Tribunal Arbitral du Sport
Court of Arbitration for Sport

CAS 2017/A/5173 Joseph Odartei Lamptey v. FIFA

ARBITRAL AWARD

delivered by the

COURT OF ARBITRATION FOR SPORT

sitting in the following composition

President: Mr Luigi Fumagalli, Professor and Attorney-at-Law, Milan, Italy

Arbitrators: Mr Romano Subiotto QC, Solicitor-Advocate, Brussels, Belgium, and London, United Kingdom
Mr Mark Hovell, Solicitor, Manchester, United Kingdom

between

Joseph Odartei Lamptey, Accra, Ghana
Represented by Mr Juan de Dios Crespo Pérez, Mr Paolo Torchetti and Mr Alfonso León Lleó, Attorneys-at-Law, Valencia, Spain

- Appellant -

and

Fédération Internationale de Football Association, Zurich, Switzerland
Represented by Mr Olivier Jaberg, Director of Integrity & Institutional Legal, and Mr Jaime Cambreleng Contreras, Head of Disciplinary

- Respondent -

* * * * *

1. BACKGROUND

1.1 The Parties

1. Mr Joseph Odartei Lamptey ("Mr Lamptey", the "Referee" or the "Appellant") is a Ghanaian national born on 10 September 1974. Mr Lamptey has been a referee affiliated to the Ghana Football Association (the "GFA") since 2005 and was recognized as an "Elite" referee in 2011. In his career, Mr Lamptey officiated several international football matches.

2. The Fédération Internationale de Football Association ("FIFA") is an association under Swiss law. Its registered office is in Zurich, Switzerland. FIFA is the global governing body for the sport of football. It exercises regulatory, supervisory and disciplinary functions over continental federations, national associations, clubs, officials and football players worldwide.

1.2 The Dispute between the Parties

3. The circumstances stated below are a summary of the main relevant facts, as submitted by the parties in their written pleadings or in the evidence given in the course of the proceedings. Additional facts may be set out, where relevant, in connection with the legal discussion which follows.

4. On 7 October 2016, following a proposal made by the Confédération Africaine de Football ("CAF") on 1 October 2016, the following match officials were appointed to preside over the match between the representative teams of South Africa and Senegal of the Preliminary Competition of the 2018 FIFA World Cup Russia™ scheduled to be played on 12 November 2016 at the Peter Mokaba Stadium of Polokwane, South Africa (the "Match"):

   - the Appellant, nominated as referee of the Match;
   - Mr David Lionheart Laryea, nominated as assistant referee 1 of the Match (the "Assistant Referee 1");
   - Mr Ibrahim Adams, nominated as assistant referee 2 of the Match (the "Assistant Referee 2");
   - Mr William Selorm Agbovi, nominated as the fourth official of the Match (the "Fourth Official");
   - Mr Jumaa Mathias, nominated as the referee assessor of the Match (the "Referee Assessor");
   - Mr Walter Nyamilandu Manda, nominated as the match Commissioner of the Match (the "Match Commissioner").

5. On 12 November 2016, the Match was played and won 2-1 by South Africa. In particular, the representative team of South Africa opened the score by converting a penalty into a goal at min. 43 of the Match; the second goal was scored by the South African team at min. 45 of the Match; for its part, the representative team of Senegal

scored the final goal of the Match at min. 75.

6. Following the Match, FIFA received all official match reports. So far as relevant in the context of these proceedings they read as follows:

   i. as to the Referee's report: "*After the match, the Senegalese players led by player No 2 [...] and No 8 confronted the referees on the field of play*"; and "*There was a tunnel fracas involving the leader of delegation of Senegal which caused a stampede in the tunnel and security moved in*";

   ii. as to the Match Commissioner's report: "*The particular match started well on time and everything was fine until the decision to award a penalty to South Africa. The players accosted the centre referee in full view of the crowd and cameras. This sparked spontaneous reactions from the Senegalese officials in the VIP tribune led by the head of delegation of Senegal. ... The behaviour of Senegalese officials is totally unacceptable*";

   iii. as to the Referee Assessor's report with regard to the Referee's control of the game: "*Proximity to play but could improve on seeing in between players in enhancing his angle of view. The penalty was supposedly awarded because of a deliberate handball by Senegal no. 2 which didn't happen. The body language of the players could assist. This was a critical decision which had influence on the results of the game. Needs to be certain and sure*".

7. On 14 November 2016, the betting monitoring company "Sportradar Integrity Services" ("Sportradar")[1] sent an "*Escalation Report*" to FIFA containing the following evaluation:

   "*There is clear and overwhelming betting evidence that the course or result of this match was unduly influenced. The betting evidence ultimately indicated that bettors held prior knowledge of at least three goals being scored in total*".

8. On that same date, 14 November 2016, Early Warning System GmbH ("EWS")[2] also provided FIFA with an alert that it detected irregular betting patterns during the Match.

---

1 Sportradar describes itself as "*a global provider of sports data services/solutions and digital content to sports federations, state authorities, media companies and bookmakers*". Sports data are collected via a network of data journalists and contracted scout coverage. Sportradar's data collection systems are used for input and storage of data across a wide range of sports. Betradar, a division of Sportradar, provides bookmakers with the necessary services to run a bookmaker operation, from fixture creation through to odds suggestion, resulting and live streaming to risk management services. Betting data from global bookmakers is collected by Betradar as part of its operations, either via a direct feed or by collection from public sources. In addition, Sportradar provides Integrity Services to partners in sport and law enforcement. The Integrity Services comprise monitoring via the Fraud Detection System (FDS), intelligence and investigation via the Fraud Intelligence Unit (FIU) and education via the Fraud Prevention Service (FPS). The sports and odds data from Sportradar's core business are used by the FDS as the basis for its monitoring.

2 EWS is a company created by FIFA for the early identification of irregularities in the international sports betting market. EWS describes its mission to consist in "*protect[ing] football matches in all FIFA tournaments by monitoring and analysing the international sports betting market and through comprehensive reporting*".

9. On 15 November 2016, the Secretariat to the FIFA Disciplinary Committee (the "Disciplinary Committee") received a letter from the Senegalese Football Association (*Fédération Senegalaise de Football*: the "FSF") concerning some refereeing decisions made by the Referee at the Match. In particular, the FSF mentioned the penalty granted at min. 41 of the Match in favour of South Africa (the "Penalty Decision") and a quick restart by a South African player at min. 45 of the Match (the "Quick Restart"), allowed by the Referee after a foul, and stressed that both refereeing decisions (the "Field Decisions") had a direct impact on the result of the Match, since South Africa scored a goal on both occasions. As a result, the FSF requested FIFA to take all appropriate measures and to conduct any further investigation deemed necessary.

10. On 16 November 2016, in view of the above, the Secretariat to the Disciplinary Committee requested the FIFA's Integrity Officer to investigate the matter.

11. On 17 November 2016, FIFA received an Interim Report from EWS confirming its rating as "*irregular*" of the movements on the betting markets for the Match. Furthermore, EWS reported that three of its partners, namely Global Lottery Monitoring System ("GLMS"),[3] Starlizard Sports Betting Consultancy ("Starlizard"),[4] and Genius Sports Integrity Services ("Genius Sports"),[5] had reported the same, respectively on 12, 15 and 16 November 2016.

12. On 21 November 2016, the Referee, the Assistant Referee 1 and the Fourth Official were interviewed by the FIFA's Integrity Officer.

13. On 5 December 2016, the FIFA's Integrity Officer interviewed the Referee Assessor.

14. On 6 January 2017, EWS provided FIFA with its "Final Monitoring Report". The findings of EWS were summarized as follows (footnote omitted):

> "*This match was the 2nd match-day of the third round of the 2018 FIFA World Cup Russia™ – qualification Africa Region.*
>
> *EWS considers the live odds movements on at least 2 and 3 goals to be scored in the match in the market for a specific number of goals in a match as irregular. EWS is 99.5% confident that the irregular odds movements noted in this match are statistically different from the odds movements for equivalent matches. Moreover, the fact that bookmakers did not reduce the opening Goallines of 1.75 and 2.00 in the first 41 minutes of the game is unusual and raise additional integrity concerns.*
>
> *EWS draws attention to a penalty decision which was also discussed in the media and reported by our partners. This report makes reference to an EWS Performance analysis of the number of penalties awarded by Joseph LAMPTEY. However, EWS has not conducted a subjective analysis of the judgement relation to each decision.*

---

3 GLMS is the State lotteries' mutualised monitoring system on sports betting and aims at detecting and analysing suspicious betting activities.

4 Starlizard is a sports betting consultancy that specialises in football and understanding the Asian Handicap and Total Goals betting markets. It also provides odds management service, observing betting patterns in the market place.

5 Genius Sports is a service provider in sports data technology, distribution and commercialisation.

Also of note, EWS reported in the past two other matches refereed by Joseph LAMPTEY which had shown irregular betting patterns.

To conclude, EWS recommends this match to be subject to further investigation for match manipulation".

15. On 17 February 2017, the Secretariat to the Disciplinary Committee received an investigative report from the FIFA Ethics Department (the "Investigative Report"):

i. a first part, named *"Investigative Report: Match 1 - South Africa vs Senegal, 12 November 2016*", was dedicated to facts directly linked to the Match (therein defined as "*Match 1*"), by providing an analysis of the Referee's performance and his on-field decisions, as well as an account of suspicious betting activities reported by the betting monitoring companies. Additionally, the transcripts of the interviews of the Referee, of the Assistant Referee 1 and of the Fourth Official were enclosed to the Investigative Report. It contained the following conclusions:

"*[...] The preliminary investigation revealed a substantial amount of evidence and corresponding information that contributes to the conclusion that Match 1 was manipulated contrary to sporting ethics, and specifically with betting implications – and that Mr Lamptey and Mr Laryea played a preponderant role.*

Documentary evidence was provided that five (5) betting monitoring entities witnessed, analysed, and concluded that the betting patterns of Match 1 were suspicious and indicative of match manipulation.

[...], the modus operandi of referees giving penalties was defined as a strategy used by referees to influence the result of the match for purposes of reaching a certain number of goals in the match for betting purposes. Mr Lamptey's decision to award a contentious penalty and his omission to stop the quick restart of the match by South Africa resulted in goals being scored and therefore influenced the outcome of the match. Mr Lamptey's actions contributed to more goals being scored in Match 1, which allowed to meet betting expectations.

Mr Laryea, for his part, seemingly saw (but did not admit during the game) that the penalty incident was not a handball. According to his statements [...], Mr Lamptey had already whistled for the penalty, and as a result, Mr Laryea explained that he was not in a position to intervene [...].

[...], the public perception – through open source news articles, voice commentators, media videos, corresponding comments on the match images, as well as social media commentaries – demonstrated a significant worldwide consensus that the public themselves believed that Match 1 was manipulated.

Several experts have provided their professional evaluation of Mr Lamptey's performance in Match 1, specifically in regards to the penalty decision in minute 41' of the match. As a reminder, the assigned FIFA Referee Assessor stated, in sum, that the handball that Mr Lamptey called "didn't happen" and that it was a "critical decision which had influence on the result of the game". The FIFA Head of Refereeing Department concluded that it was "difficult to understand how top referees can do such (a) mistake". Furthermore, a cohort group of fourteen (14)

Referee instructors and fellow Referees in the African region all comprehensively concluded that Mr Lamptey's decision was clearly not a penalty and was a mistake, as he should have been "200% sure" of his decision.

[...] Mr Lamptey and Mr Laryea struggled to provide a logical explanation for their actions and their accounts are contradictory. [...]

Furthermore, Mr Lamptey's and Mr Laryea's actions (or omissions in Mr Laryea's case) had a direct effect on the match";

ii. a second part of the Investigative Report,[6] named "*Annexe 1 – Mr Lamptey*" provided detailed background information on the Referee and presented an analysis of additional 6 matches which the Referee had previously officiated (namely Ebusua Dwarfs vs Medeam SC on 11 May 2010, ES Tunis vs Al Ahly on 17 October 2010, Gabon vs Portugal on 14 November 2012, DR Congo vs Angola on 26 March 2016, Marrakesh vs Rabat on 15 July 2016, and Cameroon vs Gambia on 3 September 2016, respectively defined as "Match 2", "Match 3", "Match 4", "Match 5", "Match 6" and "Match 7") and for which suspicions of match manipulation had arisen. It contained the following conclusions:

"*[...] Mr Lamptey has a history of being suspended for poor performances whereby he had numerous publically documented scandals which he stated might have been the right decisions but that people called controversial. Moreover, statistical evidence shows that Mr Lamptey gives a significantly higher number of penalties per match than a similar group of his Referee counterparts in Africa.*

The facts outlined in the (main) Report and this Annexe 1 as presented herein, documents suspected match manipulation by Mr Lamptey. This conduct – and its repeated occurrence – establishes a clear and consistent pattern of behaviour for matches refereed by Mr Lamptey.

[...] In addition to the suspicions surrounding Match 1, this annexe provided six (6) additional matches [...] which were suspicious for potential manipulation (with either for Sporting or Betting implications). The details of these six (6) matches demonstrate Mr Lamptey's clear, consistent, and repeated pattern of behaviour, which suggests that Mr Lamptey's culpability is based on his actions.

This annexe further outlines the statistical anomalies regarding the percentage or frequency of penalties given by Mr Lamptey in his 44 matches, which was deemed as irregular as compared to other cohorts in African refereeing.

Mr Lamptey displayed specific conduct and actions on the pitch which were anticipated on the international betting markets by bettors which seemed to hold prior knowledge of goals given by Mr Lamptey. It could appear that these unknown third parties aimed to gain allegedly illicit profits from betting on these matches. Furthermore, it seems that Mr Lamptey contributed to the desired betting outcome of these matches. Therefore, it is clear that Mr Lamptey's actions have been repetitive and it may appear that the previous matches and [...] Match

---

6 Another part of the Investigative Report, named "*Annexe 2 – Mr Laryea*", considered the actions of Assistant Referee 1, indicating that Assistant Referee 1 contributed to the manipulation of the Match. This part of the Investigative Report underlined, *inter alia*, a consistent pattern in the behaviour of Assistant Referee 1 and his "*intent not to question, insist or interfere with Mr Lamptey's wrongful penalty decisions*".

I have been manipulated by his active role.

Moreover, it is important to recall that [...] [Match 1] [...] perfectly fits in said pattern of behaviour as displayed in Matches 2 through 7".

16. On 17 February 2017, the Secretariat to the FIFA Disciplinary Committee opened disciplinary proceedings against the Referee for a possible violation of Article 69 of the FIFA Disciplinary Code (the "FDC"). In this context, the Referee was provided with a link to download the Investigative Report and the enclosures of its Annexe 1, and was invited to provide a statement and submit any evidence he would consider relevant. The Referee was advised that should FIFA not receive any answer from his side by the given deadline, the FIFA Disciplinary Committee would decide the case on the basis of the file in its possession, in accordance with Article 110(4) of the FDC. Finally, the Secretariat to the FIFA Disciplinary Committee informed the Appellant that his case would be submitted to the FIFA Disciplinary Committee for evaluation on 15 March 2017.

17. On 24 February 2017, the Referee was provided with a second link to download additional documents and was invited to submit a statement and any evidence he would consider relevant by 6 March 2017 at the latest.

18. The Referee did not provide any response to the Investigative Report.

19. On 15 March 2015, the FIFA Disciplinary Committee rendered the following decision (the "DC Decision"):

"*1. Mr Joseph Odartei Lamptey is found guilty of breaching art. 69 par. 1 of the FIFA Disciplinary Code during the match played on 12 November 2016, between the representative teams of South Africa and Senegal, in the scope of the preliminary competition of the 2018 FIFA World Cup Russia™.*

2. In accordance with arts. 22 and 69 par. 1 of the FIFA Disciplinary Code, Mr Joseph Odartei Lamptey is hereby banned from taking part in any kind of football-related activity at national and international level (administrative, sports or any other) for life as from notification of the present decision.

3. In compliance with art. 105 par. 5 of the FIFA Disciplinary Code, no costs of proceedings are to be borne by Mr Joseph Odartei Lamptey".

20. On 20 March 2017, the terms of the DC Decision were notified to the GFA, CAF and to Mr Lamptey.

21. On 22 March 2017, Mr Lamptey acknowledged receipt of the terms of the DC Decision (defined to be "*rather a harsh one*") and requested to be provided with its grounds.

22. On 29 March 2017, the grounds of the DC Decision were notified to the GFA and to Mr Lamptey.

23. On 31 March 2017, and within the time limit provided by Article 116 and Article 120(1) of the FDC, Mr Lamptey notified his intention to appeal to the FIFA Appeal

Committee (the "Appeal Committee") the DC Decision.

24. On 10 April 2017, Mr Lamptey submitted the reasons in support of his appeal to the Appeal Committee. In his appeal brief, the Appellant requested the Appeal Committee:

"*a) To accept the appeal filed against the Decision passed by the Disciplinary Committee;*

b) To adopt an award annulling the decision of the Disciplinary Committee and eliminating the sanctions against the Appellant on the basis that he has not violated articles 69 and 22 of the FDC;

c) In the alternative, should the Panel find that there is a violation of article 69 of the FDC, to reduce the sanction as it is disproportionate;

d) In any event, to issue an award where:

- *FIFA covers the entire cost of the proceedings and arbitration; and*
- *FIFA pays the Appellant's legal fees and costs in the amount of CHF 10,000*".

25. On 27 April 2017, the Appeal Committee rendered a decision on the appeal filed by Mr Lamptey (the "AC Decision") as follows:

"*The appeal lodged by the official Joseph Odartei Lamptey is rejected and the decision of the FIFA Disciplinary Committee rendered on 15 March 2017 is confirmed in its entirety.*

The costs and expenses of these proceedings in the amount of CHF 3,000 are to be borne by the official Joseph Odartei Lamptey. This amount is set off against the appeal fee of CHF 3,000 already paid by the official Joseph Odartei Lamptey".

26. On 17 May 2017, the grounds of the AC Decision were notified to the Appellant. In essence, the Appeal Committee decided to confirm the DC Decision noting that:

- it is established that the Field Decisions were "*incorrect refereeing decisions*", intentionally taken by the Referee on his own, which influenced the result of the Match in a manner contrary to sport ethics;
- the reports provided by the different betting monitoring companies were reliable means of evidence to prove the existence of suspicious and irregular activities within the betting markets and offered "*a strong strand of circumstantial evidence showing that the result of the [M]atch was unlawfully manipulated*";
- there were clear links between the conduct of the Referee and the suspicious betting activities related to the Match;
- therefore, the Referee "*must be held to have ... behaved in a manner that is punishable*" under Article 69(1) of the FDC;
- such provision, if interpreted taking into consideration not only its wording, but also its context and purpose, punishes "*the actual acts of influencing the result of a match in a manner contrary to sporting ethics as well as conspiring to do so*";

- in any case, the Referee, prior to perpetrating the infringement, also conspired to influence the result of the Match. In fact, "*the term 'to conspire' covers any and all aligned and/or co-ordinated conduct to commit an unlawful act or to reach a result by unlawful means, irrespective of whether or not explicitly agreed on*". Therefore, in order to find a violation of Article 69(1) of the FDC, it is not necessary that all or any of the participants in the conspiracy are identified; rather, it is sufficient that the individual concerned did not plan to influence the result of a match in a manner contrary to sporting ethics alone. In the case of the Match, it was clear that the Referee influenced its result together with one or more third parties, who were betting significant amounts;
- the sanction imposed by the DC Decision was proportionate to the serious infringement committed and has therefore to be confirmed.

2. THE ARBITRAL PROCEEDINGS

2.1 The CAS Proceedings

27. On 6 June 2017, the Appellant filed an appeal with the Court of Arbitration for Sport (the "CAS"), pursuant to Articles R47 and R48 of the Code of Sports-related Arbitration (the "Code"), against the Respondent to challenge the AC Decision. In his statement of appeal the Appellant appointed Mr Romano Subiotto, QC as an arbitrator.

28. On 6 June 2017, the Appellant filed his appeal brief, pursuant to Article R51 of the Code, together with 25 accompanying exhibits.

29. On 19 June 2017, the Respondent nominated Mr Mark Hovell as an arbitrator.

30. On 23 June 2017, the Respondent informed the CAS Court Office that, given the common interest in having a final decision rendered in a short timeframe, the Parties had agreed on a procedural calendar.

31. On 10 July 2017, pursuant to Article R54 of the Code, the CAS Court Office, on behalf of the President of the Appeals Arbitration Division, informed the Parties that the Panel appointed to hear the dispute between them was constituted as follows: Professor Luigi Fumagalli, President; Mr Romano Subiotto, QC and Mr Mark Hovell, Arbitrators.

32. On 10 July 2017, the Respondent lodged with CAS its answer in accordance with Article R55 of the Code. The answer had attached, among its exhibits, a "*Match Integrity Analysis Report*" issued by Starlizard in July 2017, a report dated June 2017 prepared by Sportradar, a study signed by Professor Ian McHale together with Professor David Forrest, containing an evaluation of Sportradar's Fraud Detection System, and a declaration of Mr Rupert Bolingbroke of the Hong Kong Jockey Club.

33. On 12 July 2017, the Parties were advised by the CAS Court Office that the Panel had decided to hold a hearing on 25 July 2017.

34. On 13 July 2017, under cover letter dated 12 July 2017, the Respondent filed with the CAS Court Office some additional evidence, asking the Panel to admit it in the file of

the arbitration. Such documents consisted in the transcript of a telephone conversation between a former FIFA referee and a current referee, in which the Appellant was also named. FIFA underlined the relevance of such document and the fact that it had been brought to its attention by the FIFA Integrity Unit only on the same 12 July 2017.

35. On 13 July 2017, the CAS Court Office issued on behalf of the President of the Panel an order of procedure (hereinafter referred to as the "Order of Procedure"), which was accepted and signed by the parties.

36. On 19 July 2017, the Appellant informed the CAS Court Office of his opposition to the filing by the Respondent of the new evidence, as requested on 13 July 2017.

37. On 20 July 2017, the CAS Court Office informed the parties that the Panel had decided to deal at the hearing with the issue of the admissibility of the Respondent's filing of 13 July 2017.

38. On 25 July 2016, a hearing was held in Lausanne. The Panel was assisted at the hearing by Mr William Sternheimer, CAS Deputy Secretary General. The following persons attended the hearing:

i. for the Appellant: Mr Paolo Torchetti and Mr Alfonso León Lleó, counsel, and the Appellant himself;

ii. for the Respondent: Mr Jaime Cambreleng Contreras, Head of the FIFA Disciplinary Department, Mr Jacques Blondin and Ms Audrey Cech, legal counsels in the FIFA Disciplinary Department.

39. At the opening of the hearing, the parties confirmed that they had no objections to the composition of the Panel, and discussed the admissibility of the filing by the Respondent of new evidence, as requested on 13 July 2017 (§ 34 above). The Panel, having considered the parties' submissions, declared the filing not to be admissible, in the absence of the "exceptional circumstances" required by Article R56 of the Code. Then, after introductory statements by counsel, the Panel heard declarations from the Referee and, by video link, from Professor Ian McHale, Mr Tom Mace, Mr Rupert Bolingbroke and Mr John O'Hanrahan. During the deposition of the Referee, the Panel was also guided by the Respondent in the review of excerpts of the video of the Match to consider the actions of the Referee.

40. The declarations heard by the Panel can be summarized as follows:[7]

i. the Referee declared that the Penalty Decision was taken on the basis of an indication given by the Assistant Referee 1, who had told him (and then confirmed, following a specific request), by using the internal communication device, that there was a penalty. The Referee at the same time confirmed that he now recognizes that the Field Decisions were wrong, but insisted that they were

---

7 The summary which follows is intended to give an indication of only a few key points touched at the hearing. The Panel emphasises that it considered the entirety of the declarations made at the hearing.

only innocent mistakes, which find an explanation: an obstructed view, with regard to the Penalty Decision, and the circumstances of the Quick Restart, that occurred out of his control;

ii. Professor McHale, Professor of Sport Analytics at the University of Salford, Manchester (UK), explained the activity of Sportradar, the mathematical models used to detect fraud and the way they are formed. He confirmed that the name of the referee is not an element taken into account by the models, even though in his opinion the consideration of that element would not improve them. In the case of the Match, it is clear that the market knew something that was not known to the model. The evaluation of the Match, then, confirmed the irregularities;

iii. Mr Mace, Director of Global Operations Integrity Services at Sportradar, described the procedures followed in the analysis of the betting activities in any match controlled by his organization. Mr Mace confirmed that with respect to the Match no market abnormalities were detected prior to kick-off, but that evidence of suspicious betting appeared from the 12th minute of the first half (0:0), as odds for at least three goals being scored in total failed to increase as logically expected until the first goal in the 43rd minute, after which the suspicious betting ceased. Mr Mace underlined that in normal market conditions, it would have been expected that odds for this outcome increased steadily during this timeframe, because, as the time remaining in a match diminishes, so does the time available for either team to create the opportunities necessary for the required three goals to be scored. In other words, the odds movements for the Match were very irrational, because they implied the same probability of 3 goals materialising after 40 minutes as at the start of the Match: with no goals being scored, this was very suspicious. Mr Mace, then, declared that bookmakers take into account the scoring history of the clubs playing the match: however, information available before the match cannot affect the odds in the live betting markets;

iv. Mr Bolingbroke, Head of Trading at the Hong Kong Jockey Club ("HKJC"), confirmed that also in his opinion the betting pattern concerning the Match was very unusual, because it is apparent that some sections of the betting market were very confident that goal would be scored during the Match, even though when nearly half of the time had been played and no goal had been scored, contrary to typical market patterns; then, after the third goal, the market showed that the expectations had been met and the patterns returned to normal. Mr Bolingbroke indicated that in order to affect the market in a significant way, as it happened with respect to the Match, a very significant amount of money had to be bet, irrespective of the number of bettors;

v. Mr O'Hanrahan, Football Betting Analyst at Starlizard, confirmed his serious concerns about the Match, because during its first half the in-running Totals (*i.e.*, for bets "over" or "under" a total number of goals in a match offered by the bookmaker) market failed to evolve as we would ordinarily expect to see in a normal market condition, there was strong support in the market for "*Over 2.00 goals*" during this time, which suggests that the market was confident that more than 3 goals were going to be scored during the Match. Then, in the second half, the "*Over 2.75*" and "*Over 2.50*" prices only slowly evolved prior to the scoring

of the third goal, which suggests that the market continued to expect a third goal to be scored. Therefore, Starlizard assessed there to be a very strong likelihood that integrity issues exist in this Match, because no events during the Match justified the suspicious evolution.

41. The parties next, by their counsel, made submissions in support of their respective cases and answered the questions asked by the Panel. At the conclusion of the hearing, finally, the parties expressly stated that their right to be heard and to be treated equally in the CAS arbitration proceedings had been fully respected.

2.2 The Position of the Parties

42. The following outline of the parties' positions is illustrative only and does not necessarily comprise every submission advanced by the Appellant and the Respondent. The Panel has nonetheless carefully considered all the submissions made by the parties, whether or not there is specific reference to them in the following summary.

a. The Position of the Appellant

43. In his statement of appeal, the Appellant requested the Panel:

> "*1. To accepts this appeal against the Decision rendered by the FIFA AC.*
>
> *2. To adopt an award annulling the Decision of the FIFA AC eliminating the sanctions against the Appellant on the basis that he has not violated articles 69 and 22 of the FIFA DC.*
>
> *3. In the alternative should the Panel find that there is a violation of article 69 of the FIFA DC the Appellant requests that the sanction is reduced accordingly as it is disproportionate.*
>
> *4. Independently of the decision to be issued, the Appellant requests the Panel to fix a sum of 10,000 CHF to be paid by the Respondent to the Appellant, to help the payment of its legal fees and costs*".

44. Such request for relief was confirmed in the appeal brief.

45. In essence, the Appellant noted that the lifetime prohibition from participating in football related activities imposed on him was the result of the finding of an alleged violation of Article 69(1) of the FDC. However, such provision specifically requires that two conditions are satisfied: (i) there was a "*conspiracy*", and (ii) the result of the match had been influenced "*in a manner contrary to sporting ethics*". In the Appellant's opinion, FIFA, which bears the burden pursuant to Article 99(1) of the FDC, had not demonstrated, to the level required by Article 97(3) of the FDC, that the Referee has violated Article 69(1) of the FDC. Therefore, the AC Decision must be set aside.

46. In that regard, the Appellant analysed, in his submissions, the mentioned conditions required by Article 69(1) of the FDC, and noted the following as to the existence of a "*conspiracy*":

i. the concept of "*conspiring*" or of "*conspiracy*" is not defined in the FIFA rules or regulations, and is not defined in Swiss law or in international treaties either: "*the result is that we are left without a definition of conspiracy when examining the applicable legal sources, FIFA regulations, Swiss law and international law of international organizations based in Switzerland and European international conventions*";

ii. it is therefore necessary to apply the definition of "*conspiracy*" as it is applied generally. This shows, based on the English plain language or on the concept as used in domestic legislation, that in all contexts a "*conspiracy*" requires that more than one individual is involved and that the various individuals involved have agreed to commit an illegal act;

iii. on the basis of the "*predictability test*", it is to be held that, as FIFA made a legislative choice to use the word "*conspire*", then it is bound to apply it in its true and specific meaning;

iv. an imprecise application of the word cannot harm the Referee.

47. In light of the foregoing, the Appellant submitted that there was no evidence that he "*conspired*". In fact, he made only innocent mistakes, which he has now admitted, after reviewing the videos of the Match. In fact, the mistake affecting the Penalty Decision was caused by an "*obstructed view*" and by the reliance on an indication of Assistant Referee 1, while the Quick Restart occurred particularly quickly and out of the Appellant's control. In addition, the existence of anomalous betting patterns does not demonstrate a conspiracy, as they occurred out of the Appellant's control, and there was no evidence, beyond subjective evaluations, of a link between the Referee's actions and the betting patterns. At the same time, the alleged intention of the Referee to allow at least 3 goals to be scored was contradicted by the fact that at min. 36 of the Match he disallowed a goal scored by Senegal. Then, the Appellant contended that, in light of the prior performances of the teams competing at the Match, it was entirely reasonable that two or more goals would be scored, as also evidenced by the predictions of specialized websites, and there were several likely possibilities that might have influenced the betting patterns. In accordance with the CAS case law, in the absence of direct evidence, the existence of alternative plausible explanations, prevents a Panel from finding a disciplinary violation at its comfortable satisfaction.

48. At the same time, the Appellant submitted that, should a violation of Article 69 of the FDC not be found, the Referee cannot be sanctioned for violation of Article 57 of the FDC, because the infringement of that provision was not the object of the internal proceedings at FIFA, and therefore it cannot be raised for the first time before CAS.

49. In the alternative, should the Panel find that there was a violation of Article 69 of the FDC, the sanction should be reduced on the basis of the principle of proportionality, taking into account "*the lack of evidence in relation to the conspiracy requirement*".

b. The Position of the Respondent

50. In its answer, the Respondent sought from the CAS the following relief:

"*1. To reject the Appellant's appeal in its entirety.*

2. To confirm the decision hereby appealed against.

3. Alternatively, to confirm the Appellant's breach of Article 69 of the FIFA Disciplinary Code ("FDC") and the imposition of a ban from taking part in any football-related activity for at least 10 years.

4. Alternatively, should the Panel not consider Article 69 of the FDC applicable, to decide that the Appellant is liable for breaching Article 57 of the FDC and confirm the ban from taking part in any kind of football-related activity for life.

5. Alternatively, should the Panel not consider any of the above requests in full, to decide that the Appellant is liable for breaching Article 57 of the FDC and impose a ban from taking part in any kind of football-related activity for at least 10 years.

6. Alternatively, should the Panel not consider any of the above requests in full, to decide that the Appellant is liable for breaching Article 57 of the FDC and impose a ban from taking part in any kind of football-related activity as the Panel may find proportionate.

7. To order the Appellant to bear all costs incurred with the present procedure and to cover all expenses of the Respondent related to the present procedure".

51. In support of its request that the appeal be dismissed and the AC Decision be confirmed, the Respondent preliminarily highlighted some of "*the most important facts that have not been contested or that have been admitted by the Appellant*". In particular, the Respondent submitted that the Appellant:

i. has admitted:

- that the Field Decisions were incorrect refereeing decisions;
- that the Match was particularly uneventful up until min. 41; and

ii. has not contested:

- the overall circumstances under which the first two goals of the Match were scored, as considered by the Appeal Committee;
- the validity of the calculations made by Sportradar and EWS to show the discrepancies between the odds actually witnessed on the live betting markets during the Match and the expected calculated odds; and
- the conclusions reached by Sportradar and EWS that the betting activity was highly suspicious, save as to contend that two or three goals could have objectively been expected during the Match due to the information publicly available before kick-off.

52. The Respondent, then, submitted some "*preliminary and general considerations on the burden of proof, standard of proof and evaluation of proof*", and emphasized that:

i. the Respondent has the "*initial*" burden to prove the disciplinary violation of the Referee. However, the Appellant bears the responsibility of demonstrating the facts he alleges to sustain his position;

ii. a private civil law and not a criminal standard of proof applies before this Panel: the Panel, therefore, does not need to rule out any reasonable doubt (*i.e.*, any other possible scenarios) to be comfortably satisfied that a fact occurred; and

iii. the Panel has full discretion in evaluating the evidence and should keep in mind the paramount importance of fighting against match manipulation, which is, by its nature, concealed.

53. On the merits, the Respondent submitted that the Appellant unlawfully manipulated the result of the Match in a manner contrary to sporting ethics: a detailed analysis of the events which unfolded on the field of play clearly showed that the Appellant intentionally took wrongful refereeing decisions, which directly influenced the result of the Match, just at the exact same moment as the betting activities of the live-market greatly deviated from the odds anticipated by betting monitoring companies, bookmakers and professional betting syndicates. Moreover, additional pieces of evidence confirm that the Appellant unlawfully manipulated the result of the Match. In particular, the Appellant refereed several international matches, which revealed to be particularly suspicious due to the fact that "*flagrant incorrect and scandalous*" decisions were made, coupled with irregular betting activities. Finally, additional elements, such as the reactions of the Senegalese players and officials' during the Match, the TV commentators and the public's worldwide reaction to the Penalty Decision, all point in the same direction and confirm that Mr Lamptey unlawfully influenced the result of the Match. More specifically:

i. with regard to the "*suspicious match actions*", the Respondent (*a*) underlined the "*uncontested circumstances under which the first two goals were scored*", (*b*) noted that the Appellant took the Penalty Decision "*without any reliance on the Assistant Referee 1*", and that the decision to allow the Quick Restart was wrong, (*c*) submitted that the Field Decisions were taken "*intentionally, in a manner contrary to sporting ethics*", and (*d*) remarked that, contrary to the allegations made by the Appellant, no goal was actually scored by Senegal at min. 36 of the Match, and therefore the Referee took no decision to disallow it, because the Match had already been stopped by the Appellant when the Senegalese player kicked the ball into the goal;

ii. as to the "*irregular live betting activities*", the Respondent emphasized that, shortly after the Match, five internationally renowned companies "*spontaneously, independently and simultaneously*" reported irregular betting activities during the Match, indicative of match manipulation. All reports concluded, in particular, that during the first half of the Match, there were live betting activities on the so-called "Overs" that significantly deviated from usual market developments. In the Respondent's opinion, the reports provided by EWS and Sportradar are reliable means of evidence to prove suspicious and irregular activities within the betting markets and clearly indicate that certain bettors were in possession of information that let them expect that at least two or three goals would be scored during the Match. On the other hand, according to the Respondent, "*the arguments brought forward by the Appellant ... do not stand*": the Appellant's explanations with regards to the betting activities are "*simply too rudimental*" and create "*a confusion between ... the pre-match betting markets and the live betting*

markets". Finally, the Respondent underlined the "*correlation between the irregular live-betting activities and the suspicious match actions*".

54. According to the Respondent, the Appellant's conduct corresponds to a breach of Article 69(1) of the FDC. In fact:

- the Appellant influenced the result of the Match within the meaning of Article 69(1) of the FDC by means of the Field Decisions;
- the Appellant acted in a manner contrary to sporting ethics, as well as to the spirit and the essential values of football, by intentionally taking wrong refereeing decisions to make bets placed on the *Totals Live Markets* successful;
- in line with the "*predictability test*", the Appellant had all the necessary means to ascertain that influencing the result of a match in a manner contrary to sporting ethics (whether through conspiracy or not) was absolutely wrong;
- FIFA's regulations set an unambiguous and general prohibition to influence the result of a match contrary to sporting ethics, regardless of any conspiracy;
- proving the existence of a conspiracy is not an imperative condition so as to be sanctioned under Article 69(1) of the FDC, in the sense that this provision encompasses acts of influencing the result of a match contrary to sporting ethics; and
- in any case, the irregular betting activities witnessed on the *Totals Live Markets* clearly show that the Appellant could have not acted alone: the existence of a conspiracy is therefore demonstrated.

55. As an alternative reasoning, the Respondent submitted that, should the Panel consider that Article 69(1) of the FDC is not applicable, the Appellant should be found at least in breach of Article 57 of the FDC, which deals with violations of "*fair play*" and "*unsporting behaviour*", and the sanction imposed on him confirmed.

56. Finally, with respect to the Appellant's claim that the sanction is disproportionate, the Respondent noted the fact that a top level referee as the Appellant took advantage of his position to unlawfully influence the result of a match of the most important and prestigious football competition. Therefore, the Respondent considered that the sanction imposed on the Appellant for his extremely serious infringement, however harsh, was appropriate and proportionate, in line with the jurisprudence of CAS and consistent with the statutory objectives of FIFA.

3. LEGAL ANALYSIS

3.1 Jurisdiction

57. CAS has jurisdiction to decide the present dispute between the parties.

58. In fact, the jurisdiction of CAS is not disputed by the parties, has been confirmed by the Order of Procedure, and is contemplated by Article 57 *et seq.* of the Statutes of FIFA .

3.2 Admissibility

59. The statement of appeal was filed within the deadline set in Article 58(1) of the Statutes of FIFA and complies with the formal requirements set by the Code. Accordingly, the appeal is admissible.

3.3 Scope of the Panel's Review

60. According to Article R57 of the Code,

"*the Panel shall have full power to review the facts and the law. It may issue a new decision which replaces the decision challenged or annul the decision and refer the case back to the previous instance. [...]*".

3.4 Applicable Law

61. Pursuant to Article R58 of the Code, this Panel is required to 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*".

62. In the present case, the "*applicable regulations*" for the purposes of Article R58 of the Code are, indisputably, the FIFA regulations because the appeal is directed against a decision issued by FIFA, which was passed applying FIFA's rules and regulations. More specifically, the Panel agrees with the parties that the particular FIFA rules concerned are those contained in the FDC in force at the time of the Match.

63. In addition to the FIFA regulations, Swiss law applies subsidiarily, pursuant to Article R58 of the Code, since FIFA, which rendered the AC Decision, has its seat in Switzerland.

64. The FIFA provisions within the FDC that are relevant in this arbitration include the following:

Article 22 "*Ban on taking part in any football-related activity*"

A person may be banned from taking part in any kind of football-related activity (administrative, sports or any other).

Section 10 "*Unlawfully influencing match results*"

Article 69

1. Anyone who conspires to influence the result of a match in a manner contrary to sporting ethics shall be sanctioned with a match suspension or a ban on taking part in any football-related activity as well as a fine of at least CHF 15,000. In serious cases, a lifetime ban on taking part in any football-related activity shall be imposed.

2. *In the case of a player or official unlawfully influencing the result of a match in accordance with par. 1, the club or association to which the player or official belongs may be fined. Serious offences may be sanctioned with expulsion from a competition, relegation to a lower division, a points deduction and the return of awards.*

Article 96 *"Various types of proof"*

1. *Any type of proof may be produced.*
2. *Proof that violates human dignity or obviously does not serve to establish relevant facts shall be rejected.*
3. *The following are, in particular, admissible: reports from referees, assistant referees, match commissioners and referee inspectors, declarations from the parties and witnesses, material evidence, expert opinions and audio or video recordings.*

Article 97 *"Evaluation of proof"*

1. *The bodies will have absolute discretion regarding proof.*
2. *They may, in particular, take account of the parties' attitudes during proceedings, especially the manner in which they cooperate with the judicial bodies and the secretariat ...*
3. *They decide on the basis of their personal convictions.*

Article 99 *"Burden of proof"*

1. *The burden of proof regarding disciplinary infringements rests on FIFA. [...]*

3.6 The Dispute

65. These proceedings concern the AC Decision, rendered by the Appeal Committee of FIFA, which confirmed the DC Decision of the FIFA Disciplinary Committee finding the Referee responsible of a violation under Article 69(1) of the FDC and imposing on him a lifetime ban on taking part on any football related activity. The AC Decision, in fact, is challenged by the Appellant and defended by the Respondent: the former seeks its setting aside; the latter requests the Panel to confirm it.

66. In relation to such dispute, a number of issues have been raised by the parties. In essence, the Appellant disputes the interpretation of Article 69(1) of the FDC under which he was sanctioned, and submits that there is no evidence that he is responsible for the disciplinary infringement contemplated by such provision, as correctly interpreted. In addition, according to the Appellant, no alternative basis for a sanction, not considered before the FIFA disciplinary bodies, can be found in these CAS proceedings. Finally, the Appellant disputes the measure of the sanction imposed on him.

67. As a result of the foregoing, the Panel has to examine the following issues:

i. is the Referee responsible for the disciplinary infringement contemplated by Article 69(1) of the FDC?

ii. if not, is the Referee to be found responsible for a violation of Article 57 of the FDC?

iii. if the Referee is found responsible of an infringement under the FDC, what is the proper sanction for such violation?

68. The Panel shall examine those issues separately.

i. Is the Referee responsible for the disciplinary infringement contemplated by Article 69(1) of the FDC?

69. As mentioned, the FIFA disciplinary bodies found the Referee responsible of a violation under Article 69(1) of the FDC. Such provision punishes "*anyone who conspires to influence the result of a match in a manner contrary to sporting ethics*". More specifically, the FIFA disciplinary bodies came to the conclusion that the Referee had conspired to influence the result of the Match in a manner contrary to sporting ethics.

70. With respect to such provision, the parties agree that the Referee is bound by the FIFA regulations, and more specifically by the FDC in accordance with its Articles 2 ["*This code applies to every match and competition organised by FIFA ...*"] and 3 ["*The following are subject to this code: ... (e) match officials ...*"]. As a result, Article 69(1) of the FDC applies to the Referee: should he be found to have conspired to influence the result of the Match in a manner contrary to sporting ethics, he would have violated Article 69(1) of the FDC.

71. At the same time, there is no dispute that the Field Decisions influenced the result of the Match. In fact, both the Penalty Decision and the decision to allow the Quick Restart created scoring opportunities for a team, which actually took them and converted them into two goals. At the same time, the Panel notes that the influence on the Match (at least) of the Penalty Decisions was underlined by the Referee Assessor in his report signed soon after the Match, and is confirmed by the vibrant reaction of the Senegalese team.

72. As a result, the main questions to be addressed by the Panel in order to verify whether the Referee is actually responsible for the violation mentioned by Article 69(1) of the FDC are whether the Referee "*conspired*" to influence the result of the Match "*in a manner contrary to sporting ethics*".

73. A dispute arose between the Parties chiefly as to the interpretation of the reference to "*conspiracy*" contained in Article 69(1) of the FDC. The Appellant, in fact, notes in essence that, in the absence of a statutory definition of "*conspiracy*", reference should be made to the common use of such word, which implies that a plurality of persons be involved and that such persons have agreed to commit an illegal act. In the absence of evidence of such an agreement with other people, the Referee cannot be held to have "*conspired*".

74. The Panel notes that according to the jurisprudence of the Swiss Federal Tribunal (as

recently confirmed in the decision of 29 June 2017 4_A600/2016, at consid. 3.3.4.1 and 3.3.4.2; but see also see also ATF 87 II 95 consid. 3; ATF 114 II 193, p. 197, consid. 5.a; decision of 3 May 2005, 7B.10/2005, consid. 2.3; decision of 25 February 2003, consid. 3.2), the interpretation of the statutes and rules of FIFA, a large sport association with seat in Switzerland, starts from the literal meaning of the rule, which falls to be interpreted, but must show its true meaning, which is shown by an examination of the relation with other rules and the context, of the purpose sought and the interest protected, as well as of the intent of the legislator. In this vein, CAS Panels (CAS 2008/A/1673; CAS 2009/A/1810; CAS 2009/A/1811) have held that the adjudicating body has to consider the meaning of the rule, looking at the language used, and the appropriate grammar and syntax, but has further to identify the intentions (objectively construed) of the association which drafted the rule, and such body may also take account of any relevant historical background which illuminates its derivation, as well as the entirely regulatory context in which the particular rule is located.

75. Firstly, the Panel prefers to consider the verb "to conspire" rather than the noun "a conspiracy", as it is the verb "conspires" that is used in the Article. On the basis of the foregoing, the Panel notes that "to conspire" to influence a match may be deemed to include all intentional actions, secretly planned, aimed at manipulating the result of a match, be that in combination with, or to the advantage, of others, or by the person who conspires acting alone, or to his individual benefit. Such interpretation is perfectly consistent:

    i. with the wording of the Article 69(1) of the FDC, which makes no reference to the necessary involvement of third parties in a "*conspiracy*" rather it looks solely at the actions of the individual and whether he has "conspired" to do something;

    ii. with the context of the provision, constituting the only provision contained in Section 10 of the FDC, sanctioning the action of "*unlawfully influencing match results*";

    iii. with the purpose sought by the rule, which intends to protect the integrity of football competitions against manipulations, irrespective of the existence of a plurality of people involved in a "*conspiracy*";

    iv. with the overall policy objectives sought by FIFA, expressed in a number of documents (e.g., Circular Letter Nos. 1378, 1403, 1422 and 1424), intended to protect the sporting values of football, which may be touched by individual actions;

    v. with the interests protected, which pertain not only to FIFA, but to all subjects involved in the football world, as well as to the public at large, which may be affected by actions secretly planned aimed at influencing the result of a match (in a manner contrary to sporting ethics).

76. As a result of the foregoing, the Panel finds that that it is not necessary to find that the Referee had plotted together with other people (deriving a benefit from his actions) to conclude that the Referee conspired to manipulate the Match: even in the case no such person existed, and the bets on the Match had been placed in the "interest" of the Referee himself (through people unaware of the Referee's plan), would a "*conspiracy*"

be found.

77. The question, therefore, is whether the Referee actually took intentional actions, secretly planned, aimed at influencing, in a manner contrary to sporting ethics, the result of the Match in order to produce an unlawful effect.

78. The Panel, in this framework, underlines that the Field Decisions were wrong and were deliberately taken. The Referee himself now admits that the Field Decisions were mistakes: he only submits that they were "innocent" mistakes which find some justification.

79. The Panel, however, cannot accept the Referee's devaluation of his mistakes. The images reviewed by the Panel, in fact, clearly show that both Field Decisions were directly taken by the Referee. In particular, the Penalty Decision was taken within a couple of seconds, leaving no time for the communications with Assistant Referee 1 to overcome an "*obstructed view*", and are inexplicable for an expert referee. With respect to the decision to allow the Quick Restart, the Panel cannot agree with the Referee's justification that the Quick Restart occurred out of his control: indeed, the failure to control the restart of the playing action appears to be the mistake more than its justification; and the images of the Match show that initially the Referee was about to blow his whistle and stop the restart, but then decided to let the action continue. In that regard, the Panel notes that the refereeing department of FIFA, in a statement dated 28 June 2017, not contradicted by expert opinion brought by the Appellant, confirmed, *inter alia*, that it is "*unusual*" for a FIFA elite referee to make two wrongful decisions in such a short time period (between min. 41 and min. 45).

80. The Panel, then, notes that it is undisputed that the betting patterns for the live betting market relating to the Match are highly suspicious. The Panel is convinced by the concurring opinions of a number of experts, who rendered declarations in this arbitration, and finds it extremely meaningful that a number of entities active on the betting market immediately (*i.e.*, soon after the Match) and spontaneously detected the irregular betting patterns and raised concerns as to the integrity of the Match. It is on the other hand obvious even to the non-expert that the live betting market for *Totals* is affected by the lapse of the playing time: the shorter the playing time, the lower the probability for any number of goals to be scored. In other words, with respect to "overs" (when the bet is placed on the scoring of a number of goals exceeding the factor quoted by the bookmaker), it is obvious that the probability of a win decreases (and therefore odds increase) as the playing time runs and no goal is scored. The Panel notes that such assumption was not challenged by the Appellant, who brought no expert evidence to contradict the wealth of opinions submitted by the Respondent.

81. The Appellant, indeed, only indicated that in the case at stake a large number of goals could be expected, in light of the scoring history of the two teams, and therefore that there was a high probability that the betting market would be affected by this expectation.

82. The Panel notes, however, that said information (the scoring history of the two teams) was available (together with other information: the probable composition of the squads,

the name of the players injured or suspended, the name of the referee, the weight of the "home/away" factor, etc.) to the public before kick-off. Therefore, it appears suitable to affect, if the case, the odds offered by the bookmakers in the pre-match market: if the teams have strong attack sides, but poor defence lines, "overs" would probably offered at low odds, since a large number of goals could be expected. As explained by the experts brought by the Respondent, unchallenged on the point by the Appellant, however, once a match starts the "movement" in the odds appears meaningful: in fact, whatever their starting level, odds on "overs" are expected to increase as the playing time passes and no goal is scored.

83. As a result, the Panel finds that the deviation from the expected, ordinary movement in the odds on "overs" in the Match, contradicting the mathematical model, is a decisive sign that bettors had some information that the mathematical model did not have and expected that at least two goals be scored irrespective of the lapse of time. In addition, the Panel finds it remarkable, on the basis of the unchallenged evidence brought by the Respondent, that the Match was uneventful up to the moment the Field Decisions were taken, that the deviation from the ordinary betting pattern occurred prior to those Field Decisions and that after that moment the market appeared to be satisfied, because its expectations had been met.

84. In light of the foregoing, the Panel has reached a personal conviction, in accordance with Article 97(3) of the FDC, that a link exists between (i) the deviation in the betting patterns and (ii) the Field Decisions, as each of them, inexplicable if taken alone, appears to find an "explanation" only in the other.

85. The Panel at the same time is persuaded that the Referee, by his Field Decisions, influenced the result of the Match in a manner contrary to sporting ethics. It is in fact obvious that any decision taken by a referee, whether correct or not, *de facto* may influence the result of the match he officiates. However, the fact that wrong decisions were intentionally taken is in itself "*contrary to sporting ethics*". This conclusion, in addition, is reinforced by the obvious link between the wrong Field Decisions, deliberately taken, and the deviation from normality in betting patterns for the live Totals market. Such link shows that the Field Decisions were taken to influence the Match in a manner contrary to sporting ethics as they appear dictated by purposes contradicting the principles of fair play and compliance with the rules which are at the basis of sporting activities.

86. Contrary to such conclusion the Appellant invokes the fact that at min. 36 of the Match he disallowed a goal scored by Senegal. This circumstance, in the Appellant's opinion, would contradict any alleged intention on his part to contribute to have at least 2 or 3 goals scored: should this be the case, he would have granted the goal.

87. The Panel, however, does not agree with the Appellant's submission and finds, on the basis of the review of the video of the Match, that no goal was actually scored by Senegal at min. 36 of the Match, and therefore that the Referee took no decision to disallow it: when the Senegalese player kicked the ball into the goal, the Match had already been stopped by the Appellant.

88. The Panel was comforted in this determination by the further evidence brought by the Respondent of the Appellant's performance in Match 2 through to Match 7. The Panel was left with the opinion that this was not an isolated incident.

89. As a result of the foregoing, this Panel finds the Referee responsible of a violation under Article 69(1) of the FDC. The AC Decision which so found, confirming the DC Decision, is to be upheld.

ii. If not, is the Referee to be found responsible for a violation of Article 57 of the FDC?

90. In light of the foregoing conclusion, there is no need to answer this question.

iii. If the Referee is found responsible of an infringement under the FDC, what is the proper sanction for such violation?

91. Under Article 69(1) of the FDC, the subject found responsible for its violation "*shall be sanctioned with a match suspension or a ban on taking part in any football-related activity as well as a fine of at least CHF 15,000*". However, "*in serious cases, a lifetime ban on taking part in any football-related activity shall be imposed*".

92. The Panel has no doubt that the case of the Referee is a "*serious case*". Referees' duty is to ensure that football matches are conducted in full respect of the laws of the game and they preside over the observance by the players of fair play on the pitch. The role of referees is essential: the credibility of a match, and of the sport of football in general, depends on the authority of match officials, which would be jeopardized by integrity issues.

93. At the same time, the Panel confirm that the very essence of sport is that competition is fair; its attraction to spectators is the unpredictability of its outcome. It is therefore essential in the Panel's view for sporting regulators to demonstrate zero-tolerance against all kinds of activities intended to influence the result of a match in a manner contrary to sporting ethics and to impose sanctions sufficient to serve as an effective deterrent to people who might otherwise be tempted to consider involvement in such activities.

94. Based on all the above, the Panel finds that a life ban from any football related activities against the Appellant is a proportionate sanction and that the AC Decision must be upheld in its entirety, without any modification.

95. In any case, in the Panel's opinion, it is not possible to "adjust", as the Appellant requested, the measure of a sanction to the degree of the Panel's satisfaction that an infringement has been committed, so that a lower sanction is imposed if and when the Panel is not entirely convinced that an infringement as been committed. Whenever, a Panel finds that a violation has been proven, the sanction has to follow according to its seriousness.

96. This conclusion makes it unnecessary for the Panel to consider the other requests submitted by the parties. Accordingly, all other prayers for relief are rejected.

3.7 Conclusion

97. In light of the foregoing, the Panel holds that the appeal brought by the Referee is to be dismissed.

4. COSTS

98. Article 65.1 of the Code reads as follows:

This Article applies to appeals against decisions which are exclusively of a disciplinary nature and which are rendered by an international federation or sports-body. In case of objection by any party concerning the application of the present provision, the CAS Court Office may request that the arbitration costs be paid in advance pursuant to Article R64.2 pending a decision by the panel on the issue.

99. Article R65.2 of the CAS Code provides as follows:

Subject to Articles R65.2, para. 2 and R65.4, the proceedings shall be free. The fees and costs of the arbitrators, calculated in accordance with the CAS fee scale, together with the costs of CAS are borne by CAS.

Upon submission of the statement of appeal, the Appellant shall pay a non-refundable Court Office fee of Swiss francs 1,000.-- without which CAS shall not proceed and the appeal shall be deemed withdrawn. [...]

100. Article R65.3 of the CAS Code provides:

Each party shall pay for the costs of its own witnesses, experts and interpreters. In the arbitral award and without any specific request from the parties, the Panel has discretion to grant the prevailing party a contribution towards its legal fees and other expenses incurred in connection with the proceedings and, in particular, the costs of witnesses and interpreters. When granting such contribution, the Panel shall take into account the complexity and the outcome of the proceedings, as well as the conduct and financial resources of the parties.

101. The present arbitration procedure is therefore free, except for the CAS Court Office fee of CHF 1,000 paid by the Appellant, which is retained by the CAS.

102. In the present case, having taken into account all the circumstances, the financial resources of the Parties and the fact that the Respondent was not represented by external counsel, the Panel holds that the Parties shall bear their own expenses sustained in relation with the present appeal.

* * * * *

ON THESE GROUNDS

The Court of Arbitration for Sport rules that:

1. The appeal filed by Mr Joseph Odartei Lamptey on 6 June 2017 against the decision rendered by the Appeal Committee of FIFA on 27 April 2017 is dismissed.

2. The decision rendered on 27 April 2017 by the Appeal Committee of FIFA is confirmed.

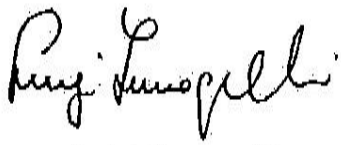
3. The award is pronounced without costs, except for the Court Office fee of CHF 1,000 (one thousand Swiss Francs) paid by Mr Joseph Odartei Lamptey, which is retained by the CAS.

4. Each party shall bear his/its own legal costs and expenses incurred in connection with the present proceedings.

5. All other motions or prayers for relief are dismissed.

Seat of arbitration: Lausanne, Switzerland
Date: 4 December 2017
Operative part issued on 2 August 2017

COURT OF ARBITRATION FOR SPORT



Luigi **Fumagalli**
President