



**TAS / CAS**

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

**CAS 2022/A/8823 Al-Ahli Saudi Football Club v. Promoesport International 2015, S.L.U**

## **ARBITRAL AWARD**

**delivered by the**

## **COURT OF ARBITRATION FOR SPORT**

**sitting in the following composition:**

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

**in the arbitration between**

**Al-Ahli Saudi Football Club**, Saudi Arabia

Represented by Prince Mohammed bin Abdulaziz, Jeddah, Saudi Arabia

**- Appellant -**

and

**Promoesport International 2015, S.L.U**, Andorra

Represented by Mr. Luis Torres Montero and Mr. Lucas Ferrer de Robles, Pintó Ruiz & Del Valle, Barcelona, Spain

**- Respondent -**

## **I. PARTIES**

1. Al-Ahli Saudi Football Club (“Al-Ahli”, the “Club” or the “Appellant”) is a professional football club from the Kingdom of Saudi Arabia. Al-Ahli is a member of the Saudi Arabian Football Federation (“SAFF”), which in turn is a member of the Asian Football Confederation (“AFC”) and the Federation Internationale de Football Association (“FIFA”).
2. Promoesport International 2015, S.L.U. (“Promoesport” or the “Respondent”) is a company organized under the laws of the Principality of Andorra, registered as an intermediary at the Royal Spanish Football Federation (“RFEF”) which in turn is affiliated with the Union des Associations Européennes de Football (“UEFA”) and FIFA.
3. The Appellant and the Respondent are hereinafter jointly referred to as the “Parties”.

## **II. FACTUAL BACKGROUND**

4. Below is a summary of the main relevant facts, as established on the basis of the written submissions of the Parties, the hearing and the evidence examined in the course of this proceeding. This background information is given for the sole purpose of providing a summary of the dispute. Additional facts may be set out, where relevant, in connection with the legal analysis.

### **A. Background Facts**

5. On 17 June 2018, the Parties entered into an agreement (the “Agreement”) in which it was agreed, inter alia, that in the event that the player Mr. José Manuel Jurardo Marín (the “Player”) signs a professional football contract with Al-Ahli, the latter shall pay Promoesport a fee in the total amount of net EUR 700,000, “payable within one month from the date of the contract signature”. On the same date, the Player and Al-Ahli indeed signed an employment contract.
6. Following non-payments from Al-Ahli under the Agreement, Promoesport initiated proceedings before CAS on 30 November 2018, which was given the case reference CAS 2018/O/6034.
7. On 18 April 2019, the Award in the case CAS 2018/O/6034 was notified to the parties, which, inter alia, ordered Al-Ahli to pay to Promoesport the amount of EUR 700,000, plus interest of 5% per year as of 17 July 2018, and a penalty fee of EUR 140,000. It further ordered Al-Ahli to pay the costs of the arbitration, and to pay Promoesport an amount of CHF 5,000 as contribution towards the expenses incurred in connection with the arbitration proceedings.
8. Al-Ahli failed to make the payments in accordance with the above-mentioned CAS award.

9. On 26 July 2021, the Parties signed a settlement agreement (the “Settlement Agreement”), by which Al-Ahli agreed to pay Promoesport, “[f]or the full and final settlement of any and all claims pertaining to the Commission Agreement and the final and binding CAS decision”, the total amount of EUR 800,000 payable in three instalments as follows:
    - EUR 270,000 on 2 August 2021;
    - EUR 270,000 on 28 February 2022; and
    - EUR 260,000 on 30 June 2022.
  10. On 17 August 2021, following Al-Ahli’s non-payment of the first instalment of the Settlement Agreement, the Parties signed an amended agreement (“Amendment to the Settlement Agreement”), where it was agreed, inter alia, that Al-Ahli should pay a total amount of EUR 800,000 payable in three instalments as follows:
    - EUR 270,000 on 21 August 2021;
    - EUR 270,000 on 28 February 2022; and
    - EUR 260,000 on 30 June 2022.
  11. Furthermore, the Amendment to the Settlement Agreement stipulated, inter alia, that in case Al-Ahli failed to comply with the first instalment, an interest rate of 5% per annum and a penalty fee of EUR 150,000 should be paid by Al-Ahli to Promoesport.
  12. Al-Ahli failed to make the payments stipulated in the Amendment to the Settlement Agreement.
  13. On 24 September 2021, Promoesport again initiated proceedings before CAS, later registered with case reference CAS 2021/O/8341.
  14. On 22 December 2021, the Award in the case CAS 2021/O/8341 was notified to the parties, which ordered Al-Ahli to, inter alia, pay to Promoesport the amount of EUR 800,000, plus interest of 5% per year as of 1 September 2021, and a penalty fee of EUR 150,000. It further ordered Al-Ahli to pay the costs of the arbitration, and to pay Promoesport an amount of CHF 5,000 as contribution towards the expenses incurred in connection with the arbitration proceedings.
  15. It is undisputed that Al-Ahli never paid these amounts to the Respondent.
- B. Proceedings before the FIFA Disciplinary Committee**
16. On 31 January 2022, Promoesport contacted the FIFA Disciplinary Committee (the “FIFA DC”), requesting the initiation of disciplinary proceedings and for sanctions to

be imposed upon the Al-Ahli for failure to comply with the CAS Award in the case CAS 2021/O/8341.

17. On 4 February 2022, the Secretariat to the FIFA DC opened disciplinary proceedings against Al-Ahli (to which Promoesport was not party), and invited Al-Ahli to provide its position to the FIFA DC. Al-Ahli failed to provide the FIFA DC with its position within the given deadline.
18. On 24 February 2022, the FIFA DC issued an award, which was notified to Al-Ahli on 6 April 2022 (the “Appealed Decision”). The FIFA DC concluded that Al-Ahli had failed to make the payments stipulated in the case CAS 2021/O/8341, and its failure to make the payments constituted a breach of Article 15 of the FIFA Disciplinary Code (the “FDC”), which, inter alia, states that anyone who fails to make payments in accordance with a CAS decision shall be sanctioned.
19. Against this background, the FIFA DC determined as follows:

*“1. Al Ahli Saudi FC is found responsible for failing to comply in full with the award issued by the Court of Arbitration for Sport on 22 December 2021 (Ref. CAS 2021/O/8341).*

*2. Al Ahli Saudi FC is ordered to pay to Promoesport International 2015, S.L.U as follows:*

- *EUR 800,000 plus interest of 5% per annum as of 1 September 2021 until full and final payment.*
- *EUR 150,000 as penalty fee.*
- *CHF 5,000 as a contribution towards the expenses incurred in connection with the arbitration proceedings.*

*3. Al Ahli Saudi FC is granted a final deadline of 30 days as from notification of the present decision in which to settle said amount. Upon expiry of the aforementioned final deadline and in the event of persistent default or failure to comply in full with the decision within the period stipulated, a transfer ban will be pronounced until the complete amount due is paid or the non-financial decision is complied with. The transfer ban will be implemented automatically at national and international level by the Saudi Arabian Football Federation and FIFA respectively, without a further formal decision having to be taken nor any order to be issued by the FIFA Disciplinary Committee or its secretariat. In addition, a deduction of points or relegation to a lower division may also be ordered in addition to a transfer ban in the event of persistent failure, repeated offences or serious infringements or if no full transfer could be imposed or served for any reason.*

*4. Al Ahli Saudi FC is ordered to pay a fine to the amount of CHF 30,000.*

*5. The fine is to be paid within 30 days of notification of the present decision.”*

### **III. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT**

20. On 25 April 2022, Al-Ahli filed a Statement of Appeal with CAS, pursuant to Article R47 of the Code of Sports-related Arbitration (2021 edition) (the “Code”), against the Appealed Decision. In its Statement of Appeal, the Appellant requested that its Appeal Brief deadline be extended and that the dispute be referred to a sole arbitrator, with which Promoesport subsequently agreed by letter submitted on 6 May 2022.
21. On 10 May 2022, FIFA submitted a letter to the CAS Court Office where it stated that it, inter alia, renounced its right to request its possible intervention in the present arbitration proceeding, further to Article R41.3 of the Code.
22. On 10 May 2022, the CAS Court Office informed the Parties, inter alia, that the Deputy Division President had decided to partially grant Al-Ahli’s request for an extension to file the Appeal Brief until 8 June 2022.
23. On 15 May 2022, after consulting the Parties on their position in this regard, the Parties were informed that the Deputy President of the CAS Appeals Arbitration Division had decided to refer this proceeding to the same Sole Arbitrator as in the related case CAS 2022/A/8824, further to Article R50 of the Code.
24. On 8 June 2022, Al-Ahli submitted its Appeal Brief in accordance with Article R51 of the Code.
25. On 9 June 2022, the CAS Court Office informed the Parties pursuant to Article R55 of the Code that a deadline of 20 days was set for the Respondent to submit its Answer.
26. On the same day, on 9 June 2022, Promoesport requested that the deadline to file the Answer be set aside until the Appellant had paid its share of the advance of costs pursuant to Article R55 of the Code. On the same day, the CAS Court Office informed the Parties that the time limit to file the Answer was set aside and that a new time limit would be fixed upon Al-Ahli’s payment of its share of the advance of costs.
27. On 1 July 2022, following Al-Ahli’s payment of the advance of costs, the CAS Court Office informed the Parties that the Respondent’s deadline for submitting the Answer was set to 20 days as from 1 July 2022.
28. On 19 July 2022, Promoesport submitted its Answer, in accordance with Article R55 of the Code. In its Answer Promoesport claimed, inter alia, that Promoesport lacked standing to be sued.
29. On the same day, on 19 July 2022, the CAS Court Office informed the Parties that Al-Ahli was invited to reply to Promoesport’s arguments regarding the lack of standing to be sued by 3 August 2022.

30. On 3 August 2022, Al-Ahli submitted a letter where it addressed the issue of standing to be sued.
31. On 8 August 2022, the Parties were requested to inform the CAS Court Office whether they preferred that a hearing be held or if the matter should be decided on the written submissions. Subsequently Al-Ahli informed the CAS Court Office that it preferred a hearing be held, whilst Promoesport requested that the Sole Arbitrator issue an arbitral award solely based on the Parties' written submissions, without holding a hearing.
32. On 10 August 2022, the CAS Court Office informed the Parties that pursuant to Article R54 of the Code and on behalf of the Deputy President of the CAS Appeals Arbitration Division, the Arbitral Tribunal appointed to decide the present case was constituted as follows:  
  
Sole Arbitrator: Mr Espen Auberg, Attorney-at-Law in Oslo, Norway
33. On 18 August 2022, the CAS Court Office informed the Parties that, pursuant to Articles R44.2 and R57 of the Code, after having taken into consideration the Parties' respective positions in this regard as well as the circumstances of this proceeding, the Sole Arbitrator had decided not to hold a hearing in the proceeding and to issue the Award solely on the basis of the Parties' written submissions. In the same letter, the Parties were invited to file a second round of written submissions in the present case. Al-Ahli was invited to file its Reply by 7 September 2022.
34. Al-Ahli did not file a Reply within the deadline stipulated in the letter from the CAS Court Office dated 18 August 2022.
35. On 16 September 2022, the CAS Court Office invited Promoesport to file its Rejoinder by 6 October 2022.
36. On 3 October 2022, Promoesport filed its Rejoinder within the deadline stated in the letter from the CAS Court Office dated 16 September 2022.
37. On 12 October 2022, the CAS Court Office issued an Order of Procedure, and requested the Parties to sign and return a copy of the Order of Procedure to the CAS Court Office. The Order of Procedure was subsequently duly signed and returned by Promoesport on 13 October 2022 and by Al-Ahli on 6 November 2022. By signing the Order of Procedure, the Parties confirmed that their right to be heard had been respected.

#### **IV. SUBMISSIONS OF THE PARTIES AND REQUESTS FOR RELIEF**

38. This section of the Award does not contain an exhaustive list of the Parties' contentions. Its aim is to provide a summary of the substance of the Parties' main arguments. In considering and deciding upon the Parties' claims in this Award, the Sole Arbitrator has accounted for and carefully considered all of the submissions made

and evidence adduced by the Parties, including allegations and arguments not mentioned in this section of the Award or in the discussion of the claims below.

#### **A. Al-Ahli's Submissions**

39. Al-Ahli's submissions, in essence, may be summarized as follows:

- Due to the effects of the COVID-19 pandemic, Al-Ahli is in a very critical financial situation characterized by a total absence of revenues, hereunder a decrease of revenues from sponsors and ticketing.
- The current situation represents a sole and unique cause of the delay of payment and the Club apologizes for that and hope that the Respondent will take in consideration the very bad financial and sportive situation of the Club.
- The COVID-19 pandemic has been qualified in Saudi Arabia as a case of force majeure and at least has the same effects as force majeure.
- The COVID-19 pandemic has led to total suspension of sports activities in Saudi Arabia, hereunder a prohibition of individual and group training which prevented the execution of the employment contract as the players no longer carried out their professional activities.
- The prohibition of sports activities had a catastrophic effect on professional football, which today represents a real industry in Saudi Arabia.
- Professional football clubs depend on the financial resources such as public subsidies from the Ministry of Sport and municipal authorities, subsidies paid by the professional football league which largely contain the clubs' share of television broadcasting rights, club and league sponsors, tickets sales and sale of club jerseys and gadgets.
- Most of these revenues ceased during the entire period of the cessation of football activity in Saudi Arabia from 15 March 2020 until the end of June 2020 and has continued until now.
- Evidence confirms the cessation of all financial income from the Club.
- The correspondence notified by the professional football league to clubs in order to inform them that after an analysis of the financial situation following the cessation of sporting activities it appears that the pandemic has considerably affected financial resources which will necessarily generate a significant reduction in the contribution allocated to the clubs and which will last throughout the 2020/2021 sports season.
- An internal evaluation of the financial situation was made by the accounting department of the Club upon request from the Club's CEO, which revealed, inter

alia, a significant decrease in the revenue for the six months ending 30 June 2020 compared to the six months that ended 31 December 2019.

- The doctrine of Theory of Unpredictability is generally accepted by international doctrine. This theory is also accepted by the Swiss legislation applicable in this case and it is also accepted by the UNIDROIT principles, known as the hardship clause.
- The obligations of Al-Ahli must be considered in light of the terms of the UNIDROIT principles defined in Articles 6.2.2 and 6.2.3, due to unforeseen facts and circumstances that have altered the balance of the Agreement.
- The difficulties are not particular for Al-Ahli alone, but are part of the general crisis, and above all, in accordance with the UNIDROIT principle cited in the definition of hardship events that are beyond the control of the disadvantaged party.
- Al-Ahli has had no control on these national and worldwide events.
- Al-Ahli requests to revoke the Appealed Decision, since it provides the payment of the instalment indicated with usual interest without any further consideration of the facts and legal arguments raised by the Al-Ahli. It is also requested that Al-Ahli is granted to renegotiate the economic terms of the Agreement between the parties including their payment schedule within the framework and provisions set by Article 6.2.3 of the UNIDROIT.

40. On these grounds, Al-Ahli made the following requests for relief:

*“It is requested by the Appellant to the Panel to grant the renegotiation of the economic terms of the Agreement between the parties including their payment schedule within the framework and provisions set by art. 6.2.3. UNIDROIT.”*

## **B. Promoesport’s Submissions**

41. Promoesport’s submissions, in essence, may be summarized as follows:

### **a. Promoesport’s lack of standing to be sued**

- The Appealed Decision is of a purely disciplinary nature. Al-Ahli has directed the appeal against Promoesport, and not FIFA. As a consequence, there is a crucial legal issue with regards to the standing to be sued in these proceedings that need to be resolved.
- Under Swiss law, the lack of standing to be sued shall be considered as a reason to dismiss an appeal on the merits, and not a reason to declare such appeal inadmissible. It thus follows that the question of standing to be sued shall be treated as a substantive matter or, in other words, as an issue of the merits.



- In accordance with CAS case law, a party has a standing to be sued only if it has some stake in the dispute because something is sought against it.
- In disciplinary proceedings of FIFA, as a sport association, the primary interest is that its members fully comply with the rules. When disciplinary sanctions have been imposed on a party, only FIFA has standing to be sued, but not the previously opposing party in, for instance, a financial dispute before CAS, as it is the case here.
- Where a party challenges a decision of a disciplinary nature issued by FIFA, the prayers and reliefs sought can only be made against FIFA as the body charged with imposing and enforcing disciplinary sanctions on clubs who contravene the FDC. The other party benefiting from the FIFA decision has no standing to be sued, since it did not take part in the FIFA disciplinary proceedings and the relevant decision was only directed to the sanctioned party.
- Promoesport, which was not a party of the disciplinary proceedings that led to the Appealed Decision, merely informed FIFA about Al-Ahli's failure to comply with the award in the case CAS 2021/O/8341 and requested the initiation of disciplinary proceedings against the Club on the basis of Article 15(2) of the FDC.
- The Appealed Decision was issued by the FIFA DC against Al-Ahli and imposed disciplinary sanctions on Al-Ahli for failing to comply with the award in the case CAS 2021/O/8341 and thereby violating Article 15 of the FDC. Therefore, the present appeal is derived from a FIFA disciplinary proceeding and seeks relief from FIFA, which is the body that found Al-Ahli responsible for committing an infraction of the FDC, imposing the relevant disciplinary sanctions and consequences.
- Al-Ahli only lodged the present appeal against Promoesport, and not against FIFA. It is only FIFA, and not Promoesport, that has the power to impose disciplinary sanctions on Al-Ahli following a violation of the FIFA regulations. Therefore, in order to challenge the Appeal Decision, the present appeal should have been filed against FIFA, not against Promoesport. In other words, Al-Ahli has named the wrong respondent.
- FIFA cannot be considered as a party in these proceedings. Al-Ahli, in its Statement of Appeal, failed to indicate FIFA as a respondent, and FIFA expressly renounced its right to participate in these proceedings. In this regard, FIFA cannot be considered as a party to the arbitration proceedings.
- In summary, Al-Ahli filed its appeal against the wrong respondent, since the only party having standing to be sued concerning appeals against decisions of a disciplinary nature is the sport association that rendered the decision appealed against. Only FIFA has standing to be sued and FIFA has not been named as a respondent by Al-Ahli.

- Consequently, in accordance with CAS case law, parties which fail to name the required respondents in CAS proceedings, must, as a general rule, bear the legal consequences.
- The legal consequences in cases in which an appeal is not filed against FIFA on purely disciplinary matters have long been settled by the CAS jurisprudence: CAS cannot uphold the appeal, which shall be, therefore, dismissed, and the Sole Arbitrator does not need to address other arguments and claims raised by Al-Ahli aimed at revoking the Appealed Decision.
- In conclusion, considering that Promoesport has no standing to be sued in these proceedings, the appeal filed by Al-Ahli against the Appealed Decision shall be dismissed.

**b. The Second CAS Award is final and binding**

- In its Appeal Brief, Al-Ahli requested, inter alia, a renegotiation of the economic terms of the agreement between the Parties including their payment schedule. In other words, Al-Ahli is requesting CAS to amend the terms of the Settlement Agreement, which resulted in the award in the case CAS 2021/O/8341.
- However, Al-Ahli seems to forget that the award in the case CAS 2021/O/8341 has become final and binding and is, thus, enforceable.
- The sole task of the FIFA DC when it rendered the Appealed Decision was to analyse whether Al-Ahli complied with the award in the case CAS 2021/O/8341. Such award has long become final and binding, meaning that there actually exists no real and/or justiciable dispute between Promoesport and Al-Ahli, and that any request for relief sought in that respect shall also be rejected.
- In the present dispute, the Sole Arbitrator cannot consider requests concerning the debt owed by Al-Ahli to Promoesport as agreed in the Settlement Agreement, as the issues relating to the mentioned debt have already been heard and decided by a final and binding decision, the award in the case CAS 2021/O/8341.
- Therefore, considering that the award in the case CAS 2021/O/8341, rendered following Al-Ahli's failure to respect the Settlement Agreement, has long become final and binding, any request for relief sought by Al-Ahli in that respect shall also be dismissed by the Sole Arbitrator.
- On this basis, Promoesport's made the following requests for relief:

*“a. Dismiss the appeal filed by Al-Ahli Sports Club against the decision of the FIFA Disciplinary Committee with ref. no. FDD-10215 of 24 February 2022 in its entirety and confirm such decision.*

*b. In any case, order Al-Ahli Sports Club to pay a contribution to Promoesport International 2015, S.L.U. for the legal costs and expenses incurred, as well as to bear the entirety of the costs of this procedure.”*

## **V. JURISDICTION**

42. The case concerns an appeal of a decision issued by FIFA.

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

*“An appeal against the decision of a federation, association or sports-related body may be filed with CAS if the statutes or regulations of the said body so provide or if the parties have concluded a specific arbitration agreement and if the Appellant has exhausted the legal remedies available to it prior to the appeal, in accordance with the statutes or regulations of that body.”*

44. Further, Article 57 (1) of the FIFA Statutes (2021-edition) reads as follows:

*“Appeals against final decisions passed by FIFA’s legal bodies and against decisions passed by confederations, member associations or leagues shall be lodged with CAS within 21 days of receipt of the decision in question.”*

45. The jurisdiction of CAS is confirmed by the Order of Procedure duly signed by the Parties.

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

## **VI. ADMISSIBILITY**

47. The time limit for submitting a Statement of Appeal is 21 days from the receipt of the decision appealed against pursuant to Article R49 of the Code and Article 57 (1) of the FIFA Statutes (2021-edition). The Statement of Appeal was filed by the Appellant on 25 April 2022, i.e. 19 days after the FIFA communicated the Appealed Decision to the Parties on 6 April 2022, hence within the deadline of 21 days.

48. The appeal complied with all other requirements of Article R48 of the Code.

49. Therefore, the appeal is admissible.

## **VII. APPLICABLE LAW**

50. Article R58 of the Code provides as follows:

*“Law Applicable to the merits. The Panel shall decide the dispute according to the applicable regulations and, subsidiarily, to the rules of law chosen by the parties or,*

*in the absence of such a choice, according to the law of the country in which the federation, association or sports-related body which has issued the challenged decision is domiciled or according to the rules of law that the Panel deems appropriate. In the latter case, the Panel shall give reasons for its decision.”*

51. The Sole Arbitrator reiterates that the case concerns an appeal of a decision issued by the FIFA DC, where Al-Ahli was sanctioned in accordance with provisions in the FDC.
52. Article 56.2 of the FIFA Statutes (2021-edition) so provides:  
  
*“The provisions of the CAS Code of Sports-related Arbitration shall apply to the proceedings. CAS shall primarily apply the various regulations of FIFA and, additionally, Swiss law”.*
53. Applying these principles to the present matter, the case must be decided in accordance with the applicable FIFA rules and regulations, in particular the FDC. In case of lacuna in the FIFA rules and regulations, the Sole Arbitrator shall apply Swiss law.

## VIII. MERITS

### A. Promoesport’s standing to be sued

54. The Sole Arbitrator notes that Promoesport is the only Respondent in this case, and that Promoesport claims that it does not have standing to be sued. In this respect, the Sole Arbitrator notes that standing to be sued refers to the party against whom an appellant must direct its claim in order to be successful. According to CAS doctrine *“a party has standing to be sued only if it has some stake in the dispute because something is sought against it, and is personally obliged by the dispute at stake”* (MAVROMATI/REEB, *The Code of the Court of Arbitration for Sport: Commentary, Cases and Materials*, 2015, p. 411, nr. 65).
55. This approach is confirmed by CAS jurisprudence, for example CAS 2020/A/7144 paragraph 85, where the sole arbitrator stated:  
  
*“a party has standing to be sued only if it is personally obliged by the claim brought by an appellant.”*
56. The question of who has standing to be sued is a question of the merits. If the respondent does not have standing to be sued, then the appeal must be dismissed, as concluded by CAS in the case CAS 2020/A/7144 paragraph 87 et seq. with further reference to SFT 128 III 50 of 16 October 2001, at 55; SFT 4A\_424/2008 of 22 January 2009, para. 3.3. and CAS 2008/A/1639, para. 3.
57. In the Appealed Decision, the FIFA DC concluded that Al-Ahli had failed to make the payments it was ordered to pay in the case CAS 2021/O/8341, and that its failure to

make the payments constituted a breach of Article 15 of the FDC, which, inter alia, states that anyone who fails to make payments in accordance with a CAS decision shall be sanctioned.

58. The Sole Arbitrator notes that the Appealed Decision was issued by the FIFA DC, and that Promoesport's only role in the proceedings that led to the Appealed Decision was that it submitted a claim before the FIFA DC, requesting that FIFA initiate disciplinary proceedings and for sanctions to be imposed upon Al-Ahli for failure to comply with the CAS Award in the case CAS 2021/O/8341. Although Promoesport indeed was a party in the proceedings that led to the CAS award, it was not a party to the proceedings that led to the Appealed Decision.
59. The Sole Arbitrator further notes that CAS case law has, in issues concerning standing to be sued, differentiated between decisions containing a vertical element, which typically arise in a disciplinary, eligibility or registration context ("vertical disputes") and decisions containing a horizontal element, that typically originate in a legal relationship amongst individual members, e.g. clubs or players ("horizontal disputes") (CAS 2020/A/7144, paras. 84 et seq.).
60. In this regard, the Sole Arbitrator notes that the Appealed Decision mainly concerns disciplinary elements. The Sole Arbitrator notes, however, that in addition to the disciplinary sanctions imposed on Al-Ahli, paragraph 2 of the operative part of the Appealed Decision also orders Al-Ahli to pay an amount to Promoesport that corresponds to the amount Al-Ahli was ordered to pay in the Award issued by CAS in the case CAS 2021/O/8341. The Sole Arbitrator notes that this part of the decision seems unnecessary, as Al-Ahli's obligation to pay these amounts had already been decided by CAS in case CAS 2021/O/8341, a decision that became final and binding 30 days after the Award was issued, pursuant to Article R46 of the Code. Notwithstanding the above, the Sole Arbitrator considers that the Appealed Decision clearly must be categorized as "vertical".
61. To which extent a party that has no rights or obligations related to disciplinary proceedings has standing to be sued has been considered by CAS on numerous occasions. In the case CAS 2015/A/3910, which is also referred to in the case CAS 2017/A/5359, the panel stated as follows:

*"The criteria for awarding legal standing to be sued should not differ in vertical or horizontal disputes. In vertical disputes the association has (sole) standing to be sued because it is the party primarily concerned and the best representative of the interests of all other stakeholders affected by the dispute. The other stakeholders – in principle – only have a general and abstract interest that the associations' rules and regulations be applied to their respective co-member in an equal, consistent and correct way. This general interest – in principle – will be represented and taken care of by the association. Thus, there is no need – in vertical disputes – to direct the appeal against any other party than the association."*

62. In other words, in a vertical dispute, where sanctions have been imposed on a party by a sporting organisation, an appeal must be directed against the sporting organisation that imposed the sanction. A similar approach was taken in the case CAS 2019/A/6646, where the panel stated (paragraphs 59 and 60):

*“The Panel wishes to recall that, pursuant to the CAS jurisprudence, a party has standing to be sued in CAS proceedings only if it has some stake in the dispute because something is sought against it in front of the CAS (see, inter alia, CAS 2015/A/4310, CAS 2014/A/3831 and CAS 2014/A/3850). Therefore, the only body that would have the authority to withdraw the sanction on the Club in the present case, would be FIFA.*

*As a consequence, in an appeal against a FIFA decision, by means of which disciplinary sanctions have been imposed on a party for failing to comply with a previous FIFA decision, it is required the intervention of FIFA as a party in the appeal proceedings. Therefore, an appeal against a sporting sanction inflicted by a FIFA decision-making body must include FIFA, as the body that has the power to impose disciplinary sanctions.”*

63. In the case at hand, it is FIFA that, through the Appealed Decision, has imposed sanctions on Al-Ahli, and an appeal must be directed against FIFA as the party with standing to be sued.
64. The Sole Arbitrator therefore finds that, with regards to Al-Ahli’s appeal against the decision in which it was sanctioned by FIFA, the party that has standing to be sued is FIFA and not Promoesport.
65. As stated above, the consequence of appealing a decision against a party that does not have standing to be sued is that the appeal must be dismissed.

## **B. Conclusion**

66. In the case at hand, the appeal is raised against a decision where FIFA imposed disciplinary sanctions on Al-Ahli. The appeal must be dismissed due to the fact that FIFA was not named as respondent. Furthermore, Promoesport lacks standing to be sued and Al-Ahli has to bear the consequences of its failure to name FIFA as the correct respondent in the present appeal proceeding.
67. The above conclusion, finally, makes it unnecessary for the Sole Arbitrator to consider the Parties’ other requests. Accordingly, all other prayers for relief are rejected.
68. Therefore, the appeal must be dismissed and the Appealed Decision confirmed.

## **IX. COSTS**

(...).

## **ON THESE GROUNDS**

### **The Court of Arbitration for Sport rules that:**

1. The appeal filed on 25 April 2022 by Al-Ahli Saudi Football Club against the decision issued on 24 February 2022 by the FIFA Disciplinary Committee is dismissed.
2. The decision issued on 24 February 2022 by the FIFA Disciplinary Committee is confirmed.
3. (...).
4. (...).
5. All other and further motions or requests for relief are dismissed.

Seat of arbitration: Lausanne, Switzerland  
Date: 4 July 2023

**THE COURT OF ARBITRATION FOR SPORT**

Espen Auberg  
Sole Arbitrator