completed between the annulled Second Board and the reinstated First Board, both led by Mr Khaled Chrída. The argument that the First Board could not manage the Club due to the expiration of its term was deemed baseless, as the principle of continuity of public service applies, ensuring governance even if elections are delayed. It was therefore incorrect to annul the Handover and appoint Mr Nasser to

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organize an extraordinary general assembly to form a Special Committee. The General Assembly of 15 February 2024 was held in full compliance with the Articles of Association, as confirmed by the Award of 7 April 2024;

- b. “As to the quality of Nasser Daihani”, Mr Nasser cannot claim the position of chairman of the Electoral Committee, as he resigned on 15 January 2023, and his resignation was accepted by the Club’s General Assembly on 7 April 2023. A new chairman, Mr Dabbous Hassan Dassim, was appointed, and another member was elected to replace Mr Nasser. His resignation, submitted 10 months before the Award of 30 October 2023, was never contested or appealed before NSAT or any other authority, making it final and binding. This conclusion was also confirmed by the Court Decision regarding the enforcement of the Award of 30 October 2023.

B. The Respondents

97. In their Answer, the Respondents submitted the following prayers for relief, requesting that:

“The Appeal shall be rejected and dismissed as unfounded and unproven;

The CAS shall maintain the appealed decision in full as it ruled to:

Second: Accepting the arbitration requests in the sports disputes attached No. (20240123001) and No. (20240212001) in form.

Third: Handing over the club to the Respondent, Mr. Nasser Badr Muslim Al Daihani, in his capacity as Electoral Committee Chairman of Al Nasr Sports Club to complete the procedures for implementing the arbitration ruling issued in sports dispute No. (202301 18001) by calling for an extraordinary General Assembly for the club and forming a temporary committee to manage the club affairs and calling for the election of a new board for the club according to Article (20) of the articles of associations of Al Nasr Sports Club, and according to the lists of members of the General Assembly of Al Nasr Sports Club approved by the General Sports Tribunal for 2022/2023.

Fourth: The invalidity of handing over of the Respondent, Mr. Khaled Shuraida Al Mutairi, the club due to the lack of his capacity and interest and the invalidity of the meetings of the Board and the Executive Office and the resulting effects and decisions.

Fifth: Accepting the request to invalidate the General Assembly and all procedures for calling for the 2024/2028 elections on 23/05/2024 and the resulting decisions for non-compliance with the procedures stipulated in Article (20).

Seventh: Rejecting all other requests and plea.

The Appellant shall be condemned to pay towards the Respondents an amount no less than 5.000 CHF as expense with legal consultancy for the present matter.”

98. In essence, the Respondents request the Panel to dismiss the appeal as unfounded and uphold the Appealed Decision, confirming that the Club must be handed over to Mr Nasser for him to organize an Extraordinary General Assembly and new elections. According to the Respondents, the Handover to Mr Khaled Chrida was invalid, making all subsequent (*i.e.*, the Sixth Respondent) Board meetings and decisions under his leadership, including the 15 February 2024 Election, also invalid.
99. In support of their requests, the Respondents submit *inter alia* the following:

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- i. the failure of the Appellant to name Mr Mishal Hijab Al Mutairi and Mr Bandar Rifaa Al Mutairi as respondents to the CAS, even though they were parties to the Joined Cases rendered the Appealed Decision final in their respect, leading to the dismissal of the appeal in its entirety;
- ii. as to the “*res-judicata principle*”:
 - a. in general terms, the concept of *res judicata* prevents a party from bringing a new claim against the same counterparty on a matter already decided in prior litigation. This principle applies not only to judicial decisions, but also to arbitral awards, including those in the context of sports disputes:
 - in common law jurisdictions, *res judicata* is divided into two categories: “claim preclusion” (*res judicata*), preventing re-litigation of the same claim between the same parties; and “issue preclusion” (collateral estoppel), preventing re-litigation of specific issues already decided;
 - the application of *res judicata* is generally more restrictive in civil law systems. In fact, civil law jurisdictions (including Switzerland) do not recognize “issue preclusion”, focusing instead on “claim preclusion”. Under Swiss law, *res judicata* applies strictly to the operative part of a judgment, not to any *obiter dictum*. However, certain parts of the reasoning may be relevant for interpreting the judgment’s effects. The Swiss doctrine sees *res judicata* as a general legal principle that ensures the finality of judgments and avoids contradictory decisions within the same legal system, as such contradictions would violate public policy. For *res judicata* to apply, two conditions must be met:
 1. identity of claims: the claim in the second proceeding must be identical to the one in the previous judgment. This identity is determined based on the substance of the claim rather than the legal arguments presented; and
 2. identity of parties: the same parties (or their legal successors) must be involved in both proceedings;
 - in sports-related disputes, decisions are often issued by the judicial bodies of sports federations, with a potential appeal to the CAS. However, federations’ judicial bodies are generally not considered arbitral institutions, and their decisions are viewed as resolutions of private associations rather than arbitral awards. The CAS must assess whether *res judicata* applies, particularly when a case has already been adjudicated by a prior tribunal. A crucial aspect is that *res judicata* applies only when a decision is final, meaning there are no further legal remedies available. If an appeal is still possible (e.g., from a national body to CAS), *res judicata* does not yet apply. This principle aligns with procedural public policy, which ensures fundamental legal principles are upheld. A breach of procedural public policy, such as a violation of the right to be heard, may allow a tribunal to reconsider a matter even if a previous judgment exists;
 - the SFT has emphasized that *res judicata* requires a strict identity of claims and parties. Unlike other jurisdictions, Swiss, German and Austrian law do

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- not extend *res judicata* to legal arguments discussed in the first proceeding, focusing instead on the factual basis of the dispute. The identity of claims is understood in substantive terms rather than from a grammatical perspective, meaning the focus is on whether the core issue has already been resolved;
- in arbitration, only final arbitral awards rendered by true arbitral tribunals have *res judicata* effect. In sports disputes, the SFT has not given a definitive answer on whether judicial bodies of federations qualify as arbitral tribunals, leaving the assessment to CAS on a case-by-case basis. However, if a foreign State court has issued a decision, its *res judicata* effect in CAS proceedings depends on whether the parties and claims are the same and whether the foreign decision can be recognized under Swiss law;
- b. lack of identity of the subjected matter: by comparing the facts and the reasons underlying the Award of 7 April 2024 with the Appealed Decision it is clear that “*there isn’t an identity of the subject matters in all the abovementioned proceedings*”;
 - c. lack of identity of the requests for relief: by comparing the requests submitted by the parties in NSAT Case 2023-2, in the Joined Cases and in the Court Case it is clear that “*there isn’t an identity of the requests in all the abovementioned proceedings*”. Furthermore, Mr Meshari Faihan Sahmi Faihan Al-Mutairi (*i.e.*, the Eighth Respondent) and Mr Faisal Dakhil Sabah Al-Adwani (*i.e.*, the Ninth Respondent) filed a Statement of Cassation, appealing the Court Decision, which is therefore neither final nor binding between the Parties in the present case;
 - d. lack of identity of the parties: by comparing the parties involved in NSAT Case 2023-2 and in the Joined Cases it is clear that “*there isn’t an identity of the parties in all the abovementioned proceedings*”;
 - e. lack of identity of the decisions: by comparing the Award of 7 April 2024, delivered on 7 April 2024, with the Appealed Decision, issued on 12 August 2024 it is clear that “*there isn’t an identity of the decisions in all the abovementioned proceedings*”;
- iii. as to “*the Club’s handover made on December 27, 2023*”:
 - a. the NSAT ruled in the Award of 30 October 2023 that the 12 January 2023 Election and its consequences were invalid. Mr Khaled Chrida later acknowledged that all actions taken by the Second Board have no legal effect. Since the First Board’s term (2019-2023) had expired, its return is also illegitimate. The Club’s regulations establish that Board terms last 4 years, and in such cases, the Electoral Committee, led by Mr Nasser, was responsible for implementing the ruling. The Articles of Association require the Electoral Committee to call an Extraordinary General Assembly to form a Special Committee until a new Board is elected. Consequently, all actions of the Second Board are invalid, including the meetings held on 25 and 26 December 2023, as well as the Handover by Mr Khaled Chrida, who lacked legal capacity as President;
 - b. even if the procedures from the beginning were considered valid, all Board and Executive Office meetings were held without properly notifying or inviting all members. This constitutes a serious violation of the Club’s Articles of Association, particularly of Article 40, which assigns the Secretary-General the responsibility of

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issuing meeting invitations;

- c. it is important to maintain the distinction between two cases: (1) the existence of a Board; (2) and the other case, which is the case of the Club, of the absence of a Board. According to Article 20 of the Articles of Association, when a Board is dissolved or is absent, the Electoral Committee must call an Extraordinary General Assembly to appoint a Special Committee. This Special Committee is then responsible for managing the Club's affairs and organizing the election of a new Board. Despite these clear procedures, the Appellant acted in violation of these rules. Board meetings were organized and election processes were conducted without proper authority, failing to follow the required steps outlined in Article 40 of the Articles of Association, which mandates that the Secretary-General issue meeting invitations, and Article 35, which sets strict deadlines for nominations. The Executive Office, which lacks the power to call elections, unlawfully took steps in this direction, by-passing the authority of the Board and of the Electoral Committee. Furthermore, the Electoral Committee itself committed procedural violations, such as failing to adhere to the required nomination deadlines, making the entire election process invalid. Since all these actions were taken after the Award of 30 October 2023, that had already invalidated the Second Board, they have no legal effect and must be considered null and void;
- d. the Appealed Decision clarified that Mr Khaled Chrida's assumption of the Club's leadership and the meetings of the Board and of the Executive Office were invalid. The Appealed Decision reaffirmed that Mr Nasser remained the head of the Electoral Committee, as his resignation was not legally processed: the 12 January 2023 Election, in which Mr Khaled Chrida was elected as President, were annulled. This restored the situation to its prior state, invalidating Mr Khaled Chrida's position as President and the procedures he initiated. Since the First Board had completed its 4-year term, its legal mandate had expired. Furthermore, the meetings of the Board and Executive Office were invalid due to the lack of a legal quorum and procedural irregularities: some Board members opposed the claim of legitimate handover, and the necessary majority to convene the General Assembly was not met. Therefore, all consequential decisions and actions were void;
- iv. as to "*the quality of Nasser Daihani*", the Appealed Decision reaffirmed that Mr Nasser remained the legitimate Chairman of the Electoral Committee, as his resignation was deemed invalid. Consequently, he retains the authority to call the General Assembly for the election of a new Board. Given that the previous elections were annulled, and the situation was restored to its prior state, the case is treated similarly to a Board dissolution. As a result, the applicable procedures are those outlined in Article 20 of the Articles of Association, rather than those governing periodic General Assembly meetings. However, the Appealed Decision found that Mr Nasser's direct call of elections was in violation of Article 20. In fact, he is required to convene the full Electoral Committee to perform its duties as stipulated in the Articles of Association. Should the other members of the Electoral Committee fail to respond, he is then entitled to unilaterally call an extraordinary General Assembly. This Assembly would be responsible for appointing a Special Committee, which would assume the powers of the Board and subsequently organize elections for a new Board within ninety days. Additionally, the Appealed Decision clarified that the resignation procedures undertaken by the nullified Board had

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no legal effect, rendering all subsequent decisions and actions, including Mr Nasser's resignation, null and void. This means that all meetings, General Assemblies, and decisions made by the nullified Board are legally irrelevant and considered as if they never occurred. Furthermore, the Award of 30 October 2023, issued on 30 October 2023, was final and binding;

- v. in the NSAT Case 2023-1 the claimants challenged the validity of the 12 January 2023 Election, as well as the subsequent actions and decisions related to the Club's governance. Their arguments centred on alleged irregularities in the electoral process, including issues with voters' eligibility, vote counting, and procedural violations. A key contention was the ineligibility of Mr Meshaal Hijab Al-Mutairi to run for the Board due to his prior membership in the Electoral Committee, which, under Article 12 of the Articles of Association, should have precluded his candidacy. The NSAT examined these claims in light of the applicable legal framework, including the Articles of Association and relevant sports law provisions. It found in the Award of 30 October 2023 that Mr Al-Mutairi's candidacy was indeed invalid, which in turn rendered the entire electoral process void. The NSAT also determined that the collective payment of candidacy fees by his list further impacted the validity of the 12 January 2023 Election, as his disqualification affected the eligibility of the entire list. Consequently, the NSAT ruled that the 12 January 2023 Election and their resulting decisions were null and void, restoring the Club's situation to its prior state as of 12 January 2023, while rejecting other claims.

V. JURISDICTION OF THE CAS

100. Article R47 of the CAS Code provides 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.

An appeal may be filed with CAS against an award rendered by CAS acting as a first instance tribunal if such appeal has been expressly provided by the rules of the federation or sports-body concerned.”

101. Pursuant to Article 45 of the NSAT Rules of Procedure, NSAT recognises the jurisdiction of the CAS in the following terms:

“Arbitral awards issued by the Commission of Arbitration Chambers shall be considered as enforceable titles and shall be final and binding on the parties to the dispute as soon as they are signed by the President of the Board of Directors of the National Sports Arbitration Tribunal (NSAT), without prejudice to the right of appeal to the Court of Arbitration for Sports (CAS) in accordance with the regulations and rules relating to the jurisdiction of the CAS, as well as the rules skills linked to international sports federations.”

102. Finally, the jurisdiction of CAS is not disputed by the Parties and was confirmed by them all when signing the Order of Procedure.
103. It follows that the CAS has jurisdiction to hear the appeal filed by the Appellant against the Appealed Decision.

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VI. ADMISSIBILITY

104. The Statement of Appeal complied with the requirements of Articles R48 and R64(1) of the CAS Code, including the payment of the CAS Court Office fee.
105. However, the admissibility of the Appellant's appeal is challenged by the Respondents for a different, procedural reason. The Respondents maintain that the Appellant failed to name as respondents to the appeal two individuals who were parties to the proceedings before NSAT which led to the Appealed Decision. More specifically, the Respondents note that Mr Mishal Hijab Al Mutairi and Mr Bandar Rifaa Al Mutairi were not called to participate in the present arbitration. On the other hand, the Appellant submits that the admissibility of the appeal against the Appealed Decision is not affected by the omission to name as respondents those two individuals.
106. The Panel notes that:
 - i. First of all, failure to name a (necessary) respondent would amount to an issue of standing, thus pertaining to the merits of the dispute, and not as an issue of the admissibility of the appeal. This notwithstanding, the Panel will determine the Respondents' objection in this section, since the granting of the Respondents' objection would preclude the further examination of the appeal;
 - ii. Mr Mishal Hijab Al Mutairi was the claimant in the NSAT Case 2024-1, then joined to NSAT Case 2024-2 and NSAT Case 2024-3. In such procedure, brought against Mr Khaled Chrida, in his capacity as President of the Board, Mr Mishal Hijab Al Mutairi requested NSAT to annul (a) the Handover, (b) all decisions taken by Mr Khaled Chrida, the Board and the Electoral Committee, (c) the call of the General Assembly for 15 February 2024, and all its effects, (d) the result of the election for the term 2024-2028. Such issues were considered and decided upon in the Appealed Decision, even though mainly with respect to the requests brought in the NSAT Case 2024-2 (started by the current Respondents);
 - iii. Mr Bandar Rifaa was the claimant in the NSAT Case 2024-3, then joined to NSAT Case 2024-1 and NSAT Case 2024-2. In such procedure, brought against Mr Nasser, Mr Bandar Rifaa requested from the NSAT the declaration of the invalidity of all procedures for the calling by Mr Nasser on 4 April 2024 of the General Assembly to be held on 23 May 2024 for the 2024-2028 elections. Also this requested was considered and granted in the Appealed Decision.
107. On the basis of the foregoing, the Panel considers the following:
 - iv. Mr Mishaal Hijab Al Mutairi's position cannot in principle be distinguished from the position of the Respondents: in fact, Mr Mishaal Hijab Al Mutairi's claims before the NSAT corresponded to the claims of the Respondents in the NSAT Case 2024-2. They were jointly examined by the NSAT and granted by the Appealed Decision. As a result, the Appellant's request to this Panel, intended to obtain the setting aside of the Appealed Decision in the points in which the NSAT granted the claims of the Respondents and of Mr Mishaal Hijab Al Mutairi, could not be heard without giving Mr Mishaal Hijab Al Mutairi the opportunity to be heard. In fact, the setting aside of

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the Appealed Decision would affect also the position of Mr Mishaal Hijab Al Mutairi. However, in the course of this arbitration the Panel was provided with a statement from Mr Mishaal Hijab Al Mutairi (§ 71 above), officially renouncing his right to participate in the present CAS proceedings and explicitly stating that he no longer has any interest in the electoral dispute underlying the Appealed Decision. The Panel notes that it has no doubts regarding the authenticity of such communication, which has not been challenged by the Respondents. As a result, according to the Panel, Mr Hijab Al Mutairi waived his right to be heard and to defend his position and the Appealed Decision as a respondent. The fact that he was not named as a respondent, therefore, does not impact the admissibility of the appeal;

- v. Mr Bandar Rifaa Al Mutairi filed with the NSAT a claim against Mr Nasser, not against the Club or Mr Khaled Chrida, and sought the declaration of nullity of some actions taken by Mr Nasser to convene a General Assembly of the Club. As a result, the claim he brought is not overlapping with the claims object of the NSAT Case 2024-1 and of the NSAT Case 2024-2; in addition, the findings in the Appealed Decision, which granted Mr Bandar Rifaa Al Mutairi's claim and have not been challenged by Mr Nasser, would not be affected by any decision this Panel could take with respect to the appeal brought by the Appellant. As a result, the fact that Mr Bandar Rifaa Al Mutairi was not named as a respondent does not impact the admissibility of the appeal.

108. It follows that the appeal is admissible.

VII. APPLICABLE LAW

109. Pursuant to Article R58 of the CAS Code, in an appeal arbitration procedure before the CAS:

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

110. In the course of the arbitration, the Parties made references to the laws of Kuwait, to Swiss law and even to “*universal principles of law*”. In accordance with Article R58 of the CAS Code, the Panel finds that the various regulations of the NSAT are primarily applicable. Kuwaiti law applies subsidiarily.

VIII. PRELIMINARY ISSUES

111. Before addressing the merits of the dispute, the Panel must consider some preliminary, procedural issues which arose in the course of the arbitration. They regard the admissibility of the production by the Appellant (§§ 82 and 89 above) and by the Respondents (§ 56 above) of some documents after the submission of the Appeal Brief and the Answer.

112. Article R56 of the CAS Code provides that after the submission of the appeal brief and of the answer, unless the parties agree otherwise or the President of the Panel orders otherwise on the

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basis of exceptional circumstances, the parties shall not be authorized, *inter alia*, to produce new exhibits, or to specify further evidence on which they intend to rely.

113. On this basis, the Panel notes the following:

- i. the documents produced by the Appellant on 18 February 2025 were described to be responsive to “*some facts newly raised by the respondents in their answer*”. The Respondents’ Answer was filed on 4 November 2024, and no indication was given by the Appellant to justify their production 2 days before the hearing. Those documents, however, were discussed by the Respondents at the hearing: the Respondents, in fact, went to a great length to deny the authenticity of those documents, in order to show their unreliability to prove the facts that they were intended to confirm, *i.e.*, that certain meetings were properly called and held. In other words, the initial objection of inadmissibility was not categorically maintained. On such basis, the documents can be admitted to the file, without prejudice to any evaluation as to their relevance with respect to the issues to be decided in this arbitration;
- ii. the document produced by the Respondents on 13 November 2024 consists in a decision issued on 5 November 2024 by the Court of First Instance of Kuwait (Case No 60/2024), described as invalidating Mr Khaled Chrída’s capacity as President of the Board. On 22 November 2024, the Appellant did not object to the admissibility of the production, but disputed the relevance of the document, indicating that the decision was rendered on the basis of the Appealed Decision, and therefore would fall in the event the Appealed Decision is set aside. In the absence of an objection, the document, which was then no longer discussed in the course of the arbitration, can be admitted to the file, without prejudice to any evaluation as to its relevance with respect to the issues to be decided in this arbitration;
- iii. the documents filed by the Appellant on 2 March 2025, after the hearing, are to be declared inadmissible, since the conditions set by Article R56 of the CAS Code are not satisfied.

IX. MERITS

A. The Dispute

114. As a result of the foregoing, the Panel can turn to the merits of the dispute. The main issue before this Panel concerns the effects of the Award of 30 October 2023. That decision, rendered by the NSAT following a claim by some members of the Club, annulled the results of the 12 January 2023 Election, and restored “*the situation to what it was before 12/1/2023*”. In the absence of additional details in the Award of 30 October 2023, a dispute arose with respect to its implementation: on one hand, the Board elected on 12 January 2023 (the Second Board), the election of which was invalidated by the Award of 30 October 2023, considered that the Club had to be handed over to the Board that was in office before the 12 January 2023 Election (the First Board), and proceeded to the Handover on 26 December 2023; on the other hand, a group of members of the Club launched proceedings to question whether the Handover constituted a correct implementation of the Award of 30 October 2023. As a result, the following decisions were rendered:

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- the Award of 7 April 2024, which dismissed a challenge to the Handover, indicating that the execution of the Award of 30 October 2023 included the restitution of powers to the First Board;
- the Court Decision, which equally found that the return to the situation before the 12 January 2023 Election meant the return to the management of the Club under the First Board;
- the Appealed Decision, which held otherwise and, noting that the First Board at the time of the 12 January 2023 Election had already completed its 4-year term, found that the restoration of the Club's situation to its status before the 12 January 2023 Election could not mean the handover of the Club to the First Board, that was no longer in power. As a result, the Club had to be handed over to the Electoral Committee, as chaired by Mr Nasser, who had remained its President, because his resignation of 15 January 2023 was invalid.

115. The Appellant, in order to have the Appealed Decision set aside, contends that it went against the *res judicata* force of the prior decisions, *i.e.* of the Award of 7 April 2024 and of the Court Decision. In any case, according to the Appellant, the Appealed Decision, even if it did not run against any *res judicata*, wrongly applied the relevant provisions of the Articles of Association and therefore should for that reason be set aside.

116. As a result of the foregoing, the Panel notes that it has to deal with two main issues:

- i. did the Appealed Decision violate any *res judicata* force of the Award of 7 April 2024 and of the Court Decision?
- ii. if not, did the Appealed Decision wrongly apply the relevant provisions of the Articles of Association?

117. The Panel will examine those issues in sequence.

B. The Issues

i. Whether the Appealed Decision violated any res judicata force of the Award of 7 April 2024 and of the Court Decision

118. The Appellant, in order to prove its claim that the Appealed Decision has to be set aside because it contradicted the findings, having the force of *res judicata*, contained in the Award of 7 April 2024 and in the Court Decision, maintains that the conditions set by Swiss law for *res judicata* to apply are satisfied. The Respondents, on their part, make submissions in general terms as to the conditions under which *res judicata* can be validly opposed, and deny that they are satisfied.

119. The Panel remarks that it can hardly be maintained that Swiss law applies to define the concept, limits and conditions, of *res judicata* referred to the Award of 7 April 2024 and in the Court Decision. Both decisions have been rendered under the laws of Kuwait, as *lex arbitri* or as *lex fori* respectively. Kuwaiti law would therefore be primarily relevant to determine whether a subsequent decision is precluded because of a preceding court or arbitration ruling.

120. The Panel however has not been directed to any specific feature of Kuwaiti law in this respect.

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The Panel is therefore satisfied that the indications of the Parties, submitted in this arbitration, reflect the conditions under which, pursuant to the applicable law, the force of *res judicata* should be recognized, or denied, to the Award of 7 April 2024 and to the Court Decision, as allegedly infringed by the Appealed Decision.

121. The conditions mentioned by the Parties, indeed, reflect a common approach to *res judicata*. *Res judicata*, in fact, is commonly intended to prevent the same case from being litigated more than once after a final judgment has been made. In other words, *res judicata* helps prevent repetitive litigation, promoting efficiency and legal certainty: once a case has been decided, it cannot be brought to court again on the same facts or issues. As a result, the conditions that must be met to invoke *res judicata* typically include the following:
 - i. a final judgment on the merits: there must be a final judgment rendered by a court with proper jurisdiction. This judgment must be definitive and conclude the case, rather than being a temporary or interlocutory decision. The judgment should address the actual issues in the case, and the decision must resolve the dispute completely. Therefore, the issues or claims must have been actually litigated and decided in the original case. If the matter was not addressed or settled in the original case (*e.g.*, due to a dismissal on procedural grounds), *res judicata* would ordinarily not apply;
 - ii. same parties: the parties involved in the subsequent case must be the same as those in the original case. This includes not only the original parties but also their privies (those who are legally connected, such as successors or representatives). As a result, the doctrine does not apply if the parties are different in the second case. Such condition is also intended to ensure that the principle of fairness is upheld, because the party against whom *res judicata* is invoked must have had an opportunity to present their case fully in the original action;
 - iii. same cause of action: the cause of action in the second case must be identical to the cause of action in the first case. This means that the facts, issues, and legal grounds in both cases must be substantially the same. Therefore, a new claim involving different facts or a different legal theory may not be subject to *res judicata*.
122. On the basis of the foregoing, the Panel finds that no *res judicata* effect can be recognized to the Award of 7 April 2024 and to the Court Decision as binding the NSAT when hearing the Joined Cases decided by the Appealed Decision. In fact:
 - i. with respect to the Award of 7 April 2024, the Panel notes that the parties to the Joined Cases do not correspond to the parties to the NSAT Case 2023-2 decided by the Award of 7 April 2024. Claimants in the NSAT Case 2023-2 were in fact Mr Saad Al Dhafiri, Mr Fahd Al Salman, Mr Youssef Shuraida Al Adwani, Mr Eid Abdullah Al Mutairi, Mr Nasser Al Marri. None of those individuals were parties to the Joined Cases. Therefore, the NSAT hearing those Joined Cases was not bound by the findings of NSAT in the Award of 7 April 2024;
 - ii. with respect to the Court Decision, as submitted by the Respondents, an appeal against it was (and still is) pending before the Court of Cassation of Kuwait. Therefore, the Court Decision did not finally conclude the case, which could be reopened, if the appeal is granted. In addition, not all parties to the Court Case were parties to the Joined Cases. As a result, the NSAT hearing the Joined Cases was not bound by the findings of the Kuwait

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Court.

123. In summary, the Panel finds that the Appealed Decision was not precluded by any *res judicata* force of the Award of 7 April 2024 and of the Court Decision.

ii. *Whether the Appealed Decision wrongly applied the relevant provisions of the Articles of Association*

124. The Appealed Decision came to the conclusion, reflected in points 3 and 4 of the operative part, that the Handover, from the Second Board to the First Board, was invalid, “*due to the lack of ... capacity*” of Mr Khaled Chrida, with all ensuing consequences with respect to the meetings and decisions of the Board chaired by him. According to the NSAT, the First Board at the time of the 12 January 2023 Election had already completed its 4-year term: therefore, the restoration of the Club’s situation to its status before the 12 January 2023 Election could not take place with the handover of the Club to the First Board, that was no longer in power. Consequently, the Club had to be handed over to the Electoral Committee, as chaired by Mr Nasser, who had remained its President, because his resignation of 15 January 2023 was invalid. According to the Appealed Decision, the Electoral Committee, chaired by Mr Nasser, would then have to convene an Extraordinary General Assembly of the Club to form a Special Committee to manage the Club’s affairs and call for the election of a new Board according to Article 20 of the Articles of Association.

125. The procedure for the calling and holding of the Board elections was discussed at the hearing. The Panel understands that the rules within the Articles of Association that come into play provide for:

- i. the identification of the various categories of meetings of the General Assembly (Article 11), *i.e.*:
 - an Annual Ordinary General Assembly, to be convened annually, in order to exercise the powers indicated by Article 13 (in essence, the approval of financial statements and Board’s reports);
 - a Periodic Ordinary General Assembly according to Article 16, to be convened every 4 years, to elect the Board for the next term, and to exercise for the year in which it takes place the powers of the Annual General Assembly;
 - a Supplementary Ordinary General Assembly, to meet pursuant to Article 18 in order to elect the members of the Board whose seats have been vacated for any reason whatsoever;
 - an Extraordinary General Assembly, to exercise the powers defined by Articles 19 and 20, which include (i) the dissolution of the Board by a reasoned decision (Article 19 para 2), (ii) the consideration of the termination of the membership of most or all Board members (Article 19 para 4), (ii) the reasoned resignation of the majority of the members of the Board (Article 19 para 5), and (iv) the appointment of a Special Committee to provisionally manage the Club *in lieu* of the dissolved Board (Article 20);
- ii. the definition of the powers of the Electoral Committee, formed, according to Article 12, among the Club’s members, with the responsibility to organize and supervise the

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elections, from their call to the announcement of their result, and to monitor the validity of any meetings of the General Assembly and check their minutes. As a result:

- with respect to the Periodical Ordinary General Assembly, the Electoral Committee has to announce its meeting at least 45 days in advance (Article 16, second paragraph), and in that regard exercise the powers mentioned by Article 17 (preparation of ballots, etc.);
- with respect to a Supplementary Ordinary General Assembly, the Electoral Committee shall have the same powers as those attributed to it for the Periodical General Assembly (Article 18);
- with respect to the Extraordinary General Assembly, to (i) call its meeting to consider the issue of (a) dissolving the Board, of terminating the membership of most or all Board members or of accepting the resignation of a majority of the Board members and (b) appointing a Special Committee, and thereafter (ii) call a Supplementary Ordinary General Assembly for the election of a new Board to complete the original Board term (unless shorter than six months) (Article 20).

126. In that framework, Article 20 of the Articles of Association combines the powers of the Extraordinary General Assembly and of the Electoral Committee, while setting out the procedures to be followed when the specific issues mentioned at Article 19 paras 2, 4, 5 and 9 (dissolution of the Board, termination of the membership of most or all Board members, and acceptance of their resignation) are to be considered. In such cases:

- i. the Electoral Committee must call an Extraordinary General Assembly;
- ii. the Extraordinary General Assembly decides at its meeting upon the dissolution of the Board, the termination of the membership of most or all Board members and the acceptance of their resignation. If the Board is dissolved, the membership of most or all Board members is terminated or their resignation accepted, a Special Committee of 5 members is appointed to assume the Board's powers. No member of the dissolved or resigning Board can be a component of this Special Committee. This Special Committee manages the Club until a new Board is elected;
- iii. the Electoral Committee must then organize a Supplementary Ordinary General Assembly to elect a new Board within 90 days, provided that the newly elected Board serves at least 6 months. The former Board members affected by dissolution or resignation are barred from running in these elections.

127. In light of the foregoing, the Panel notes that the procedure mentioned at Article 20 of the Articles of Association applies to very specific situations: the Special Committee is formed only upon the adoption of a resolution of an Extraordinary General Assembly approving the dissolution of the Board, the termination of the membership of most or all Board members or the acceptance of their resignation. That provision does not apply in the event the election of a new Board follows the completion of the ordinary 4 year term of a Board elected in a previous Periodic Ordinary General Assembly.

128. The Panel remarks that the 12 January 2023 Election, set aside by the Award of 30 October 2023 because a candidate lacked a condition of eligibility, took place at an Ordinary General Assembly, called to elect the Second Board because the term of the First Board had come to an

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end. As a result, the indication contained in the Award of 30 October 2023, that the situation existing prior to the 12 January 2023 Election had to be restored, must be taken to mean that a new Ordinary General Assembly had to be convened pursuant to Article 16 of the Articles of Association to elect the Board for the next term. No room for the application of Article 20 of the Articles of Association was therefore created: the prior Board remained in office until a new Board was elected; no Extraordinary General Assembly had to take place and no Special Committee had to be appointed.

129. The Panel's remarks find comfort in the reasoning of the Award of 7 April 2024 and of the Court Decision, which, even though not binding, offer an interpretation of the laws of Kuwait. Those rulings in fact indicated that the Articles of Association do not contain specific provisions dealing with the continuation of the Board's powers for emergency reasons after the end of the electoral cycle, and therefore that the principle to be followed is that the Board remains in office until this emergency is removed, new elections are held and the Club is handed over to the newly elected Board. The mentioned rulings also confirmed that it is customary even in ordinary situations for the outgoing Board to exercise its powers until the next meeting of the Ordinary General Assembly is held, and a new Board is elected.
130. In summary, the Appealed Decision, which held that the Club had to be handed over to the Electoral Committee to organize the election of a new Board pursuant to Article 20, did not correctly apply the Articles of Association.

C. Conclusion

131. In light of the foregoing, the Panel concludes that the Handover, which took place on 26 December 2023, from the Second Board to the First Board correctly implemented the Award of 30 October 2023. Points 3 and 4 of its operative part of the Appealed Decision, which found otherwise, have to be set aside. The issues covered by points 1, 2 and 5 of the operative part of the Appealed Decision are not put in issue by the Parties in the present arbitration and can be left undisturbed.

X. COSTS

(...)

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ON THESE GROUNDS

The Court of Arbitration for Sport rules that:

1. The appeal filed on 29 August 2024 by Al Nasr Club against the decision rendered by the Kuwaiti National Sports Arbitration Tribunal on 12 August 2024 is admissible.
2. The appeal filed on 29 August 2024 by Al Nasr Club against the decision rendered by the Kuwaiti National Sports Arbitration Tribunal on 12 August 2024 is granted.
3. Points 3 and 4 of the operative part of the decision rendered by the Kuwaiti National Sports Arbitration Tribunal on 12 August 2024 are set aside.
4. (...).
5. (...).
6. All the other motions or prayers for relief are dismissed.

Seat of arbitration: Lausanne, Switzerland

Date: 30 April 2025

THE COURT OF ARBITRATION FOR SPORT

Luigi Fumagalli
President of the Panel

Manfred Peter Nan
Arbitrator

James Drake KC
Arbitrator