



CAF APPEAL BOARD
DECISION 001 – CAI – 15.09.2019

Mr. Tarik Najem
General Secretary
Fédération Royale Marocaine de Football (FRMF)

A l'attention du Wydad Athletic Club

Cairo, 15th September 2019

Re: Appeal of Wydad Athletic Club against the decision of CAF Disciplinary Board dated 7th August 2019 regarding the return leg final of CL 2018/2019 Espérance Sportive de Tunis (Tunisia) vs. Wydad Athletic Club (Morocco)

Dear Secretary General,

Arising out of the Appeal Board's Meeting held at CAF Headquarters, in Cairo, on 15th September 2019, the Board was comprised of:

Mr. Abdulhakeem Mustapha (Nigeria)	Chairman
Mr. Ali Mohamed Ahmed (Somalia)	Member
Mr. Chitbahal Mustapha Bhai (Mauritius)	Member

Also in attendance were:

Mrs. Amina Kassem	Head of Disciplinary (CAF)
Ms. Sarah El Adawy	Disciplinary Coordinator (CAF)

Representatives of Wydad Athletic Club :

M. Mohammed GHAZI	Directeur Juridique du Wydad Athletic Club
M. Mohamed TALAL	Trésorier et porte-parole du Wydad Athletic Club
Me. Despina MAVROMATI	Lawyer
Me. Monia Karmass	Lawyer

Representatives of Esperance Sportive de Tunis:

M. Mohamed Hachemi Djillani	Vice-Président E.S.T
Me Riadh Touiti	Lawyer
Me Ali Abbess	Lawyer



In its meeting held at CAF headquarters on 15th September 2019, the Board examined the documents of the above mentioned case and listened to the representatives of the Appellant as well as the Respondent.

FACTS

1. The Background:

The return leg of the CAF Champions League Final played on 31st May 2019 in Tunis, between the two clubs Espérance Sportive de Tunis (EST) and Wydad Athletic Club (WAC), was stopped in the 61st minute.

After a stoppage of almost 90 minutes, the referee whistled the end of the match and EST club was crowned CL 2018/2019 Champion, the medal ceremony took place without the participation of the club WAC.

On June 5th 2019, the Executive Committee of CAF decided that the return leg of the final of the Total CAF Champions League 2019 be replayed.

Wydad Athletic Club presented a statement of appeal to the Court of Arbitration for Sport (CAS) on June 14, 2019. The club requested that the decisions of the Executive Committee be canceled and the WAC declared winner of said match.

On June 17, E.S.T club submitted a counter-appeal before CAS. E.S.T disputes the decision to replay the match in question, the club indicated that the CAF Executive Committee did not have the competence to make such decision and that this decision is illegal and therefore invalid, the club asked for the annulment of the decision.

On 31 July 2019, CAS rendered a partial decision and considered that the CAF Executive Committee was not competent to order that the final be replayed and decided to annul the contested decision.

It was then up to the competent bodies of CAF to look into the incidents that occurred in the Rades stadium on May 31, 2019, to take any appropriate disciplinary action as deemed necessary, and consequently to decide whether the Champions League second leg CAF 2018/19 must be replayed or not.

The case was submitted to CAF Disciplinary Board in its meeting held in CAF HQ on August 7th 2019.

2. Decision of CAF Disciplinary Board :

CAF Disciplinary Board decided that Wydad Athletic Club is the loser of the return leg of the CL 2018/2019 final with forfeit and imposed a financial sanction of \$20,000 USD (Twenty Thousand US Dollars) on the club for the abandonment of the match and a further sanction of \$15,000 (Fifteen Thousand US Dollars) was also imposed on Wydad Athletic Club by the Disciplinary Board decision no.2 of August 7th 2019 for the usage of flares by their supporters in the above mentioned match.

3. The Appeal

Wydad Athletic Club lodged an appeal against the decision rendered by CAF Disciplinary Board on 7th August 2019. This appeal was submitted and examined by CAF Appeal Board in its meeting held in Cairo, Egypt on 15th September 2019.

GROUNDS

1. The appeal submitted by Wydad Athletic Club on the 28th of August 2019 is declared admissible following the extension of deadline that was approved by the Chairman of the Appeal Board.
2. The Appellant argued that their right to equal chances was not respected due to the different circumstances between the 1st and 2nd leg of the Final match of the CL 2018/2019. Nevertheless, it has been established that the present appeal's purpose is against the incidents that took place during the 2nd leg only and does not concern the 1st leg on which no claims or objections were made.
3. Furthermore, the Board underlined the fact that the absence of the Video Assistant Referee (VAR) has no legal effects whatsoever and that its sole purpose is to aid the referee to take the correct decision.
4. That the referee is vested with the power to have the final decision on the field of play since the start of the game, and that his decision is not up to review by the Appeal Board.
5. The match officials' reports were very clear that the Wydad Athletic Club's players refused to resume the match even after several attempts conducted by the referee, to the point that the referee waited almost 90 minutes before he whistled the end of the match.

6. The Board highlighted the fact that the present appeal submitted by Wydad Athletic Club is submitted against the decision rendered by CAF Disciplinary Board on the 7th of August 2019 which concerns the forfeit of the match but not the financial sanction imposed on Wydad Athletic Club which remains undisputed to this day.
7. The Appeal Board has noted that the stoppage of almost 90 minutes was due to the Wydad Athletic Club's players' failure to resume the match, the players were then instructed to resume play by the referee who has seen his attempts fail to no avail. Therefore the Appeal Board confirms that the match was forfeited by Wydad Athletic Club because their players refused to resume the match.
8. As to Wydad Athletic Club's request for the Appeal Board to sanction Esperance Sportive de Tunis, the Board took note that the aforementioned request was already addressed by the Disciplinary Board and that Esperance Sportive de Tunis were effectively sanctioned for the incidents that took place on match 144 of the Total CAF Champions League. The Board resolved that a consideration for this request would be deemed as a double sanction on Esperance Sportive de Tunis which would contradict the principle of *Non Bis In Idem*.

CONSIDERED

Considering CAF Statutes and Regulations;

The Appeal Board decides:

DECISION

1. The Appeal of Wydad Athletic Club is admissible in law;
2. The Appeal of Wydad Athletic Club is rejected in substance;
3. The decision of CAF Disciplinary Board rendered on 7th August 2019 is hereby upheld and confirmed.



LEGAL REMEDY

According to article 48 par. 3 of the CAF Statutes, this decision may be appealed against before the Court of Arbitration for Sport (CAS). The statement of appeal must be sent to the CAS directly within 10 days of receipt of notification of this decision and shall contain all the elements in accordance with point 2 of the directives issued by the CAS.

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

Court of Arbitration for Sport - Avenue de Beaumont 2
1012 Lausanne - Switzerland
Tel: +41 21 613 50 00
Fax: +41 21 613 50 01
e-mail: info@tas-cas.org
www.tas-cas.org

Best Regards,

**CONFEDERATION AFRICAINE
DE FOOTBALL**

**Abdulhakeem Mustapha, SAN
Chairman of CAF Appeal Board**

*cc. Fédération Tunisienne de Football
cc. Espérance Sportive de Tunis (Tunisie)*