

**CAS 2023/A/10081 Abdelilah Ibrahimi Idrissi v. Fédération Royale Marocaine de Football**

**ARBITRAL AWARD**

**delivered by the**

**COURT OF ARBITRATION FOR SPORT**

**sitting in the following composition:**

Sole Arbitrator: Dr Ghada M. Darwish Karbon, Attorney-at-law, Doha, Qatar

in the arbitration between

**Abdelilah Ibrahimi Idrissi**, Morocco

Represented by Mr Nasr Eldin Azzam, Sport Makers Law & Management Firm, Cairo, Egypt

Appellant

and

**Fédération Royale Marocaine de Football (FRMF)**, Morocco

Represented by Mr Jorge Ibarrola, Libra Law SA, Lausanne, Switzerland

Respondent

## **I. PARTIES**

1. Mr Abdelilah Ibrahim Idrissi (the “Appellant”) is a Moroccan national allegedly holding the position of Spokesman and Media Coordinator of Raja Casablanca Club (“the Club”).
2. The Fédération Royale Marocaine de Football (“FRMF” or the “Respondent”) is the governing body for the sport of football on the Moroccan territory, headquartered in Rabat, Morocco.
3. Mr. Abdelilah Ibrahim Idrissi and the FRMF shall collectively be named as the “Parties”.

## **II. INTRODUCTION**

4. This case revolves around the appropriateness or otherwise of the decision of the FRMF Ethics Committee sanctioning the Appellant with a fine of MAD 100,000 and a two (2) year-ban from all football-related activities.
5. Following the appeal filed by the Appellant, on 5 October 2023, the FRMF Central Appeal Committee rendered the following decision (the “Appealed Decision”) that states in the operative part thus:

*“Regarding the form: Appeal accepted*

*Regarding the substance: Upholding the decision of the Ethics Committee No. 01 issued on 05/09/2023 in file No. 08/23-24 with the appellants held accountable.”*

## **III. FACTUAL BACKGROUND**

### **a. Background Facts**

6. Below is a summary of the relevant facts and allegations based on the Parties’ written submissions, pleadings and evidence adduced at the hearing. Additional facts and allegations found in the Parties’ written submissions, pleadings and evidence may be set out, where relevant, in connection with the legal discussion that follows. While the Sole Arbitrator has considered all the facts, allegations, legal arguments and evidence submitted by the parties in the present proceedings, she refers only to the submissions and evidence she considers necessary to explain her reasoning.
7. On 3 September 2023, a match took place between the Club and AS FAR in the context of the Moroccan League in the Club’s stadium.
8. During the Match, Zakaria Habti (the “Player”) was sent off with a red card at the 95<sup>th</sup> minute while the result was a 2-2 draw.
9. While the Player left the pitch without challenging the referee’s decision (i.e. red card), several fans threw bottles of water at him.

10. While the Player was on the athletic track on his way to the changing rooms, the Appellant approached the Player. As the Appellant was approaching the Player, the latter waved his hand in displeasure.
11. The Appellant and the Player then exchanged insults and obscenities. When the Appellant was next to the Player, the Appellant attempted to grab the Player's arm. However, the Player broke free.
12. Following this altercation, the Player grabbed a bench attempting to use same on the Appellant but the bench was taken from him. The Appellant in return spat at the Player twice. They were separated by people present at the scene of the incident.
13. The Player was then escorted from the stadium by the security agents.
14. Following these incidents, the FRMF initiated disciplinary proceedings against both the Appellant and the Player and during which the Appellant and the Player were questioned about the incidents.

**b. Proceedings before the FRMF Committee**

15. Following the incident, the FRMF Ethics Committee opened proceedings against the Appellant and the Player. A hearing was held before the FRMF Ethics Committee.
16. On 5 September 2023, the FRMF Ethics Committee issued a decision whereby it sanctioned the Appellant with a fine of MAD 100,000 and a two (2) year-ban from all football-related activities.
17. On 5 October 2023, following an appeal filed by the Appellant, the FRMF Central Appeal Committee rendered the "Appealed Decision", which confirm the decision issues by the FRMF Ethics Committee.

**IV. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT**

18. On 26 October 2023, the Appellant filed his Statement of Appeal against the Respondent with respect to the Appealed Decision. In his Statement of Appeal, the Appellant requested that this matter be referred to a sole arbitrator.
19. Together with his Statement of Appeal, the Appellant submitted a Request for Provisional and Conservatory Measures.
20. By Order notified on 28 November 2023, the Deputy President of the Appeals Arbitration Division (the "Deputy Division President") decided that the present arbitral proceedings shall be held in English.
21. On 26 December 2023, the Respondent filed its reply to the Appellant's Request for Provisional and Conservatory Measures.
22. On 15 February 2024, the Deputy President of the CAS Appeals Arbitration Division notified its Order on Request for Provisional and Conservatory measures.

23. In this Order, the Deputy President of the CAS Appeals Arbitration Division dismissed the application for provisional measures filed by the Appellant on 26 October 2023:

*The Deputy President of the CAS Appeals Arbitration Division, ruling in camera, decides that:*

*1. The application for provisional measures filed by Abdelilah Ibrahim Idrissi on 26 October 2023 in the matter CAS 2023/A/10081 Abdelilah Ibrahim Idrissi v. Fédération Royale Marocaine de Football is dismissed.*

*2. The costs deriving from the present order will be determined in the final award or in any other final disposition of this arbitration.*

24. On 28 December 2023, the Secretariat of CAS appointed Dr Ghada M Darwish Karbon as Sole Arbitrator in the case.
25. On the same day, Dr Ghada M Darwish Karbon accepted her nomination by submitting her Arbitrator's Acceptance and Statement of Independence Form.
26. On 31 January 2024, the Appellant submitted an application for legal aid.
27. On 1 February 2024, the CAS Court Office acknowledged receipt of the Appellant's application for legal aid and, to establish the Appellant financial capacity, requested the latter to complete his application by providing various documents and information on his current situation within a one-week deadline.
28. On 8 February 2024, the Appellant requested a 15-day extension of time to submit the requested documents/information about his financial situation. Such requested was granted by the CAS Court Office on the same day.
29. On 25 February 2024, and pursuant to Article R32 (1) of the Code, the Appellant submitted the requested documents/information about his financial situation.
30. By Order notified on 16 July 2024, the ICAS Athletes' Commission granted the Appellant assistance for CAS arbitration costs.
31. On the same day, the CAS Court Office invited the Respondent to file its Answer within a 20-day deadline, pursuant to Article R55 (1) of the Code.
32. On 15 August 2024, the CAS Court Office referred to its letter dated 16 July 2024 and noted the absence of an Answer from the Respondent, within the prescribed time limit, i.e. 5 August 2024. In such letter, the CAS Court Office reminded the Parties that, in the absence of an Answer, the Sole Arbitrator may nevertheless proceed with the arbitration, pursuant to Article R55 (2) of the Code.
33. On the same day, the Respondent replied that "*After a thorough investigation, it appears that an automatic update of our Microsoft Outlook application has disrupted our firm's internal rules for keeping track of deadlines. Furthermore, I was personally absent on 16 July 2024 and on 5 August 2024, as were my partners, Mr Claude Ramoni and Ms*

*Monia Karmass. The failure to meet this deadline is therefore due to exceptional circumstances, which I sincerely deplore.*” In its letter, the Respondent requested an extension of time of 20 days – or in the alternative, that a new 20-day deadline be set – to file its Answer.

34. On 16 August 2024, the CAS Court Office invited the Appellant to comment on the Respondent’s request for extension of time / to be granted a new 20-day time limit to file its Answer.
35. On 20 August 2024, the Appellant objected to the Respondent’s request since this matter was pending for a few months and requested to proceed with the release of an arbitral award without holding a hearing.
36. On 22 August 2024, the Respondent requested that a hearing be held.
37. On 27 August 2024 the CAS Court Office informed the Parties that the Panel appointed to decide on the present matter is constituted as follows:

Sole Arbitrator: Dr Ghada M Darwish Karbon, Attorney-at-law, Doha, Qatar

38. On the same day, the file was forwarded to the Sole Arbitrator and the Appellant filed a second request for provisional measures with the following prayers for relief:

*1- To suspend the effect of the Appealed Decision with an immediate effect and to be declared as temporarily suspended until the Court of Arbitration for Sport rule on the merits of the case at stake.*

*2- To declare the Appellant eligible to stand in the Club’s election scheduled on 12 September 2024, and allow him to submit his nomination documents before 4 September 2024*

*3- Alternatively, as stated above, to stay the Appealed Decision and declare the Appellant eligible to stand in the Club’s election scheduled on 12 September 2024, allow him to submit his nomination documents before 4 September 2024 and if he got elected, his effective occupation shall be postponed pending the final Award.*

*4- Due to the urgency of the matter, we kindly request to order a Decision on the current provisional measures request by no later than 03 September 2024, even if without grounds.*

39. On 2 September 2024, the Respondent replied to the Appellant’s second request for provisional measures and concluded to its dismissal.
40. On 12 September 2024, and after the Sole Arbitrator considered all the circumstances surrounding the receipt of the 16 July 2024 CAS Court Office’s letter, namely (i) that notification by email is not 100% reliable and that it may be the case that such letter landed in the spam box of Counsel for the Respondent; (ii) that an automatic update of the Microsoft Outlook application has apparently disrupted Counsel for the Respondent’s law firm’s internal system for keeping track of deadlines; and (iii) that all

partners of the law firm were absent on 16 July 2024 (date of the receipt of the CAS letter) and on 5 August 2024 (date of expiry of the deadline). Considering these exceptional circumstances, the Sole Arbitrator granted the Respondent a reduced and non-extendable 10-day time limit to submit its Answer.

41. Still on 12 September 2024, the Sole Arbitrator of the CAS dismissed the Appellant's second request for provisional measures:

*1. The application for provisional measures filed by Abdelilah Ibrahim Idrissi on 27 August 2024 in the matter CAS 2023/A/10081 Abdelilah Ibrahim Idrissi v. Fédération Royale Marocaine de Football is dismissed.*

*2. The costs deriving from the present order will be determined in the final award or in any other final disposition of this arbitration.*

42. On 23 September 2024, the Respondent submitted its Answer, pursuant to Article R55 (1) of the Code.

43. On 28 October 2024, the Respondent signed and returned the Order of Procedure.

44. On 29 October 2024, the Appellant signed and returned the Order of Procedure.

45. On 7 November 2024, a hearing was held by videoconference via the platform CISCO Webex. In addition to the Sole Arbitrator and Mr Fabien Cagneux, Managing Counsel, the following persons attended the hearing:

- For the Appellant

- Mr Abdelilah Ibrahim Idrissi, Appellant
- Mr Nasr El Din Azzam, Counsel
- Mr Abdelrahman Hashish, Counsel
- Ms Haidi Haissam, Counsel
- Ms Rania Rafa, Counsel
- Mr Zohair Tarek, Interpreter

- For the Respondent:

- Mr Jorge Ibarrola, Counsel

46. During the hearing, the Parties have the full opportunity to present their arguments and to ask questions to the other Party. At the end of the hearing, the Parties confirmed that their procedural rights had been fully respected.

## V. SUBMISSIONS OF THE PARTIES

### A. The Appellant

The Appellant's submissions, in essence, may be summarized as follows:

47. The Competent authority to adjudicate the case is the Disciplinary Committee, which shall apply its own Disciplinary Code. This follows the explicit provisions of the FRMF Regulations granting the jurisdiction to its Disciplinary Committee to examine and adjudicate this kind of incidents.

48. Article 34 and 37 of the FRMF Statutes provides thus:

*“The Disciplinary Commission may take the sanctions and disciplinary measures listed in these Statutes, in the Disciplinary Code of the FRMF, CAF and FIFA against Members, Officials, players as well as match agents and intermediaries.*

*Sanctions and disciplinary measures are listed in the FRMF Disciplinary Code. These include the following measures: [...]”*

*“The purpose of this disciplinary code is to define the infractions that may occur in the course of football competitions, to determine the appropriate sanctions [...]”*

49. Further, both the Player and the Appellant are subject to this Code according to its scope of application, as it is applicable to Players and officials, according to Article 39 of the Disciplinary Code of the FRMF Statutes:

*“This Code shall apply to:*

*{...}*

*c. The Officials*

*d. The Players”*

50. Accordingly, the FRMF Statutes is clear in attributing the jurisdiction to hear and adjudicate the dispute to the FRMF's Disciplinary Committee rather than the Ethics Committee since the incident in question took place in the course of a national Moroccan football competition.

51. Arguably, the Respondent acknowledged in the Appealed Decision that it does not have a national code of ethics and hence resorted to the FIFA Code of Ethics, which the Appellant deems improper and jeopardizes the Appellant's rights of having a clear basis for his questioning and its subsequent sanction.

52. The Appellant refers to the CAS Award (CAS 2019/A/6330) which stated that:

*“2. Sports organisations cannot impose sanctions without a proper legal or regulatory basis for them. Such principle requires that offences and sanctions must be clearly and*

*previously defined by law and precludes the “adjustment” of existing rules to apply them to situations or behaviours that the legislator did not clearly intend to penalise”*

53. Therefore, it is clear that the FRMF’s Disciplinary Committee was the rightful committee that had the jurisdiction and shall render its sanctions according to the provisions of its Disciplinary Code applicable on the incident and the Parties as demonstrated above. We refer in this matter to Article 2 of the Disciplinary Code which states that:

*“The sanctions that may be taken by the disciplinary bodies are those provided for in the Disciplinary Code and determined according to the offence committed and extenuating or aggravating circumstances.”*

54. The decision of the FRMF’s Ethics Committee which was upheld by the Central Appeal Committee applying the provisions of FIFA Code of Ethics based on the excuse that the Respondent does not have a national code of ethics is flawed. A simple review of the scope of application of FIFA Code of Ethics, clearly showed that it does not apply to our case.

55. According to Article 1 of the FIFA Ethics Code, which defines its scope of application, it applies to any conduct other than those specifically provided for by other regulations, as follows:

*“This Code shall apply to any conduct, other than those specifically provided by other regulations and connected to the field of play that damages the integrity and reputation of football and in particular to illegal, immoral and unethical behaviour of the persons covered under article 2 of this Code”*

56. It follows therefore, that the conduct for which the Appellant was mainly sanctioned by the Appealed decision (the act of spitting), is already provided for in the FRMF’s Disciplinary Code as clarified above and below, this means that the Ethics Code of FIFA shall not be applied to this conduct, and it shall be sanctioned according to the regulations that provided it (the Disciplinary Code in our case).

57. It is clear that the sanctioned act is excluded from the material scope of application of FIFA's ethics code, and in addition, the Appellant is also excluded from its personal scope of application. Accordingly, the FIFA Code of Ethics should be applicable in the present case.

58. The Appellant insists that he did not commit a sanctionable offence. The Appellant never spat at the Player but rather made a widely known gesture with his mouth as an expression of his anger and disappointment of the Player’s attitude by which he met the Appellant’s attempt to protect him. Again, the mouth gesture is widely used here in our Region to either blame someone for his/her behaviour, or to express the feeling of sudden or disappointment or shock of something.

59. As appears from the Incident’s Video, the Appellant’s movement of mouth does not show any spitting, but a gesture that looks like spitting which is a mere gesture. Moreover, logically, if the Appellant did really spit at the Player, the latter would have



a spontaneous face reaction directly after feeling the Appellant's alleged spit, which did not happen as can be clearly seen from the Video.

60. Thus, the Appellant's mouth gesture cannot be deemed an act of spitting even if initially appeared to be a spit. The Cambridge's Dictionary's definition of the word "spitting" which is: *"To force out the contents of the mouth, especially saliva"* also lays credence to the argument that the Appellant did not commit the alleged sanctionable offence of spitting.

61. The Appellant further argues that, in the event that the offence is deemed sanctionable, the Appealed Decision should be deemed outrageously disproportionate. Citing the well-established jurisprudence of the CAS, on the principle of proportionality thus: the disciplinary sanction imposed must be in accordance with the principle of proportionality. The Appellant refers in this matter to (CAS 2022/A/8592), which stated that:

*"While it should not easily tamper with the sanction imposed in the first instance decision, its de novo power of review allows a CAS panel to find that sanctions are disproportionate and to determine more appropriate sanctions. The sanctions imposed in any disciplinary proceeding are case specific and turn on the facts, and the interests at stake must be balanced in respect of the principle of proportionality."*

62. The Appellant's clean history should be taken into consideration as a mitigation factor, this also accords with the CAS long jurisprudence. For example, the Appellant refers to the CAS Award (CAS 2015/A/3975) which stated that:

*"4. Pursuant to the applicable rules, a CAS panel has a faculty to impose a general sanction on a player responsible for two distinct violations or separate sanctions. The degree of the player's fault as well as the fact that he had a clean slate as he has not committed any other disciplinary offences prior to the events should be taken into consideration to establish appropriate sanctions."*

63. The Appellant requests the Honourable Panel, as follows:

*"To accept this appeal against the decision rendered by the Respondent on 5 October 2023.*

*To adopt an award annulling said decision as follows:*

*To annul and set aside the Appealed Decision; or*

*Alternatively, to rule that it is disproportionate and shall be reduced to an ineligibility of five (5) matches and,*

*To dismiss and annul the fine imposed by the Respondent; and*

*To condemn the Respondent to the payment of the whole CAS administration costs and the Arbitrator's fees.*

*Awarding any such other relief as the Panel may deem necessary or appropriate.”*

**B. The Respondent**

64. The Respondent’s submissions, in essence, may be summarized as follows:
65. The Respondent argues that the FRMF’s Ethics Committee was, in accordance with the FRMF Statutes, competent to issue the first instance decision on 5 September 2023. The FRMF’s Ethics Committee applied the correct set of regulations, namely the FIFA Code of Ethics.
66. Pursuant to Article 3 (2) of the FRMF Disciplinary Code, the jurisdictional bodies of the FRMF are the Disciplinary Committee, the Appeals Committee and the Ethics Committee. The Ethics Committee is therefore a jurisdictional body of the FRMF, which is competent to sanction breaches of the FRMF regulations.
67. Article 4 (1) of the FRMF Disciplinary Code further provides that the jurisdictional bodies of the Respondent, i.e. including the Ethics Committee, are competent to sanction all violations of the FRMF’s Regulations which are not expressly attributed to another body by the FRMF’s Statutes and regulations.
68. Consequently, a rule in the regulations of the FRMF must expressly assign exclusive jurisdiction to adjudicate on incidents to one jurisdictional body of the Respondent so that the others cannot declare themselves competent.
69. For the Disciplinary Committee to have had jurisdiction, the incident had to take place on the football pitch and under the referee’s supervision. In the present case, the incident between the Player and the Appellant took place off the pitch and is not related to what happened on the field of play. The Player had indeed already been sent off the pitch by the referee of the match when the Appellant approached him, insulted him and spat on him.
70. Had the incident taken place on the pitch, the referee would have sent the Player off the field of play and then, the FRMF Disciplinary Committee would have had jurisdiction to impose the sanctions provided for in Article 85 of the Disciplinary Code and annex I of the FRMF Disciplinary Code:
- Article 85 (1) (e) of the FRMF Disciplinary Code provides for the expulsion of an official who spits at an opponent or at anyone other than an official on the football pitch and for the imposition of the sanctions provided for in Annex 1 of the FRMF Disciplinary Code.*
71. It follows therefore, that in the absence of any specific rule conferring jurisdiction on the FRMF Disciplinary Committee to rule on matters that took place off the pitch, the FRMF Ethics Committee was competent to issue the Appealed Decision.
72. This is further confirmed by the FIFA Code of Ethics, which was applicable to the incident between the Player and the Appellant at the end of the Match.

73. The FRMF Ethics Committee was required to apply the FIFA Code of Ethics in order to sanction the Appellant, as the FRMF Statutes expressly provide for the application of the FIFA Code of Ethics.
74. Note that the Article 5 (2) of the FRMF Statutes expressly provides that the Respondent shall ensure the compliance with the rules of ethics laid down by the international sporting movement, in particular the Fédération Internationale de Football Association (FIFA).
75. Regarding the scope of applicability of the FIFA Code of Ethics, its Article 1 provides that:
- “This Code shall apply to any conduct, other than those specifically provided by other regulations and connected to the field of play that damages the integrity and reputation of football and in particular to illegal, immoral and unethical behaviour of the persons covered under article 2 of this Code.”*
76. The incident in question involved a conduct that is undeniably detrimental to the integrity and reputation of the game of football (entering the athletic track surrounding the pitch without permission, abusive language and spitting). As already mentioned above, such conduct took place off the pitch and is therefore not connected to the field of play.
77. Consequently, it is not covered by FRMF’s other regulations relating to the field of play, such as the FRMF Disciplinary Code, which provides for the expulsion and sanctioning of an official who spits at a player. In fact, the incident did not occur during the match, under the referee’s supervision, but outside of the pitch, outside of the referee’s authority.
78. On the issue of a sanctionable offence, the Appellant did not prove that he did not commit any sanctionable acts since he has admitted before the FRMF Ethics Committee that he had insulted and spat at the Player.
79. During the hearing before the FRMF Ethics Committee, the Appellant indeed himself stated that the Player “sent him obscenities with his mother’s insult and the threat of physical assault, which led the Appellant to spitting on him as a reaction to this”.
80. In addition, the Appellant perfectly knew the meaning of the verb “to spit”, as he referred in his written submissions to dictionaries’ definitions of this verb and to a definition in a CAS case. It is therefore inappropriate and contradictory for the Appellant to turn around and claim that he was “calm with decent attitude” towards the Player, that he did not commit any reprehensible act and that he did not spit at the Player, alleging that he only made a gesture with his mouth.
81. On the issue of disproportionality of the sanction, the Respondent argues that there is a reasonable balance between the objective pursued and the means used to achieve it. The objectives pursued by the sanction are the public interest in non-violent sport, and, in particular, in non-violent football matches, the safety of players and fans at football matches as well as the interest in ensuring that the FRMF Regulations and those of FIFA

are respected. These objectives are such as to legitimise significant sanctions against an official who (i) entered the athletic track surrounding the football field without permission, (ii) insulted the Player and (iii) spat on him.

82. *The Fédération Royale Marocaine de Football applies for the Court of Arbitration for Sport to rule as follows:*

*I. The appeal of Abdelilah Ibrahim Idrissi against the decision of the FRMF Central Appeal Committee of 5 October 2023 is dismissed.*

*II. Abdelilah Ibrahim Idrissi shall bear the arbitration costs and shall be ordered to pay the Royal Moroccan Football Federation a contribution towards its legal and other costs in an amount to be specified by Royal Moroccan Football Federation in due time or at the discretion of the Panel.*

## **VI. JURISDICTION**

83. Article R47 of the Code provides as follows:

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

84. In the absence of a specific arbitration agreement, in order for the CAS to have jurisdiction to hear an appeal, the statutes or regulations of the sports-related body the decision of which is appealed against must expressly recognise the CAS as an arbitral body of appeal.

85. Article 35 of the FRMF Statutes provides:

*“The decisions of the Central Appeal Committee are final and binding for all interested parties subject to appeal to the CAS or the National Arbitration Chamber of Sport, within the limits of their jurisdiction.”*

86. The jurisdiction of CAS is not contested by the Parties and is further confirmed by the Order of Procedure duly signed by them.

87. It follows that the Panel has jurisdiction to adjudicate and decide on the present dispute.

## **VII. ADMISSIBILITY**

88. Article R49 of the Code provides as follows:

*“In the absence of a time limit set in the statutes or regulations of the federation, association or sports-related body concerned, or of a previous agreement, the time limit*

*for appeal shall be twenty-one days from the receipt of the decision appealed against. After having consulted the parties, the Division President may refuse to entertain an appeal if it is manifestly late.”*

89. The Appealed Decision was issued on 5 October 2023. The Appellant filed his Statement of Appeal on 26 October 2023. Accordingly, the appeal was filed within the time limit for appeal of 21 days. The appeal complied with all other requirements of Article R48 CAS Code, including the payment of the CAS Court Office fee.
90. It follows that the appeal is admissible.

### **VIII. APPLICABLE LAW**

91. Article R58 of the Code provides as follows:

*“The Panel shall decide the dispute according to the applicable regulations and 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, the application of which the Panel deems appropriate. In the latter case, the Panel shall give reasons for its decision.”*

92. The Parties do not make any submissions with respect to the law to be applied.
93. At the outset of the hearing, also in view of the absence of any submissions of the Parties in relation to the applicable law, the Sole Arbitrator decided that the case shall be decided according to Regulations of the FRMF and, on a subsidiary basis, to the laws of Morocco as country of domicile of the federation who rendered the Appealed Decision (i.e. the FRFMF).

### **IX. MERITS**

#### **The Main Issues**

94. Having analysed the submissions of the Parties, the Sole Arbitrator notes the reoccurring issues raised and, on the basis, streamlines the issues for determination.
95. As argued explicitly by the Appellant and as implicitly confirmed by the submissions of the Respondent, the matter in dispute pivots around three questions, i.e.
- The competence of the Ethics Committee to adjudicate the case and the applicability of the FIFA Code of Ethics.
  - Whether the acts complained about were sanctionable offences.
  - Whether the sanctions followed the provisions of the Code or is disproportionate to the offence

- ***The competence of the Ethics Committee to adjudicate the case and the applicability of the FIFA Code of Ethics***

96. The Appellant submits that the Disciplinary Committee of the Respondent is the competent authority to adjudicate this matter, following the provisions of the FRMF Statutes conferring on it, the powers to decide on the cases, a submission that the Respondent denies stating that according to the circumstances of the case in question and the express provisions of the Statutes, the Ethics Committee has jurisdiction.
97. In order to adjudicate a matter, the judicial body must derive its powers from the law and regulations of the sports body in question, i.e. the FRMF. The regulations expressly provide the extent of the powers and what jurisdiction is inherent or otherwise. Where there are other juridical bodies in same jurisdiction, it behoves on the regulation to specify the hierarchy and if the jurisdiction is exclusive or co-ordinate where necessary.
98. The applicable regulation is enshrined in Article 3 of the FRMF Disciplinary Code which enlists the jurisdictional bodies and expressly includes the Ethics Committee, the Disciplinary Committee and the Appeals Committee. Each with coordinate or express distinct or exclusive jurisdiction.
99. Article 4 of the FRMF Disciplinary Code further provides:
- “The Disciplinary Bodies are competent to sanction all breaches of the FRMF Regulations not expressly attributed to another body by the statutes and regulations of the FRMF. Any appeal filed by a person subject to this Code and any dispute between Affiliates, due to facts related to football, must be submitted exclusively to the jurisdictions of the Federation or the Leagues unless otherwise provided in the Regulations of the Federation”.*
100. With respect to the powers of the Ethics Committee Article 36 (1) of the FRMF Statutes provides thus:
- “The Ethics Committee deals with issues relating to ethics in national football and may impose the sanctions stipulated in these Statutes, in the FRMF Code of Ethics and in the FRMF Disciplinary Code on officials, players, match organisers and intermediaries”.*
101. The Disciplinary Committee, according to Article 34 of the FRMF Statutes, has also the power to impose sanctions on officials, players, match agents and intermediaries.
- “The Disciplinary Committee may take the sanctions and disciplinary measures listed in these Statutes, in the Disciplinary Code of the FRMF, CAF and FIFA against Members, Officials, players as well as match agents and intermediaries”.*
102. Interestingly, it follows therefore that both the Disciplinary Committee and the Ethics Committee have powers to impose sanctions and that the powers are applicable to the same categories of persons, i.e. players, officials, intermediaries, etc. Furthermore, the FRMF Regulations do not appear to restrict the scope of power of the Ethics Committee

and the Disciplinary Committee and that they may both initiate disciplinary proceedings against clubs, players and officials whenever needed.

103. The Sole Arbitrator finds therefore that both Disciplinary Committee and the Ethics Committee has co-ordinate jurisdiction to adjudicate the matter, thus the Ethics Committee acted within its scope of action and was indeed competent to adjudicate the present matter.

104. With respect to the applicability of the FIFA Code of Ethics, the FRMF Statutes incorporated in its provisions the freedom to have recourse to the FIFA Regulations where necessary. Article 78 (3) of the FRMF Statutes provides as follows:

*“The Federation shall refer, within the framework of the legislation in force, to the FIFA Statutes and Regulations for any matter not covered by these Statutes.”*

105. It is the Respondent’s submissions that the FIFA Code of Ethics shall apply in this matter since the FRMF has no proper Code of Ethics. To determine whether the FIFA Code of Ethics shall apply to the present matter, the Sole Arbitrator shall turn her attention to its Article 1, which reads as follows:

*“This Code shall apply to any conduct, other than those specifically provided by other regulations and connected to the field of play that damages the integrity and reputation of football and in particular to illegal, immoral and unethical behaviour of the persons covered under article 2 of this Code.”*

[emphasis added by the Sole Arbitrator]

106. In this context, the Sole Arbitrator finds that Disciplinary Code of the FRMF explicitly provides a specific list of offences and unsporting behaviour that may be sanctioned by any of the disciplinary bodies of the FRMF. As a matter of fact, the Sole Arbitrator shall refer to Article 85 of the FRMF Disciplinary Code, which reads as follows:

*“Article 85: Incorrect behaviour towards players or any persons other than Match Officials*

*1. Anyone (player or official) who is directly expelled will be suspended in accordance with the scale annexed to the present disciplinary code:*

*[...]*

*e. Spitting on an opponent or anyone other than a match official”.*

[free translation]

107. It follows from the above that, considering that FRMF Disciplinary Code explicitly provides a list of offences as well as a scale of applicable sanctions, the FIFA Code of Ethics is of no help in this matter.

108. As regards the Respondent’s argument that the FIFA Ethics Code shall apply because the offences committed by the Appellant occurred off the pitch, the Sole Arbitrator does

not agree with such argument. As can clearly be seen from the video footages, the incident between the Appellant and the Player is directly related to the red card received by the Player and indeed occurred on the athletic track which surrounds the pitch. Furthermore, it can also be seen from the video footages produced by the Appellant that the stadium was still crowded, that bottles were being thrown by the supporters towards the Player when quietly leaving the pitch – without challenging the referee’s card – and that the match was still ongoing. In the light of the foregoing, the Sole Arbitrator does not accept the Respondent’s argument and finds that the incident occurred during the match, though not on the pitch.

109. Considering that the FRMF Disciplinary Code explicitly lists the offences committed by the Appellant (spitting) as an unsporting conduct and provide for applicable sanction (Annexe to the FRMF Disciplinary Code) and that the incident occurred within the general context of a football match, the Sole Arbitrator finds that the FIFA Code of Ethics is not applicable in the case and that, therefore, the FRMF Disciplinary Code shall apply exclusively.

- ***Whether the acts complained about were sanctionable offences***

110. The principle of legality in criminal laws holds that no one should be convicted of a crime without a previously published legal text which clearly describes the crime. Generally, there should not be punishment without law.

111. The CAS jurisprudence in CAS Award (CAS 2019/A/6330) held thus:

*“... Sports organisations cannot impose sanctions without a proper legal or regulatory basis for them. Such principle requires that offences and sanctions must be clearly and previously defined by law and precludes the “adjustment” of existing rules to apply them to situations or behaviours that the legislator did not clearly intend to penalise”*

112. The FRMF Statutes provide for the offences in its annexed Disciplinary Code. The acts of insults, profanity and even spitting is explicitly provided for in the FRMF Disciplinary Code under *Unsporting behaviour towards players or anyone other than Match Officials*. As a matter of fact, and as mentioned *supra* at paragraph 111 of this Award, the action of spitting at players or anyone other than Match Officials is even listed as an unsporting conduct at Article 85 (1) (e) of the FRMF Disciplinary Code.

113. In analysing the video recording of the event in question submitted in evidence by the Appellant, it is obvious that the Appellant had vehemently approached the Player, while the latter was quietly leaving the pitch under the bottles thrown by the supporters present in the stadium. It must be emphasised that the Player was escorted for his protection due to the throwing of objects by the crowd and that, notwithstanding the Player’s willingness to leave the pitch, the Appellant ran into his direction and start insulting him without any reasons.

114. Despite his accreditation, it is still unsure whether the Appellant was allowed to be on this area of the stadium. In any event, the behaviour of the Appellant, described as an “Official” of the Club is unacceptable in view of the circumstances of the case. There were absolutely no reasons to approach the Player and insult him and finally spit at him.



One may find that the spit of the Appellant followed the Player's reaction: indeed, the Player started to argue and started showing aggressivity towards the Appellant. However, such reaction was provoked by the Appellant's insult and the Player was immediately stopped by the technical staff of his club. After the incident, it can be seen that the Player engaged into the tunnel and left to the dressing room.

115. The Sole Arbitrator therefore finds that the action of the Appellant falls within the scope of Article 85 (1) (e) of the FRMF Disciplinary Code and shall be sanctioned accordingly.

• ***Whether the Sanctions followed the provisions of the Code or is disproportionate to the offence***

116. In determining the applicable sanction to the Appellant's behaviour, the Sole Arbitrator refers the jurisprudence CAS 2019/A/6330 (already quoted at paragraph 116) which provides the following:

*"... Sports organisations cannot impose sanctions without a proper legal or regulatory basis for them. Such principle requires that offences and sanctions must be clearly and previously defined by law and precludes the "adjustment" of existing rules to apply them to situations or behaviours that the legislator did not clearly intend to penalise"*

117. In other words, a club, a player, an official or anyone else subject to disciplinary measures must be aware of what sanction(s) may apply depending on the violation committed by such individual/entity. Such principle of the predictability of the sanctions (*nulla poena sine lege*) is one of the main and essential pillar of any disciplinary system implemented by sporty body.

118. However, with regards to legal writings, the provisions of the FRMF Statutes and the Disciplinary Code provided for a baseline sanction for the offences indicating what is applicable to the different categories of offenders and the Ethics Committee wrongfully applied the scale of sanctions.

119. As a matter of fact, the action of spitting is expressly listed in the FRMF Disciplinary Code (Article 85 (1) lit. e) The consequences of such action are also provided in the Annexe to the FRMF Disciplinary Code:

Article 85: Incorrect behaviour towards players or any persons other than Match Officials

Violation	Sanctions applicable to players	Sanctions applicable to officials
e. Spitting	Suspension from four (4) to six (6) games and a fine of MAD 10,000	Suspension of <b>twelve (12) games</b> and a fine of <b>MAD 20,000</b>

[emphasis added]

120. In view of this sanction explicitly provided for in the Annexe to the FRMF Disciplinary Code, it is undisputable that the FRMF Ethics Committee – and, thereafter, the Appeals Committee – applied the wrong set of rules, i.e. the FIFA Ethics Code, and the imposed sanction (2-year ban and fine of MAD 100,000) exceeded the sanction provided by the FRMF Disciplinary Code.
121. The Sole Arbitrator will now turn to the proportionality of the sanction. In this respect, the Sole Arbitrator notes that, contrary to the sanction applicable to the player for such offence, an official shall serve a fixed 12-match suspension and a fine of MAD shall be imposed.
122. Furthermore, it has been settled in the longstanding jurisprudence of the CAS that the autonomy to reduce a sanction lies in the Federation and the CAS may only make an order in that regard where the sanction is found to be grossly disproportionate. In this context, the Sole Arbitrator notes the constant jurisprudence of CAS regarding a limited discretion for CAS panels to review sanctions imposed by disciplinary bodies of federations when such panels make similar findings as in the decision appealed against and that such discretion should only be exercised “*when the sanction is evidently and grossly disproportionate to the offence*” (CAS 2009/A/1817 & 1844, par. 174, CAS 2016/A/4501, par. 313, CAS 2019/A/6667, par. 224). Moreover, the jurisprudence of the CAS establishes that “*The principle of proportionality under Swiss law implies the consideration of all aggravating and mitigating circumstances of each case, as well as relevant jurisprudence and legal writing*”. (CAS 2022/A/8651).
123. To assess the proportionality of the sanctions, the Sole Arbitrator needs to review the nature of the offence committed and to what extent such conduct gives rise to an obvious, substantial and justified need to deter similar misconduct in the future from the Appellant, as well as from any other FIFA officials (CAS 2019/A/6388, par. 230). In the exercise of its discretion, and in the absence of the possibility under the applicable rules of imposing less than a 12-game suspension and a fin of MAD 20,000, the Sole Arbitrator considers that this constitutes an appropriate sanction having regard to the gravity of the present matter, as supported by the evidence that is before it. As a matter of fact, spitting at someone is considered outrageous and one of the most offensive behaviour towards a human being. For this reason only, the Sole Arbitrator considers that the sanction as provided for in the Annexe to the FRMF Disciplinary Code is fair and appropriate.
124. Finally, and with respect to the issue of aggravating / mitigating circumstances, one may consider that the spitting was due to the Player’s reaction towards the Appellant. However, based on the video footages provided by the Appellant himself, it is undeniable that, had the Appellant not attacked and insulted the Player, the incident would have never happened. Indeed, the Player was simply defending himself against the Appellant by vehemently raising his arm towards the latter and such gesture may have caused the spitting by the Appellant, which still remains an inexcusable act. In addition to the fact that the Annexe to the FRMF Disciplinary Code leaves no room for manoeuvre to the Sole Arbitrator for a potential reduction of the sanction, the Sole Arbitrator does not find any mitigating circumstances in the case at hand.

125. The Sole Arbitrator therefore finds that a 12-game suspension and a fine of MAD 20,000 is an appropriate sanction.

### **Conclusion**

126. Based on the foregoing, the Arbitrator finds that:

- The Ethics Committee is competent to adjudicate on the case.
- The FIFA Code of Ethics is not applicable in the case.
- The acts of the Appellant are covered by Article 85 (1) (e) of the FRMF Disciplinary Code and its Annexe shall apply with respect to the imposition of the sanction for such behaviour.
- The FRMF Ethics Committee (and, thereafter, the Appeals Committee) wrongfully applied their own rules which provides for a suspension of twelve (12) matches and a fine of MAD 20,000.
- The appeal is partially upheld and the Appealed Decision is partially set aside.
- All other and further motions or prayers for relief are dismissed.

### **X. COSTS**

(...).

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## **ON THESE GROUNDS**

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

1. The appeal filed by Abdelilah Ibrahim Idrissi on 26 October 2023 against the decision of the Appeals Committee of the FRMF issued on 5 October 2023 is partially upheld.
2. The decision issued on 5 October 2023 by the Appeals Committee of the FRMF is set aside and is replaced as follows:
  - Abdelilah Ibrahim Idrissi is suspended for twelve (12) matches in accordance with Article 85 (1) (e) and Annexe 1 of the FRMF Disciplinary Code;
  - A fine in the amount of MAD 20,000 (twenty thousand Moroccan Dirham) is imposed on Abdelilah Ibrahim Idrissi in accordance with Article 51 and Annexe 1 of the FRMF Disciplinary Code.
3. (...).
5. (...).
4. All other motions or prayers for relief are dismissed.

Seat of arbitration: Lausanne, Switzerland

Date: 6 March 2025

## **THE COURT OF ARBITRATION FOR SPORT**

Dr Ghada M. Darwish Karbon  
Sole Arbitrator