

Date: 14 April 2023

Sent to:

Mr Abu Nayeem Shohag
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Cc:

- Bangladesh Football Federation
- AFC
- Investigatory Chamber of the Ethics Committee

Notification of the grounds of the Decision

Ref. N°: FED-299

Dear Sirs,

Please find attached the grounds of the decision passed in the aforementioned case by the Adjudicatory Chamber of the FIFA Ethics Committee on 16 February 2023.

The Bangladesh Football Federation (in copy) is kindly requested to forward this decision to Mr Abu Nayeem Shohag.

We would appreciate your taking due note of this decision and ensuring its implementation.

Yours faithfully,

FIFA

Carlos Schneider
Director of the FIFA Judicial Bodies

Decision of the Adjudicatory Chamber of the Ethics Committee

passed on 16 February 2023

DECISION BY:

Vassilios SKOURIS (Greece), Chairperson

Pamela CAMUS (Chile), Member

Mohammad AL KAMALI (United Arab Emirates), Member

ON THE CASE OF:

Abu Nayeem Shohag, Bangladesh

(Decision FED-299)

REGARDING:

Art. 13 of the FIFA Code of Ethics (FCE) – General duties

Art. 15 of the FCE – Duty of loyalty

Art. 24 of the FCE – Forgery and falsification

Art. 28 of the FCE – Misappropriation and misuse of funds

I. FACTS

A. Overview of the Case

1. The present case related to allegations submitted by the Investigatory Chamber of the FIFA Ethics Committee (**IC** or **the Investigatory Chamber**) against Mr Abu Nayeem Shohag (**Mr Shohag** or **the Accused** or **the Respondent**), General Secretary of the Bangladesh Football Federation (**BFF**), in relation to possible conducts in violation of the FIFA Code of Ethics. Specifically, it is alleged that the latter, in his position as General Secretary of the said association, misused FIFA Forward funds and negligently allowed the use of forged or falsified documents to support the transactions of the BFF paid with FIFA funds.

B. Proceedings before the Investigatory Chamber

1. Procedural background and communications with the parties

I. The Respondent

2. Mr Shohag is a 40-year-old Bangladeshi football official. In particular, the latter is currently the General Secretary of the BFF since January 2013 and has been a FIFA Match Commissioner for Asia since 5 October 2015.
3. In addition to the above, Mr Shohag held the position of "Acting General Secretary of BFF" from 29 October 2011 until 30 January 2013 and also served as a member of the FIFA Dispute Resolution Chamber from 1 October 2017 until 31 August 2021.

II. Preliminary investigations and opening of proceedings

4. On 28 October 2020, the FIFA Compliance Subdivision informed the Investigatory Chamber that the external consultant Control Risks Group Limited (**Control Risks**) had identified in its report dated 23 September 2020 several issues in regard to the bidding procedures at BFF. In addition, the FIFA Compliance Subdivision advised that, due to the findings of this report, it had requested a forensic review at the BFF's premises to be conducted by the audit firm BDO LLP (**BDO**).
5. On 5 March 2021, BDO issued its forensic report on the use of funds by BFF covering the period of 1 January 2017 to 30 September 2020.
6. In view of the above and the documentation collected throughout the preliminary investigation, Mr Martin Ngoga, Chairperson of the Investigatory Chamber, determined on 28 April 2022 that there was a *prima facie* case that Mr Shohag had committed violations of the FIFA Code of Ethics, 2020 edition (**FCE**). Accordingly, the latter was informed of the opening of formal investigation proceedings against him for potential breaches of arts. 13 (General Duties), 17 (Duty to report), 24 (Forgery and Falsification), 25 (Abuse of position) and 28 (Misappropriation and misuse of funds) of the FCE.

7. On the same day, Mr Ngoga designated Mr John Tougon to lead the proceedings against Mr Shohag as Chief of Investigation in accordance with art. 63 FCE.
8. Moreover, on 2 September 2022, the Investigatory Chamber engaged with an expert "*in graphistics, documents copy and documentary forgery*" to provide his expertise on the authenticity of several documents, including the quotations received by BFF during the procurement process.
9. On 19 September 2022, Mr Medina Casado (**the Expert**) submitted his expert opinion to the Investigatory Chamber.

III. Communications with the Accused

10. Between 22 March 2021 and 27 September 2022, the Investigatory Chamber exchanged several communications with Mr Shohag, who, *inter alia*, was requested to provide his written positions in relation to the allegations levelled against him but also to clarify the amounts and rationale behind several problematic transactions made by BFF with FIFA funds.
11. On 17 June 2022, Mr Shohag submitted his position to the Investigatory Chamber.

IV. Closure of the investigation proceedings

12. On 26 October 2022, the investigation proceedings were closed and the final report on the investigations (**the Final Report**) was transmitted to the Adjudicatory Chamber.

2. Factual findings of the Investigatory Chamber

13. The present section aims at summarising the case file constituted by the Investigatory Chamber as well as the related findings contained in the Final Report.

I. Use of falsified documentation (quotations)

a) Problematic transactions

14. The Investigatory Chamber analysed several transactions carried out by BFF with FIFA Forward funds and noted that some of them were problematic since they allegedly involved the use of falsified documentation to support transactions paid with FIFA funds. In particular, the Investigatory Chamber isolated four transactions.

1) Sport wearable goods (Transaction 1)

(i) Background

15. In June 2020, the BFF National Teams Committee decided to purchase sport equipment for the residential camp in Dhaka and matches of the Bangladesh National Football Team.
16. In this respect, three quotations were received from *Sports Link*, *Sports Corner* and *Robin Enterprise*. *Sports Link* won the bid and the comparative statement were approved by five individuals, including Mr Shohag, who, in his capacity as General Secretary, then ordered the supply of goods in the amount of USD 30,027¹.
17. On 28 July 2020, *Sports Link* provided BFF with a letter confirming that they had delivered the goods.
18. On 5 August 2020, four individuals, including Mr Shohag, approved and ordered the final payment to *Sports Link*.

(ii) Issues regarding the quotations

19. In this respect, the Final Report noted that the various reports on file identified a number of problems with the quotations received by BFF in relation to Transaction 1.
20. In particular, Control Risks concluded in its report dated 23 September 2020 that:
 - All three bidders appeared to be linked to each other and noted that all three documents submitted by the bidders had the same typo "*Qutations*" and did not include the bidders' stamp.
 - Two quotations had the same suspicious opening statement "*we are pleased to inform you that we have supplied you the following items as per your order*", whereas no items had even been ordered.
21. Moreover, BDO noted in its report dated 5 March 2021 that:
 - All three quotations had the same layout/structure with the same format and located signature space.
 - All quotations misspelled "*Outations*".
 - *Robin Enterprise*'s quotation included a mobile phone number without any connection to the company.
 - *Sports Corner* and *Sports Link* have their business premisses located next to each other.
 - The owner of *Sports Link*, Mr Robin, appeared to be a former employer of *Sports Corner*.
22. Finally, the Expert concluded in his report dated 19 September 2022 that:

¹ Bangladeshi Taka (BDT) 2,588,640.

- The signatures of the “proprietor” on the documents submitted by *Sports Link*, i.e., the “quotation” dated 18 July 2020 and the “confirmation of delivery” dated 28 July 2020, “do not follow the same course (...)” and;
- the three quotations “are made by the same employer or template, indicating that they have not been made by different companies.”

2) Footballs (Transaction 2)

(i) Background

23. In January 2020, BFF purchased 400 footballs for USD 13,921².
24. In relation to this transaction, three quotations were received from *Maria International*, *M/S H.U Zaman Trading* and *Ophelia’s Closet* on 18 and 19 December 2019 respectively. *Ophelia’s Closet* won the bid and the comparative statement was approved by five individuals, including Mr Shohag.
25. On 12 February 2020, four individuals, including Mr Shohag, approved and ordered the final payment to *Ophelia’s Closet*.
26. In the course of the investigation, Mr Shohag provided a document titled “*Extract of Bangladesh Premier League Committee on 02/12/2020*” signed by him stating “*that it is necessary to purchase FIFA Approved match by BFF to conduct game of Bangladesh Premier league 2019/2020*”. Moreover, BFF further explained that this supplier was selected because it is a general one supplying goods like fashion/dress/items and sports goods and could provide the large quantity of footballs with a flexible credit line³.

(ii) Issues regarding the quotations

27. In this respect, the Final Report noted that the various reports on file identified a number of problems with the quotations received by BFF in relation to Transaction 2.
28. In particular, Control Risks concluded in its report dated 23 September 2020 that:
- *Ophelia’s Closet* did not exist on the address provided on the quotation and is involved in tailoring of women’s wear. Therefore, it was unlikely that this company could provide the footballs to BFF.
 - *Maria International* and *M/S H.U Zaman Trading’s* quotations did not provide sufficient identifiers and had no seal of the company. As a result, Control Risks was unable to comment on the existence of these two firms.
29. Moreover, BDO noted in its report dated 5 March 2021 that:
- In the procurement process, BFF should take into account the experience of the supplier.

² BDT 1,200,000

³ Cf. points 53 and 55 Final Report.

- *Ophelia's Closet* being a fashion supplier, BDO concluded that this supplier appeared to have no experience in supplying footballs. In addition, this supplier did not have an import licence and used the one of "a friend", as explained by the supplier.
- No invoice was received from *Ophelia's Closet*, but BFF made the payment to the supplier.

30. Finally, the Expert concluded in his report dated 19 September 2022 that:

- The quotations were all made up of table and had some overlapping elements; and
- The quotation belonging to *Maria International* and *M/S H.U. Zaman Trading* had signatures made on a photocopy and not on the original document.

3) Flight tickets (Transaction 3)

(i) Background

31. In November 2019, BFF paid USD 19,925⁴ to *Al Marwah International* for the flight tickets in connection with the BFF National Team – World Cup 2022, Oman tour. In this respect, three quotations addressed to Mr Shohag were received from *Al Marwah International*, *Purabi International* and *Multiplex Travels & Tours*.
32. On 30 October 2019, four individuals, including Mr Shohag, approved and ordered the payment to *Al Marwah International*. In particular, two cheques were issued from the designated FIFA Forward bank account.
33. Moreover, in the scope of the investigation, Mr Shohag stated that "*the National Teams committee raises requisition for air tickets for the National Football Team's travel to abroad*"⁵.

(ii) Issues regarding the quotations

34. In this respect, the Final Report noted that the various reports on file identified a number of problems with the quotations received by BFF in relation to Transaction 3.
35. In particular, Control Risks concluded in its report dated 23 September 2020 that:
- All three quotations contained several similarities, in particular the same opening statement "*we are pleased to submit the following rout air tickets quotations*" and contained the same typo ("*rout*").
 - *Multiplex Travels & Tours* is listed in two business Bangladeshi directories as a travel agency but there appeared to be a typo in the name of the supplier on the quotation, the latter being mentioned in it as "*(...) & Tourse*" (emphasis added).
 - *Purabi International* is a manpower recruitment agency, so that it appeared unlikely that said entity would have been requested to provide a quotation for air tickets.
 - The body text of the quotations is identical, the quotations have the same numbering error ("*1, 3, 4*") and were issued on the same date and follow the same layout. Therefore, due to

⁴ BDT 1,686,300.

⁵ Cf. point 74 Final Report.

these unusual similarities, it was unlikely that *Multiplex Travels & Tours* and *Purabi International* have actually sent the quotations.

36. Moreover, BDO noted in its report dated 5 March 2021 that:
- Both *Purabi International* and *Multiplex Travels & Tours* confirmed that they have not provided any quotations to BFF nor performed services for the said association.
 - *Pura International* confirmed that it is a recruitment company.
 - All three quotations had the same table structures, date and referencing format.
37. Finally, the Expert concluded in his report dated 19 September 2022 that:
- The tables on the quotations were made up of the same size and fully coincident in their base content. Moreover, the sentence with the same typo was present on all three quotations.
 - "[T]he doubtful documents (...) are made by the same pattern or template, being made by the same company and not different."

4) Lawn mowers tickets (Transaction 4)

(i) Background

38. On 10 February 2020, BFF purchased lawn mowers for USD 1,412.60⁶. In this respect, two quotations were received from *Bangladesh Hardware* and *Shova Enterprise* on 15 December 2019 and *Bangladesh Hardware* won the tender.
39. On 15 December 2019, the order for the purchasing of goods was issued by Mr Shohag.
40. On 17 December 2019, *Sharmin Enterprise* submitted a third quotation.
41. On 10 February 2020, BFF issued a check from the FIFA designated bank account to *Bangladesh Hardware* and a few days later, on 16 February 2020, *Bangladesh Hardware* acknowledged receipt of the payment.

(ii) Issues regarding the quotations

42. In this respect, the Final Report noted that the various reports on file identified a number of problems with the quotations received by BFF in relation to Transaction 4.
43. In particular, Control Risks concluded in its report dated 23 September 2020 that:
- BFF provided Control Risks' auditors with three undated quotations.⁷
 - The one of *Bangladesh Hardware* had a typo in its name "*Bangladesh Hardwar*", with a slightly different address.

⁶ BDT 120,000.

⁷ The Investigatory Chamber pointed out that the quotations provided during the investigations were all dated.

- The quotations of *Shova Enterprise* and *Sharmin Enterprise* had several similarities and the same imagery.

44. Moreover, BDO noted in its report dated 5 March 2021 that:

- When it contacted *Sharmin Enterprise*, the person on the phone responded as *Shova Enterprise*.
- *Bangladesh Hardware* could not be reached.

45. Finally, the Expert concluded in his report dated 19 September 2022 that:

- The quotations contained a table filled by hand and all quotations had the same background.
- *Shova Enterprise* and *Sharmin Enterprise* have a very similar structure in typography, size and style, so that these documents “are made by the same template, the same origin, and not from different companies.”
- There were discrepancies in the signatures on the documents submitted by *Bangladesh Hardware*, i.e., the quotation and the acknowledge receipt letters.

5) Other transactions supporting the allegations

46. The Investigatory Chamber pointed out that other transactions carried out by BFF were of concern and that, although the information may be incomplete, it nevertheless suggested that the pattern described above was systematic.

(i) Sports wearables

47. In particular, the Investigatory Chamber noted that Control Risks, in its report dated 23 September 2020, indicated that the transaction related to sports wearable might be of concern for the following reasons:

- In March 2020, BFF purchased sports wearables and shared with Control Risks two quotations from *Spark* and *Creative Minds*, both dated 10 March 2020.
- Control Risks visited the addresses mentioned on the quotations but did not find any reference to *Spark* on site.
- Moreover, Control Risks noted that both quotations were highly similar, and its research indicated that the firm *Creative Minds* may not exist.

(ii) Water pipelines

48. In the same line, the Final Report referred to BDO's findings regarding a water pipeline transaction, which pointed out the following elements:

- In 2019, BFF received three quotations from *Md. Shafiq*, *M/s Hossain Enterprise* and *Manik Enterprise* to instal and repair water pipelines at the BFF's premises.

- All three hand-written quotations were visually very similar, and the amount paid by the BFF did not match any of the quotations.

49. Moreover, the Final Report also referred to the findings of the Expert, who, in his report dated 19 September 2022, reported that all three quotations had the “*same gestures-type in the graphic elements (...)*” and concluded that “*the doubtful handwritten documents ... have been made by the same author*”.
50. Finally, the Final Report indicated that in the scope of the investigation, BFF explained that *Mr Shafiq* provided the lowest bid for the amount of BDT 257,000, and that the difference between the quotation and the final price was because the old line had to be repaired at the cost of BDT 50,000, so that *Mr Shafiq* eventually was paid BDT 300,000.00 (USD 3,535.65) instead of BDT 257,000.00 (USD 3,028.90)⁸.

b) Conclusions of the Investigatory Chamber

1) Falsified documents

51. The Investigatory Chamber noted that Control Risks and BDO, during their respective reviews, raised strong alarms that the quotations produced to comply with the procurement process were falsified.
52. It also referred to the conclusions of the Expert, who signalled, *inter alia*, that the analysed quotations had been produced by a single person/company.
53. As a result, the Investigatory Chamber was comfortably satisfied that the referred quotations were false and had been fabricated with the sole aim to comply with the procurement requirements. Moreover, the use of falsified documents appears to be a recurrent and repeated problem that detracts BFF's finance.

2) As to Whether Mr Shohag can be held liable for using falsified documents

(i) Position as General Secretary of BFF

54. Having clarified the above, the Investigatory Chamber then focused on Mr Shohag and his possible responsibility in the above issues. In this respect, the Final Report stressed that Mr Shohag, as director of the BFF General Secretariat, had the responsibility of carrying out all administration work of the federation. Moreover, according to art. 59 of the BFF Statutes, the General Secretary is responsible for managing and keeping the accounts of BFF properly and is the liaison person with FIFA.
55. As a result, the Investigatory Chamber concluded that Mr Shohag was a high-ranking official who bears higher responsibilities in comparison with any other officials within BFF and had a duty of care towards BFF as to safeguard and guarantee that all transactions were carried out in the best interest of the association.

⁸ Cf. points 115-117 Final Report.

(ii) Particular involvement of Mr Shohag

56. In the Investigation Chamber's view, the key question was whether Mr Shohag's participation in the problematic transaction was enough to attribute the wrongful conduct to him, *i.e.*, the use of falsified document(s).
57. In this respect, the Investigatory Chamber pointed out that Mr Shohag was deeply involved in the said transactions as he approved and selected the winning supplier based on the quotations presented. He also issued the orders to purchase the goods and services and finally approved the payments from the FIFA designated bank account, as showed on this table:

	Sport wearable goods	Footballs	Flight Tickets	Lawn mowers
Initiated the procurement procedure		x		
Quote sent to his attention	x	x	x	
Participation in the Comparative Statement of Quotations	x	x		
Issued order for goods	x			x
Authorised the payment	x	x	x	

58. In other words, the Investigatory Chamber deemed that Mr Shohag was part of BFF's personnel who selected the winner supplier and therefore should have reviewed and examined the conditions and costs stated in the quotations.
59. Therefore, it is expected that Mr Shohag must have had access to the quotations and could have easily realised that the same were falsified documents offered with the intention to comply with the procurement process.

(iii) The negligence of Mr Shohag

60. In continuation, the Investigatory Chamber stressed that Mr Shohag heads the BFF General Secretariat and is responsible for carrying out all administrative work of BFF. Consequently, Mr Shohag is an agent of BFF (the principal) and is required to perform in the best interest of BFF and avoid causing any damage to the association.
61. Considering the positions within football that Mr Shohag has held (acting General Secretary, General Secretary, member of the FIFA Dispute Resolution Chamber), he was expected to have the necessary skills to carry out the tasks assigned to him, including his knowledge of the regulations applicable to him and to BFF.
62. In this context, the Investigatory Chamber recalled that Mr Shohag was involved in the procurement process of the problematic transactions, and it was his duty i) to ensure that the FIFA regulations were observed and ii) to avoid the use of falsified documents to justify expenditure of FIFA funds.

63. In particular, the Investigatory Chamber considered it obvious that any person without financial or legal knowledge, who would have examined the quotations provided, would have doubted their authenticity at first sight. The similarities were undoubtedly obvious and any reasonable person in Mr Shohag's position would have noticed the similarities and refrained from using them.

(iv) Conclusion – violation of art. 24 FCE

64. In view of the above, the Investigatory Chamber considered that Mr Shohag failed to apply the utmost duty of care towards BFF and FIFA, and through this negligence, he failed to avoid the use of falsified documents, or put differently, he allowed the use of falsified documents to justify the use of FIFA Forward funds, in breach of art. 24 FCE.

II. Misuse of FIFA Forward Funds

65. The Investigatory Chamber also analysed the Central reviews executed for the years 2016 to 2019 as well as the forensic audit conducted by BDO for the years 2017 to 2020⁹. In this respect, the Investigatory Chamber noted that BFF had continuously failed to observe the requirements included in the FIFA Forward Regulations.

a) FIFA Forward funds' problems

1) The Central reviews for the years 2016, 2017, 2018 and 2019

66. As starting point, the Investigatory Chamber observed that the FIFA Forward Programme requires that all member associations make their payments related to this Programme directly from the designated bank account. However, the different central reviews conducted revealed that BFF used its operational bank account – instead of its dedicated bank account exclusively – to pay for FIFA Forward fund-related expenses.

67. For example, in the 2016 Central review, it was noted that out of USD 708,820 received as FIFA Forward funds, only USD 90,014 were paid directly from the dedicated bank account, meaning that only 12,69% of the transaction were made correctly.

68. Moreover, several samples were tested and revealed the following:

- Travel related expenses for Women's Football and salaries totalling USD 107,634 had no supporting documentation.
- The salaries of the National Coach and Technical Director totalling USD 44,100.41 were paid in cash. However, BFF's bank records showed that these salaries were paid via bank transfer, so that these salaries were potentially paid twice.
- Administrative expenses of USD 35,573 incurred in 2014 and 2015 were reported to 2016, which could again lead to expenses being paid twice.

⁹ The objective of the Central review is to inspect the Member Association's use of FIFA Forward funds (*in casu* those of BFF) and inspect adherence with FIFA regulations related to the use of FIFA Forward funds during the relevant calendar year.

- Subsidies were given to Bangladeshi football clubs totalling USD 124,535, an amount that is not foreseen in the Forward regulations and was not agreed upon with FIFA. Moreover, no supporting documentation was available to substantiate these disbursements, out of which USD 53,588 was paid in cash.
69. In view of the above, the FIFA Audit & Compliance Committee restricted the funding of BFF and an action plan was agreed with BFF in 2017. According to this action plan, BFF had to reduce cash payment to the minimum and only for the purposes agreed in writing with FIFA.
70. Unfortunately, the Investigatory Chamber noted that the 2017 and 2018 Central reviews revealed the same issues, which led the FIFA Audit & Compliance Committee to impose further restriction on the release of development funds to BFF.
71. In view of the Central review for the year 2019 that revealed that most issues observed in the previous years had been partially solved, the restrictions imposed were (partially) lifted following an assessment of the FIFA Audit & Compliance Committee. However, the Investigatory Chamber noted that cash payments made in relation to FIFA funds occurred once again.

2) BDO audit covering the years 2017-2020

72. The Investigatory Chamber then explained that in view of the financial irregularities mentioned in the Central review for the year 2019, a forensic audit was conducted by BDO, an audit that revealed the same issues identified in the various Central reviews, as described below.

(i) Cash Withdrawals

73. In particular, BDO noted that the purpose of the FIFA Forward bank account is to receive the FIFA funding and pay for FIFA related expenses.
74. In this regard, BOD reported that significant cash withdrawals from this account – without relation to the Forward Programme – have been identified and that no documentation or explanation for the purposes of these cash withdrawals was received from BFF. Moreover, there was a large discrepancy between the total value of cash withdrawals and the total value of cash expenditure as reported by BFF, *i.e.*, about USD 561,865.
75. As a result, BDO stated that (i) the significant use of cash withdrawals made it difficult to trace transactions retrospectively and obtain proof of payment and that (ii) it posed an increased risk that funds were misappropriated, used fraudulently or for activities not in line with the programme because the audit trail and controls relating to cash were inherently weaker than for other forms of payment.
76. With respect to these cash withdrawals, the Final Report included explanations submitted by Mr Shohag, who stated that *“Sometimes we did not receive funds timely from our Sponsors but we had to organize different football tournaments/events timely. In that case, we were compelled to take money from FIFA Fund as temporary loan as per the decision of BFF. Moreover, most of the time we could not collect the specific amount from the Sponsors as promised by them. Then we arranged the*

required fund from bank OD & from our Executive committee members as loan and subsequently we deposited these amounts into BFF's other bank accounts. Afterwards we spent money from these accounts according to FIFA approved budget. So, we have taken money from the FIFA designated account as loan only".¹⁰

(ii) Use of a different account

77. BDO identified that 181 transactions, amounting to USD 540,387, were paid from other bank accounts of BFF – instead of the dedicated FIFA Forward bank account – but were reported to FIFA as Forward-related expenditures.
78. BDO also noted that these payments may have been intended to offset some of the funds used from the FIFA account to pay for non-FIFA expenses.

(iii) Blank invoices

79. BDO further found two invoices of two suppliers where the date, details, quantity, unit price, amount and total amount were not filled in.
80. However, these invoices were signed on supplier printed paper and correspond to payments on the cash book and general ledger recorded by BFF.
81. According to BDO, there was no valid reason why BFF would have copies of blank invoices from suppliers on file and indicated that the amounts could have been inflated or falsified.

b) Conclusions of the Investigatory Chamber

1) FIFA Forward funds' problems

82. The Investigatory Chamber noted that despite several FIFA warnings, BFF did not stop committing the same irregularities, namely:
- withdrawing cash from the FIFA designated account,
 - using other accounts to pay for FIFA related projects/programs, and,
 - using FIFA funds for non-related FIFA project/program expenditure.
83. In particular, the Investigatory Chamber pointed out that the financial discrepancies amounted to USD 597,084, which corresponded to 17.73% of the tested transactions, a percentage that certainly cannot be considered insignificant.

2) As to whether Mr Shohag can be held liable for the misuse of FIFA Funds

¹⁰ Cf. point 190 Final Report.

(i) FIFA Forward Regulations

84. Having clarified the above, the Investigatory Chamber focused once again on Mr Shohag and his possible responsibility in the above issues. In this respect, the Investigatory Chamber recalled that the use of FIFA funds is strictly regulated by the FIFA Forward Development Programme Regulations – Forward 2.0.
85. In particular, according to art. 8 of the said regulations, each association is obliged to:
- (...)
- v) *Avoid the usage of cash;*
 - w) *Maintain all supporting documentation for all expenditures and payments made with Forward funds;*
 - x) *Use the Forward funds exclusively for the purposes allocated;*
 - z) *Establish appropriate procedures, particularly regarding tender processes (...).*

(ii) Position as General Secretary of the BFF

86. With the above in mind, the Investigatory Chamber noted that the General Secretary of BFF is responsible for managing and keeping the accounts of BFF properly and is the liaison person with FIFA.
87. As already mentioned, Mr Shohag bears a higher responsibility in comparison to other officials of BFF, and therefore, it was his duty to comply with all protocols and regulations, and in particular, ensure that all financial transactions were properly accounted.
88. Moreover, the Investigatory Chamber stressed that Mr Shohag was notified of the results of the different Central reviews and was involved in the subsequent follow-ups and action plans agreed upon with the FIFA Audit & Compliance Committee.

3) Conclusion

89. Mr Shohag, in his position of General Secretary of BFF, had the responsibility to implement regulations and internal processes to ensure that all transactions were properly recorded and carried out.
90. However, the Investigatory Chamber noted that the questioned transactions and identified issues were all related to the use of FIFA funds and BFF used FIFA funds against what was permitted in the regulations by:
- executing payments to cover expenses that were not approved by FIFA through its FIFA programs and projects, and;
 - using money from accounts different from the FIFA designated account to pay for FIFA-related expenditure.

91. As a result, the Investigatory Chamber found that Mr Shohag was involved in misuse of FIFA funds by repeatedly and systematically exceeding the FIFA Regulations, in breach of art 28 FCE.

III. Breach of articles 13 and 15 FCE – General Duties and Duty of loyalty.

92. As a corollary of the above, the Investigatory Chamber concluded that Mr Shohag also violated arts. 13 and 15 FCE but considered that said violations were consumed under the breaches of arts. 24 and 28 FCE.

3. Conclusions of the Investigatory Chamber

93. After careful analysis of the gathered information and documentation at its disposal, the Investigatory Chamber considered that there was sufficient evidence to conclude that Mr Shohag had breached arts. 13, 15, 24 and 28 FCE by:

- negligently allowing the use of falsified quotations as supporting documentation in the procurement process for the concerned transactions;
- purposely or negligently breaching the applicable rules; and,
- purposely or negligently giving raise of the appearance of suspicious conduct related to misuse of funds.

C. Proceedings before the Adjudicatory Chamber

1. Opening of adjudicatory proceedings and communications with the Respondent

94. On 1 November 2022, Mr Shohag was informed (i) that the Adjudicatory Chamber had opened adjudicatory proceedings against him based on the Final Report as per art. 68 FCE, and (ii) of his right to request a hearing. In these circumstances, Mr Shohag was provided with a copy of the Final Report – along with the entire case file – and was requested to submit a written position.

95. On 8 November 2022, Mr Shohag requested (i) a hearing to be held and (ii) an extension of the deadline to provide his (written) position.

96. On 10 November 2022, Mr Shohag was – on behalf of the Chairperson of the Adjudicatory Chamber – informed that his request for a hearing had been granted and invited to submit his position by 21 December 2022 at the latest.

97. On 12 December 2022, Mr Shohag requested another extension of the deadline to provide his position and to be granted access to the full case file.

98. On 13 December 2022, the Secretariat to the Adjudicatory Chamber (**the Secretariat**) provided the relevant case file to the Accused and further informed the latter that his position should be submitted by 16 January 2023 at the latest.

99. On 9 January 2023, the Secretariat informed Mr Shohag that the hearing would take place on 26 January 2023. However, this hearing had to be postponed due to the visa requirements for the Accused (and his counsel(s) and witness(es)) to travel to Switzerland.
100. On 16 January 2023, Mr Shohag submitted his position in relation to the present case¹¹.
101. On 18 January 2023, the parties were informed that the hearing would take place on 16 February 2023 at the Home of FIFA in Zurich. In addition, the parties were requested to provide the final list of all individuals who would be accompanying them at the upcoming hearing. Said information were received from both parties.
102. On 02 February 2023, the Secretariat informed the parties of the relevant participants to the hearing as well as the provisional schedule of the hearing. Organisational information regarding the hearing were also provided.

2. The Respondent's written position

103. The written position submitted by the Respondent on 16 January 2023 essentially constituted a rebuttal of any and all points raised in the Final Report.
104. The main arguments contained in the position presented by the Respondent can be summarised as follows:

I. Background – evidence on file

a) Wrong currency rate in the Final Report

105. BFF is a beneficiary of funding from FIFA as part of the FIFA Forward Development Programme.
106. This programme, launched in 2016, is governed by the specific FIFA Forward Development Programme regulations, which contain the following provisions:
- beyond a threshold of USD 50,000 for any given purchase or transaction, competitive bids from at least three parties need to be secured;
 - payments by the beneficiary association, in this case BFF, related to the Forward Programme should be made directly from the designated bank account; and
 - the beneficiary association, in this case BFF, is subject to an annual review of its use of FIFA funding.
107. It is essential from the very outset to underline that the Transactions 1-4 discussed in the Final Report, at respectively USD 30,027 / USD 13,921 / USD 19,925 and USD 1,412 were all well below the decisive USD 50,000 threshold contained in the FIFA Forward Regulations.

¹¹ The position is summarized in the following section.

108. This clearly undermines both:

- the relevance of FIFA's analysis and conclusions based on its own false/mistaken premise¹² and
- the relevance of the whole discussion around the integrity of the bidding process, since it would not have been necessary from the outset, and since it is not questioned that the goods and services paid for were actually delivered, and at market rate.

b) The Central reviews

109. The Central reviews for 2016 and 2017 revealed that 64% and 76% of tested expenses were made with cash payments. As a result, the FIFA Audit and Compliance Committee decided to restrict the release of development funds to BFF.

110. The Central review for 2018 notably found that:

- 31.85% of disbursements tested were in cash (*i.e.*, a significant reduction from 2016 and 2017 levels);
- none of the disbursements tested were "*without supporting third-party documentation*";
- also, and crucially, none of the disbursements tested were found to be "*not in line with the FIFA intended use*"

111. The Central review for 2019 revealed that most of the issues observed in the previous years had been solved so that the restrictions were (partially) lifted. However, the high percentage of cash disbursement made was once again red-flagged.

112. This last part is misleading and false as the Central review for 2019 stated that:

- Cash disbursement made amounted to only 2,7% (while cash use was found to be 64%, 76% and 31.85% in the previous years);
- no expense was found to have been "*with no supporting documentation*" or even "*with insufficient supporting documentation*";
- out of the five "*Follow-up previous review recommendations*", four were found to have been implemented, and one partially implemented. Notably, the recommendation relating to "*Lack of use of specific bank account*" was found to have been implemented and BFF hired a "*recognized statutory audit firm to undertake the external audit*";
- there was no suggestion of any kind that disbursements were not in line with FIFA intended use.

c) FIFA Audit and Finance Committee meeting held on 2 October 2019

¹² BFF has an internal regulation according to which if the estimated value of the order for the supply of goods exceeds BDT 1,000,000, a tender process must be held. The Final Report erroneously converted this amount to USD 120,605 instead of USD 12,060 and concluded that BFF's internal rules were not in line with FIFA's rules given that a tender process is required as from USD 50,000 and not as from USD 120,605.

113. During the said meeting and in regard to the implementation of the FIFA Forward Programme worldwide, the *"chairman agreed that a lack of supporting documentation and cash-oriented economies appeared to be the biggest issues for member associations (...). He told the administration that he had doubts about the general 'one-size-fits-all' approach of the Forward funding but respected that this was due to the Forward Regulations. The deputy chairman added that the ultimate goal for the committee was not to put member associations under restriction or block funding but to ensure that the money was properly spent."*
114. The Minutes of this meeting also list the national associations summarizing the issues for each, which related invariably to (i) the extensive use of cash, (ii) the non-use of a separate bank account, (iii) missing or insufficient documentation and/or (iv) questions as to the use of the funds.
115. The above is significant since FIFA introduced the FIFA Forward Programme in 2016 and had to assume that there would be certain issues. For this reason, annual reviews were carried out.
116. In this respect, all the recommendations have been successfully implemented by BFF, so that the funding restrictions were largely lifted.
117. In other words, aside only from the issue of allegedly falsified documentation, all the issues subsequently raised in the Final Report were known and had been comprehensively addressed as part of the review and follow-up process described above.
118. Moreover, the Final Report never stated that the goods/services paid with the FIFA funds had not been provided nor that they had been procured at non-competitive market prices.
119. In view of the above, Mr Shohag requested FIFA to clarify the following questions:
- which are all the national federations benefiting from FIFA Forward funding in 2016, 2017, 2018, 2019 and 2020?
 - which of these national federations saw their funding restricted?
 - what were in each case the reasons for such restrictions?
 - of those national federations having seen their funding restricted, which ones then saw such restrictions partially or fully lifted?
 - which national federations, as beneficiaries of the FIFA Forward Programme, were themselves, or had an individual officer or executive member, targeted by a proceeding or investigation such as the present one against Mr Shohag, for what reasons, and what is the status or outcome of such proceedings or investigations?

d) Control Risks Report of 23 September 2020

120. Mr Shohag noted that Control Risks was commissioned by FIFA for two distinct purposes:

- "to ascertain whether 14 companies that had submitted bids to the [Accused] through the [BFF] exist as legitimate entities",
- "to understand if five of the BFF's Executive Committee members ('Exco Members') are linked to the Subjects".

121. First of all, Control Risks' investigations were conducted during the COVID-19 pandemic, so that on-site visits were evidently difficult¹³. Moreover, had Control Risks worked diligently, they would have obtained the documents (new evidence mentioned below) and their conclusions would have been different.

122. In the same line, beside the alleged link between *Al Marwah International* and Mr Abu Hossain – CFO of BFF – the report concluded that none of the other bidders were found to have connections with any of the BFF's Exco Members.

123. The other conclusions, namely the actual existence of the 14 companies/bidders, remain formulated in terms of possibility, likelihood or appearance rather than certainty. In addition, and as noted above, Control Risks did not contact the relevant owners of the suppliers, did not explain how the goods/services could be provided by a non-existent company, and based its conclusions on spelling errors in the quotation.

e) BDO Final Forensic Review Report

124. This report was issued in March 2021 on the basis of i) the Control Risks report, whose substantial limitations have already been outlined and ii) its own review, conducted apparently from 29 October to 25 November 2020 - *i.e.*, at the height of the pandemic.

125. In particular, this report is questionable since:

- It is highly misleading in that it relies heavily on the Control Risks report, quoting and referring to it in a way that makes its findings seem like established fact, without giving much or any sense of its very serious limitations as discussed above. The BDO report thus suffers inherently from the limitations of the Control Risks report, whilst misleadingly concealing them.
- It would have made more sense for a "Final" Forensic review report to have been drawn up after the exchanges between FIFA and BFF that occurred between March 2021 and September 2022 and the additional information and material then provided by BFF. In this respect, the BDO report is largely superseded by such information and material subsequently provided by BFF.
- BDO never interviewed Mr Shohag nor Mr Abu Hossain (CFO of BFF).

126. Moreover, the report raised 16 findings, with four of which having a financial impact:

¹³ "We found the firm's office to be closed during our visit to the address owing to the COVID-19 pandemic."

- Blank invoices were identified, representing 0.05% of expenditure (USD 1,493), and for which BFF has provided an explanation to FIFA on 30 July 2021;
- Payment to journalists, representing 0,01% of expenditure (USD 504);
- Lack of proof of delivery, representing 1,05% of expenditure (USD 33,222), for which BFF has provided an explanation to FIFA on 30 July 2021 and 17 June 2022;
- Unsupported expenditure in cash, representing 16,62% of expenditure.

127. In other words, the sole relevant issue remaining was the one relating to cash expenses. However, this figure is misleading because it conceals the very substantial progress made between 2017 and 2020.

128. In particular, the report states that the discrepancy between cash withdrawals and cash payments made amounted to USD 561,865 over the whole period of 2017-2020. However, the report also clarified that *"Based on discussions with Anupom Sarkar, Assistant Head of Accounts, we understand that this excess of cash withdrawal of USD 561,865 was used for non-FIFA programmes. On the other hand, we also identified various payments related to the Forward Programme and which were made from other bank accounts, for a total amount of USD 540,387 (...)."*

129. In this regard, how can BDO say that these are "unsupported" cash expenses, whilst on the other hand accepting that *"based on the documentation provided"*, it is satisfied that these costs were eligible for FIFA Forward funding?

130. In any event, these conclusions are largely irrelevant as the issue had essentially disappeared in 2019 and 2020 – with "discrepancies" of respectively USD 767 and 659 only – and to the extent that the issue existed already in 2016, 2017 and 2018, so that it was known and documented in the relevant central review reports and comprehensively dealt with as part of BFF process to implement BDO's recommendations.

131. Besides the other flaws in the report, the Accused stressed that there were in fact no issues of any kind with any financial impact, as BDO did not identify any such problems other than the four discussed above and furthermore rightly stated that it *"did not identify any conflicts (of interest) between BFF staff and suppliers"*.

f) Exchanges between FIFA and BFF – March 2021 to September 2022

132. Within the above period, there was substantial correspondence between FIFA and BFF, the latter responding to FIFA's questions swiftly. The Accused provided, *inter alia*, the following information:

- Procurement and other procedures at BFF, functioning of the organization, roles within it etc...
- BFF provided copies of the E-trade Licences (as well as other documents including quotes, bills etc.) for *Al Marwah International, Purabi International, Multiplex Travel and Tours and Ophelia's closet*.

- Additional information and supporting documents concerning *Sports Link*, *Sports Corner*, *Robin Enterprises*, *Sharmin Enterprise*, *Shova Enterprise* and *Ophelia's Closet*, as well as certain specific quotes, bills and transactions involving said companies.
- Clarifications and additional supporting documents concerning certain specific transactions for which FIFA was missing them, including the connections between the owner of *Marwah International* and the CFO of BFF, the issue regarding two blank invoices, the transactions with *Ophelia's closet*, the discrepancy between quotes from and payments to *Manik Enterprise* for installation and repair of water pipelines and the use of BFF's different bank accounts for FIFA Forward expenditure and use of cash.

133. In particular, BFF also confirmed full contact details for all the suppliers concerned and the common sense would have directed FIFA or BDO, on that basis, to get (back) in touch with said suppliers in order to reach a final conclusion on these concerns, which they obviously failed to do.

g) Graphology analysis of 12 September 2022

134. It is, *prima facie*, quite surprising for a Spanish expert to be asked for his opinion on documents in English and Bangla languages.

135. Moreover, the analysis concluded for instance that some signatures meant to be of the same person. This is only a problem however if the actual signor fraudulently intended to pass off his "signature" as that of the intended or apparent signor. Yet, the author of the analysis apparently never paused to ask whether this was actually the case.

136. Knowing that in Bangladesh it is quite normal in smaller companies for a manager to sign for another, naturally with the latter's express or implied accord. This is simply an accepted matter of expediency.

137. In addition, and as already mentioned, almost all the documents analyzed related to quotations for transactions far below the USD 50,000 threshold, above which BFF would have been obliged under FIFA Forward Regulations to seek three competitive bids.

138. Likewise, regardless of who may have issued and/or signed the documents, fact is that the goods and services concerned were ultimately delivered, at market price, by suppliers with whom BFF and its officers were not found to have been in any conflicts of interest.

II. New Evidence

139. BFF submitted newly obtained documents, which it believes should finally put to rest any lingering doubts as to the existence of certain bidders and providers and the *bona fide* nature of their bids.

140. These documents essentially incorporate the findings and evidence that would have been gathered by Control Risks and BDO, had they diligently researched bidders and suppliers before assuming some of them to be inexistent, or their bids to have been falsified.

141. The new evidence is the following:

a) With respect to Transaction 1

- *Sports Corner*: affidavit of 10.01.2023 regarding its quote of 20 July 2020 of BDT 2,643,240 and various supporting documents including photographs of their premises, trading licence, VAT registration etc.
- *Robin Enterprise*: affidavit of 04.01.2023 regarding its quote of 16 July 2020 of BDT 2,599,740 and various supporting documents including photographs of their premises and trading licence.
- *Sports Link*: affidavit of 12.01.2023 from BFF concerning their purchase from Sports Link of sports goods for BDT 2,588,500 and the actual delivery and use thereof.

b) With respect to Transaction 2

- *Ophelia's Closet*: affidavit of 08.01.2023 and trading licence, BFF affidavit and supporting documents concerning the 400 footballs purchased from *Ophelia's Closet* and actual delivery and use thereof.
- *Maria International*: affidavit of 07.01.2023 regarding its quote of 18 December 2020.
- *Zaman Trading*: affidavit of 08.01.2023 regarding its quote of 18 December 2020 and trading licence and photographs of its premises.

c) With respect to Transaction 3

- *Purabi International*: affidavit of 01.01.2023 regarding its quote of 21 October 2019 of BDT 1,919,000 and various supporting documents, including photographs of their premises, trading licence and travel agency registration renewal certificate.
- *Multiplex Travels and Tours*: affidavit of 08.01.2023 regarding its quote of 21 October 2021 of BDT 1,875,000 and photographs of their premises and trading licence.
- *Al Marwah International*: Affidavit of 12.01.2023 by BFF regarding the purchase of 32 air tickets for BDT 1,663,844 in total for the Oman travel.

142. These additional supporting documents establish that these were *bona fide* bids made by *bona fide*, existing and trading companies.

III. Mr Shohag's specific Role

a) Role of Mr Shohag in the alleged falsified quotations

143. The allegation is not that Mr Shohag forged or falsified any document as the Investigatory Chamber was unable to identify the issuer of the allegedly falsified quotations. Rather, the allegation is that he was involved in the use of these allegedly falsified quotations by approving and selecting the winning vendor, by issuing the orders to purchase goods or services and by approving payment from the FIFA designated account.

144. According to the Investigatory Chamber, since the usage of falsified documentation is also a violation of the Code, Mr Shohag has violated art. 24 FCE for acting negligently by failing to avoid the use of falsified documentation to justify the use of FIFA Forwards funds. Such contentions are grossly incorrect.

b) Approving and selecting the winner vendor

145. The Final Report concluded that Mr Shohag approved and selected the winner on the fact that his signature appeared on the comparative statement of quotations for Transactions 1 and 2. However, for Transactions 3 and 4 there was no comparative statement of quotation, hence the Final Report does not allege that Mr Shohag approved the winner vendor for these two transactions.

146. Moreover, for Transaction 1, the comparative statement of quotation clearly states that *"the rate quoted by the Sports Line (...) and Approved by the National Teams Committee"*.

147. Therefore, the document relied upon by the Investigatory Chamber proves that Mr Shohag did not select or approve the winning vendor in relation to Transaction 1. In addition, the document contains the signature of Mr Shohag, along with the signatures of four other BFF personnel.

148. In the same line, Transaction 2 states that *"The rate quoted by the Ophelia's Closet (...) and approved by the Professional Football League committee"*, establishing that Mr Shohag did not select Ophelia's Closet.

c) Issuing order of purchase

149. The work orders for Transactions 1, 2 and 4 were issued by Mr Shohag. In this regard, once the winner vendor is selected by the concerned committee of BFF, issuing the work order is a mere formality performed by Mr Shohag in his capacity as General Secretary.

150. Moreover, since the Final Report does not mention any work order for Transaction 3, the said Report does not allege that Mr Shohag issued order of purchase for Transaction 3.

151. In addition, the procurement procedure of BFF states that work order is issued by BFF *"as per the assessment done by BFF Finance Department"*, which is associated with the verifying of submitted quotations, relevant documents and the reputation of the vendors.

152. As a result, it is not the function of the General Secretary to verify or scrutinize the quotations.

d) Approving payment from the FIFA designated account

153. Mr Shohag had no approval power but rather requested the payment and placed the request for the approval of the BFF Finance Chairman.

154. In particular, for Transactions 1, 2 and 3, it is mentioned that "*... we are in need to issue the following Account Payee checks from the bank mentioned above as per instruction of Honorable President & finance Chairman.*"

155. Therefore, Mr Shohag did not even initiate the payment procedure, which was instructed by the President and the Finance Chairman.

156. Therefore, from the very documents relied upon by the Investigatory Chamber, it is categorically established that Mr Shohag did not select or approve the winning vendor, nor did he approve payment to them. Although he did issue the work order, the Final Report failed to establish that the mere issuance of the same proves that he used the allegedly falsified quotations.

IV. Legal analysis

a) Introduction

157. It seems unfortunate that this whole proceeding is sourced in a misunderstanding at best - and at worst in a failure by FIFA and its agents (Control Risks and BDO) to make basic verifications, namely:

- their wrong calculation of conversion rates, having led BDO and FIFA to assume that the transactions contemplated were above the decisive USD 50,000 threshold, when in fact they were well below;
- and their failure to make basic verifications with the bidders/suppliers in question.

158. One cannot but connect this with the little regard or credence of any kind given by FIFA to the detailed, documented explanations provided by BFF ahead of FIFA's Final Report. FIFA appears to have simply assumed BFF's explanations to be misrepresentations and in bad faith, from the outset not worthy of any credibility.

159. FIFA acted in bad faith, in violation of art. 2 of the Swiss Civil Code, since the issues raised in the Final Report were not only well known and documented, but had already been the object of sanctions by FIFA (i.e. funding restrictions), that had then been lifted further to recognition by FIFA that BFF had successfully addressed those issues and implemented certain recommendations.

b) Art. 28 FCE – misuse of fund.

160. Mr Shohag observed that art. 28 of FCE (2020 ed.) reads as follows:

- "1. Persons bound by this Code shall **not misappropriate or misuse funds of FIFA**, the confederations, associations, leagues or clubs, whether directly or indirectly through, or in conjunction with, third parties.*
- 2. Persons bound by this Code shall refrain from any activity or behaviour that might give rise to the appearance or suspicion of a breach of this article." (emphasis added)*

161. The Investigatory Chamber alleged that Mr Shohag was involved in the misuse of funds, while the allegations of the said misuse, *i.e.*, unsupported expenditure in cash (USD 561,865) almost exclusively took place in the years 2017 and 2018, before 2020 FCE came into force. In 2018, the applicable edition of FCE was the 2018 edition, and art. 28 of this edition reads as follows:

- "1. Persons bound by this Code **shall not misappropriate funds of FIFA**, the confederations, associations, leagues or clubs, whether directly or indirectly through, or in conjunction with, third parties.*
- 2. Persons bound by this Code shall refrain from any activity or behaviour that might give rise to the appearance or suspicion of a breach of this article."*

162. Hence at the time of the alleged misuse of funds such misuse was not a breach of the applicable FCE, making the Investigatory Chamber's findings of Mr Shohag's breach of art. 28 FCE having no legal basis.

163. Even if, *arguendo*, it is to be conceded that the 2020 edition of the FCE applies to the unsupported expenditures in cash that took place in 2017-2019, it must be taken into account that Mr Shohag is not a signatory of the FIFA account, hence he cannot be held responsible for the unsupported cash withdrawals and hence the allegation of misuse of the FIFA funds is not correct.

164. Moreover, it is unclear how Mr Shohag, who had no power to disburse the FIFA funds, can possibly misuse the same or give rise to an appearance of misuse of the same. In particular, the Investigatory Chamber did not seek to establish that the unsupported cash withdrawal, payment against blank invoice, payment to journalists or payments against lack of proof of delivery were initiated, approved or made by Mr. Shohag.

165. In other words, the Investigatory Chamber concluded that Mr Shohag had the duty to *"comply with all protocols and regulations, and in particular, making sure that all financial transactions are properly accounted"*.

166. This argument has no legal basis at all as neither the FCE nor the BFF's Statute suggest that the BFF General Secretary has a duty to prevent any transaction that may involve misuse of FIFA fund. In the absence of any proof of Mr Shohag's particular involvement in the said transactions, it cannot be suggested that Mr Shohag was negligent in allowing the said transactions, especially when he had no power to approve payment from the FIFA funds.

167. In conclusion, the Investigatory Chamber has failed to establish which particular activity of Mr Shohag, whether intentional or negligent, breached art. 28 FCE.

c) Art. 24 FCE - forgery

168. As it has already been established, Mr Shohag never used the allegedly falsified quotations because he was not involved in the selection or approval of the winning vendors. The Investigatory Chamber reliance on the Comparative Statement of Quotations is misplaced, the very document shows that it was the concerned committee who approved the selected vendor.

169. Moreover, the Investigatory Chamber went to a great length in establishing negligence on part of Mr Shohag, providing a detailed analysis of the concept of negligence under Swiss private law.

170. In particular, it sought to establish that, as the General Secretary of BFF, Mr Shohag owed a duty of care, including the *"duty to ensure FIFA regulations were observed and avoid using falsified document as to support the use of FIFA funds"*.

171. In this respect, it was argued that Mr Shohag breached his duty because *"anyone with no financial or legal background who would have reviewed the quotations provided, would have questioned their authenticity at first sight"*, and that *"any reasonable person in his position would have noticed the similarities and refrained from using them"*.

172. Again, this argument is based on the premise that Mr Shohag reviewed and used the alleged falsified quotations. As it has been established already, this is not true and the argument that Mr Shohag breached his duty of care has no merit.

V. Prayer for relief

173. In light of the above, Mr Shohag hereby requested FIFA:

- *To set aside its proceedings against him.*
- *To find that he is not in breach of articles 13, 15, 24 and 28 FCE, or any other provisions thereof, in connection with the facts and circumstances contemplated in the proceedings having given rise to the Final report dated 26 October 2022.*
- *If FIFA should not immediately set aside its proceedings on the basis of these present submissions:*
 - *to hear Mr Abu Nayeem Shohag;*
 - *to hear as witnesses: Mr Md. Abu Hossain, Mr Anupom Sarker, Mr Md. Abbus Salam Murshedy, Mr Zaber Bin Taher Ansari, Mr Md. Hasan Mahmud, Mr Emran Hossain Tusher, Mr Md. Mizanur Rahman, M;*
 - *to provide full, documented responses to the questions;*
- *to permit Mr Abu Nayeem Shohag, further to such hearings, to file additional written submissions.*

- to award full costs and expenses to Mr Abu Nayeem Shohag, including full indemnification of his legal fees.

3. The hearing

174. On 16 February 2023, a hearing was held at the Home of FIFA in Zurich (**the Hearing**) in the presence of the following persons:

- For the Adjudicatory Chamber:
 - Mr Vassilios Skouris, Chairperson
 - Ms Pamela Camus, Member
 - Mr Mohammad Al Kamali, Member;
- For the Respondent:
 - Mr Abu Nayeem Shohag, Accused
 - Mr Ajmalul Hossain, counsel
 - Mr Margub Kabir, counsel
 - Mr Vincent Solari, counsel
 - Mr Antoine Boesch, counsel
- Mr John Tougon, Chief of Investigation and member of the Investigatory Chamber of the Ethics Committee;
- Representatives of the Investigatory and Adjudicatory Chambers' Secretariats.

175. During the Hearing, both the Respondent and the Investigatory Chamber received the opportunity to provide and defend their position, as well as to answer questions from the members of the Adjudicatory Chamber.

176. In particular, the Respondent submitted "new evidence" at the Hearing, namely emails exchanged between BFF and FIFA covering a period from 26 December 2019 to 10 September 2020. With this submission, the Respondent sought to demonstrate that the problematic transactions had all been approved by FIFA beforehand. The Investigatory Chamber objected to the admission of this "new evidence".

177. In addition, the following witnesses called by the Accused and the Investigatory Chamber, respectively, were heard during the Hearing:

- Mr Anupom Sarkar, BFF Assistant head of finance
- Mr Zaber Bin Taher Ansari, BFF Manager Competitions
- Mr Md Hasan Mahmud, BFF Manager grassroots
- Mr Leonardo Bühlmann, FIFA Senior Compliance Advisory Manager.

178. It should be noted that when Mr Leonardo Bühlmann appeared to answer the Investigatory Chamber's questions, the Respondent's counsel objected to the question of *"whether, apart from*

the transactions detailed in the Final Report, there have been subsequent irregularities”, stating that it was unfair and that, in any event, it would not be corroborated by any evidence. Despite this objection, the Chairperson of the Adjudicatory Chamber invited Mr Bühlmann to answer the question.

II. CONSIDERATIONS OF THE ADJUDICATORY CHAMBER

179. In view of the circumstances of the present matter, the Adjudicatory Chamber first addressed some key procedural aspects, before entering into the substance of the case at stake.

A. Procedural aspects

1. Jurisdiction and competence

180. To begin with, and although its jurisdiction has not been challenged, the Adjudicatory Chamber recalled that the competence of the FIFA Ethics Committee is defined by art. 30 FCE.

181. While the second paragraph of art. 30 FCE provides for the subsidiary competence of the FIFA Ethics Committee, the first paragraph establishes its primary (and exclusive) competence in the following terms:

“The Ethics Committee has the exclusive competence to investigate and judge the conduct of all persons bound by this Code where such conduct:

- a) has been committed by an individual who was elected, appointed or assigned by FIFA to exercise a function;*
- b) directly concerns their FIFA-related duties or responsibilities; or*
- c) is related to the use of FIFA funds.”*

182. With the above in mind, the Adjudicatory Chamber pointed out that the Accused:

- served as a member of the FIFA Dispute Resolution Chamber from 1 October 2017 until 31 August 2021; and
- is a FIFA Match Commissioner for Asia since 5 October 2015.

183. In those circumstances, the Adjudicatory Chamber recognised that the reported conduct(s) occurred while the Accused was holding one or both of the aforementioned positions. In other words, the conduct(s) at stake *“has been committed by an individual who was elected, appointed or assigned by FIFA to exercise a function”*.

184. By way of consequence, the Adjudicatory Chamber concluded that, in accordance with art. 30 (1) FCE, it was competent to assess and judge the present matter. Such conclusion was further supported in the Chamber’s mind by the fact that the reported conduct(s) also (partially) related to *“the use of FIFA funds”*.

2. Applicable law

a) Applicability of the FCE *ratione materiae*

185. In continuation, and upon analysis of the conclusions contained in the Final Report, the Adjudicatory Chamber noted that there were several indications of potential illegal, immoral and/or unethical behaviour by Mr Shohag.

186. As such, the FCE is applicable to the case at stake in line with art. 1 (1) FCE.

b) Applicability of the FCE *ratione personae*

187. The Adjudicatory Chamber subsequently recalled that art. 2 (1) FCE provides that said code shall *inter alia* apply to "officials".

188. To that end, reference shall be made to the FIFA Statutes which define an official as "*any board member (including the members of the Council), committee member, referee and assistant referee, coach, trainer and any other person responsible for technical, medical and administrative matters in FIFA, a confederation, a member association, a league or a club as well as all other persons obliged to comply with the FIFA Statutes (...)*".

189. Against such background, and referring to the football background of Mr Shohag¹⁴, the Adjudicatory Chamber concluded that, at the time of the reported conduct(s), the latter was a football official as per the above definition.

190. As a consequence, the FCE was applicable to Mr Shohag pursuant to art. 2 (1) FCE.

c) Applicability of the FCE *ratione temporis*

191. As emphasised in the Final Report, the relevant facts described in the previous sections of this decision allegedly occurred between 2016 and 2020, *i.e.* at a time when the 2012, 2018, 2019 and 2020 editions of the FCE were in force¹⁵.

192. In these circumstances, art. 3 FCE however establishes that the current edition of the FCE (*i.e.*, the 2020 edition) shall apply to conduct whenever it occurred, provided that the relevant conduct contravened the FCE applicable at the time it occurred. In such a situation, the Adjudicatory Chamber could not impose sanctions exceeding the maximum sanction available under the then-applicable code (principle of *lex mitior*).

193. In the present case, the Adjudicatory Chamber deemed that the legal provisions of the respective articles are equivalent in the various editions of the FCE (*i.e.*, 2012, 2018, 2019 and 2020).

¹⁴ Cf. paras. 2-3 *supra*.

¹⁵ The 2012 edition of the FDC being in force from 25 July 2012 until 10 June 2018; the 2018 edition of the FCE from 10 June 2018 until 3 June 2019; the 2019 edition from 3 June 2019 until 13 July 2020 and the 2020 edition being in force since 13 July 2020.

194. In particular, the Adjudicatory Chamber noted that the spirit and intent of the previous editions of the FCE were duly reflected in the current wording of arts. 13, 15, 24 and 28 FCE (ed. 2020). More specifically, said articles of the FCE (named *General duties (art. 13)*; *Duty of loyalty (art. 15)*; *Forgery and falsification (art. 24)* and *Misappropriation and misuse of funds (Art. 28)*) were already included, under the same provision numbers, in the 2018 and 2019 editions of the Code and were similar, if not identical.
195. With respect to the 2012 edition, the Adjudicatory Chamber observed that while art. 13 (*General duties*); art. 15 (*Loyalty*); and art. 17 (*Forgery and falsification*) of that Code had different wording and/or provision numbers in comparison to the 2020 edition of the FCE, they followed the same spirit and aimed at sanctioning the same conduct prohibited in the latest edition of the Code. The only provision that was not expressly included in the 2012 edition was the one relating to *Misappropriation and misuse of funds* currently under art. 28 in the 2020 edition. However, the Adjudicatory Chamber noted that art. 21 (2) of the 2012 edition, titled *Bribery and corruption*, prohibited persons bound by the Code to misappropriate “FIFA assets”.
196. In this regard, the Adjudicatory Chamber first pointed out that notion of “FIFA assets” was not defined in the 2012 edition and that, at first sight, it was not clear whether “FIFA funds” could fall under this provision. However, the Adjudicatory Chamber observed that the allegations levelled against the Respondent regarding the misappropriation and/or misuse of FIFA funds cover a period from 2016 to 2020. At the time of the alleged infringement, the Adjudicatory Chamber noted that FIFA had already issued the FIFA Forward Development Programme Regulations¹⁶. In particular, these regulations provided, *inter alia*, the notion of misuse of funds allocated by FIFA under art. 17, which empowered the FIFA Audit and Compliance Committee to “*order the member association or confederation concerned to repay the received amounts to FIFA*”. Moreover, the said committee could refer any suspicions of fraud or other violations of these regulations to the competent FIFA Judicial Bodies.
197. In view of the above, the Adjudicatory Chamber deemed that in the 2012 edition of the FCE, it was already prohibited to misappropriate FIFA assets, including funds allocated by FIFA, the so-called “FIFA funds”. Moreover, the Adjudicatory Chamber noted that the 2018 edition of the FCE took over the wording of “FIFA funds” and that a dedicated provision was included therein, meaning that the wording used in the different editions of the FCE have followed a logical evolution while referring to the same prohibited conduct. In the same vein, the Adjudicatory Chamber noted that the 2019 edition of the FCE incorporated the term “misuse” into art. 28 FCE¹⁷, which represented however a cosmetic amendment in view of the circular issued in this regard, which clarified that “ [the] inclusion of the reference to the term “corruption” (article 27 FCE) in the provision dealing with bribery, and the term “misuse” (article 28 FCE) in that dealing with misappropriation of funds (...) [intended] to avoid any misunderstanding about FIFA’s stance against unethical conducts in football, even though both breaches to which said terms refer were already subject to the relevant provisions.”¹⁸

¹⁶ FIFA Forward Development Programme Regulations

¹⁷ Art. 28 of the 2019 edition read “Persons bound by this Code shall not misappropriate or misuse funds of FIFA, (...)”

¹⁸ Circular no. 1683 issued on 29 July 2019

198. In consideration of the above, the Adjudicatory Chamber concluded that the different editions of the FCE covered the same offenses, so that the 2020 edition of the FCE should apply to the procedural aspects as well as to the merits of this case pursuant to art. 3 FCE.

3. Burden and standard of proof

199. As a preliminary remark, reference shall be made to art. 49 FCE in accordance with which the burden of proof regarding breaches of provisions of the Code rests on the Ethics Committee (*in casu* on the Adjudicatory Chamber).

200. In continuation, the Adjudicatory Chamber pointed out that, in line with art. 48 FCE, its members shall judge and decide on the basis of their comfortable satisfaction.

201. According to the jurisprudence of the Court of Arbitration for Sport (**CAS**), "*in practical terms [this] means the "personal convictions" of the Panel, having in mind the seriousness of the offence committed and after evaluating all the evidence in the file*"¹⁹.

202. More specifically, "*the assessment of the evidence contributes significantly to the decision-making based on the "comfortable satisfaction" standard. The [deciding body] needs to have strong evidence that certain facts occurred in a given manner and also the evidence has to satisfy [said body] in the same sense. The relevant circumstances of the case assessed individually and/or combined, commonly known as the context are major elements to reach this conclusion (CAS 2013/3324 and 3369)*"²⁰.

203. In so far that the evidence is concerned, the Adjudicatory Chamber recalled that it shall have absolute discretion regarding proof (art. 47 FCE), keeping in mind that any proof that has been obtained by means or ways involving violations of human dignity or that obviously does not serve to establish relevant facts shall be rejected (art. 46 FCE).

204. This being established, the Adjudicatory Chamber stressed that the case at stake presented serious allegations against Mr Shohag and that the potential consequences for the latter could be severe if the relevant charges would be established²¹. By way of consequence, the Adjudicatory Chamber concluded that it "*should have a high degree of confidence in the quality of the evidence*"²².

205. However, the Chamber also wished to point out that, in keeping with CAS jurisprudence, it does not ignore the difficulties of proving some specific infringements. In particular, CAS awards have already clarified that "*Swiss law knows a number of tools in order to ease the – sometimes difficult – burden put on a party to prove certain facts. These tools range from a duty of the other party to cooperate in the process of fact finding, to a shifting of the burden of proof or to a reduction of the applicable standard of proof. The latter is the case, if – from an objective standpoint – a party has no*

¹⁹ CAS 2019/A/6439 Samson Siasia v. FIFA – See also CAS 2019/A/6665 Ricardo Terra Teixeira v. FIFA and TAS 2020/A/7592 Ahmad Ahmad c. FIFA.

²⁰ CAS 2019/A/6439 op. cit.

²¹ Art. 28 FCE for instance foresees "*an appropriate fine of at least CHF 100,000 as well as a ban on taking part in any football-related activity for a minimum of five years*"

²² CAS 2018/A/5906 Kyle Cesare v. UEFA.

*access to direct evidence (but only to circumstantial evidence) in order to prove a specific fact (SFT 132 III 715, E. 3.1; BK-ZPO/ BRÖNNIMANN, 2012, Art. 157 no. 41; BSK-ZPO/GUYAN, 2nded. 2013, Art. 157 no. 11)*²³.

206. While bearing in mind that the allegations against Mr Shohag were serious and could lead to severe sanctions, if proven, the Adjudicatory Chamber recalled, in particular, that acts of falsification or forgery and those involving the misappropriation or misuse of funds can, as a result of their nature, often be concealed and therefore may in some circumstances be difficult to prove by direct evidence. Therefore, the Chamber concluded that, should there be an absence of direct evidence, it could rely upon circumstantial/indirect evidence, provided that such evidence has a strong probative value.
207. Having clarified the foregoing and before focusing on the merits of the case, the Adjudicatory Chamber had to address the two objections raised during the Hearing by the Investigatory Chamber and the Accused's counsel, respectively.

B. Procedural issues

208. In this regard, the Adjudicatory Chamber decided to address first the Investigatory Chamber's objection to the "new emails" submitted by Mr Shohag at the beginning of the Hearing.
209. In this regard, the Adjudicatory Chamber noted that the FCE did not contain any provisions on the admission of "new evidence" during the adjudicatory proceedings, in particular on whether a party is allowed to submit "new evidence" after having filed its position in writing.
210. In the same line, the Chamber observed that art. 4 (2) FCE merely stated that the Ethics Committee shall decide in accordance with FIFA custom if there are any omission in the Code with respect to procedural rules, a provision that provided limited guidance in the Adjudicatory Chamber's view.
211. However, the Adjudicatory Chamber noted that art. 56 (2) of the FIFA Statutes provides that "CAS shall primarily apply the various regulations of FIFA and, additionally, Swiss law". The same approach was taken in art. 5 (b) of the FIFA Disciplinary Code. Accordingly, the Adjudicatory Chamber noted that under art. 229 of the Swiss Civil Procedure Code, new facts and evidence are admissible at the main hearings only if they are *proper nova (lit. a)* or *improper nova (lit. b)*. In this regard, the Adjudicatory Chamber had no doubt that the "new emails" submitted could not fall into one of these categories, in particular because i) they were mainly sent by Mr Anupom Sarkar, with several individuals in copy, including Mr Shohag, and ii) covered a period from December 2019 to September 2020. In other words, these emails could have been easily retrieved and submitted together with the Accused's position filed on 16 January 2023.
212. As a result, the Adjudicatory Chamber decided that these new emails should not be included in the case file. Moreover, the Chamber found it worth clarifying that the intent of the Accused by filling this alleged new evidence was, in essence, to establish that all transactions had been

²³ CAS 2019/A/6669 Sayed Ali Reza Aghazada v. FIFA; CAS 2013/A/3256 Fenerbahce SK v. UEFA

approved by FIFA, so that any irregularities during the procurement process in relation notably with the quotations would be cured by such approval. However, the Adjudicatory Chamber could not follow this argument, as the Accused (and the BFF) cannot shift (and be exonerated from) their own responsibility towards FIFA and expect FIFA to check the entire procurement process for each transaction. In other words, the Chamber pointed out that even if these emails were accepted, their relevance would be extremely limited.

213. With regard to the second objection, namely that of the counsel for the Accused concerning the question put to Mr Bühlmann, in particular if, "*apart from the transactions detailed in the Final Report, there have been subsequent irregularities*", the Adjudicatory Chamber pointed out that the role and questions to be addressed to Mr Bühlmann had been shared with the parties before the Hearing. In particular, the Adjudicatory Chamber, having received a request from the Investigatory Chamber to bring Mr Bühlmann to the hearing, has shared the role of the expert and the reasons for the invitation with Mr Shohag by email. Thus, the Accused had the opportunity to inform the Adjudicatory Chamber of his opposition to the said issue before the Hearing. In any event, given that the Final Report refers to the years 2016 to 2020 and forms the basis of the adjudicatory proceedings under art. 69 (1) FCE, the Chamber considered that this question was outside the scope of the present proceedings and that the answer provided had therefore no impact on these proceedings.

214. The above clarified, the Chamber then focused on the merits of the case.

C. Merits of the case

215. As a preliminary remark, the Adjudicatory Chamber pointed out that the matter at stake relates to various purported breaches of the FCE by Mr Shohag, who, in his position as General Secretary of the BFF, allegedly misused FIFA forward funds and negligently allowed the use of forged or falsified documents to support the BFF's transactions.

216. In particular, the Investigatory Chamber submitted that Mr Shohag failed to exercise his faculties and duties as General Secretary of BFF with utmost care, and therefore:

- (i) Negligently allowed the use of falsified documentation to support transactions that were paid by BFF with FIFA Forward funds.
- (ii) Purposely or negligently breached the FIFA Forward Regulations given that he repeatedly and systematically surpassed these regulations, in particular since BFF:
 - a. executed payments to cover expenses that were not approved by FIFA through its FIFA programs and projects, and;
 - b. used money from accounts different from the FIFA designated account to pay for FIFA-related expenditures.

217. In view of the above and taking into account that Mr Shohag denied any and all allegations made against him, the Chamber considered that the potential violations mentioned in the Final Report, namely the violations of arts. 13, 15, 24 and 28 FCE, should be analysed separately and particularly in light of the evidence on file.

218. Therefore, the Chamber decided to first focus on the alleged charges of forgery and falsification (cf. art. 24 FCE), before proceeding to address any potential violation of art. 28 FDC, and his possible breaches of both his duty to behave in a dignified and ethical manner and to uphold his fiduciary duty to FIFA (cf. arts. 13 & 15 FCE).

1. Did Mr Shohag forge and/or falsify documents or used falsified documents in breach of art. 24 FCE?

a) Notion of “Forgery and Falsification”

219. To begin with, the Chamber pointed out that art. 24 FCE states that *“Persons bound by this Code are forbidden from forging a document, falsifying an authentic document or using a forged or falsified document.”*

220. On reading this provision, the Chamber noted that it refers to two distinct conducts: on the one hand, the action of forging or falsifying an authentic document, and on the other hand, the action of using a forged or falsified document, regardless of whether the forged document used was falsified by the same person. In addition, CAS has already shed light on the lower end of the scope of this provision and determined that “indirect intent” or *“dolus eventualis”* was the minimum required action or lack of action to constitute a breach of art. 24 FCE²⁴.

221. Having clarified the above, the Chamber then focused on the elements mentioned in the Final Report as well as the evidence on file.

b) Factual assessment

222. To begin with, the Chamber noted from the Final Report that the Accused, in his position as General Secretary of BFF, failed to apply the utmost duty of care towards BFF and FIFA and through this negligence, he failed to avoid the use of falsified documents to justify the use of FIFA Forwards funds.

223. In other words, the Final Report stated that BFF used (false) quotations for Transactions 1-4 in order to pretend that the procurement process for the use of the FIFA Forward funds had been properly carried. In particular, the Final Report pointed out that Mr Shohag was deeply involved in the said transactions and therefore had access to the quotations submitted for Transactions 1-4, so that he could, or rather should, have realised that these quotations were falsified documents.

224. In light of the above, the Chamber realised that the Final Report did not allege that Mr Shohag forged or falsified the quotations, but rather that he was deeply involved in the problematic Transactions 1-4 and did not examine the quotations with the care that one would expect from a person running the secretariat of an association and having the necessary expertise, as if he

²⁴ CAS 2018/A/5769 Worawi Makudi v. FIFA

had done his duty properly, he would have realised that the quotations were false and would have prevented BFF from using these false quotations to justify the use of FIFA funds.

225. In this regard, the Chamber decided to start by analysing the quotations received for Transactions 1-4 in order to determine whether they can be considered false, falsified or forged, before addressing the possible liability of Mr Shohag, if there were false, falsified or forged quotations. In particular, the Chamber decided to analyse each transaction individually.

1) False quotations received

(i) Sport wearable goods (Transaction 1)

226. With the first Transaction, the Chamber noted that BFF received three quotations in July 2020 from *Sports Link*, *Sports Corner* and *Robin Enterprise* for the potential purchase of sport equipment for the residential camp in Dhaka and matches of the Bangladesh National Football Team.

227. In this respect, the Final Report listed various issues identified by BDO, Control Risks or the Expert in their respective reports, which indicated that these quotations were false:

- All three bidders appeared to be linked to each other;
- All three documents submitted by the bidders had the same typo "*Quotations*" and did not include the bidders' stamp;
- Two quotations had the same suspicious opening statement "*we are pleased to inform you that we have supplied you the following items as per your order*", whereas no items had even been ordered;
- All three quotations had the same layout/structure with the same format and located signature space;
- *Robin Enterprise*'s quotation included a mobile phone number without any connection to the company;
- *Sports Corner* and *Sports Link* have their business premisses located next to each other;
- The owner of *Sports Link*, Mr Robin, appeared to be a former employer of *Sports Corner*;
- The signatures of the "proprietor" on the documents submitted by *Sports Link*, i.e., the "*quotation*" dated 18 July 2020 and the "*confirmation of delivery*" dated 28 July 2020, "*do not follow the same course (...)*" and;
- The three quotations "*are made by the same employer or template, indicating that they have not been made by different companies.*"

228. In response, Mr Shohag stated that (i) the respective audit firms engaged by FIFA had failed to carry out their researches diligently, (ii) all the abovementioned bidders existed and (iii) their bids had all been made in good faith. Moreover, he submitted a set of new evidence to support his statement, in particular that the bidders existed:

- *Sports Corner*: affidavit of 10.01.2023 regarding its quote of 20 July 2020 of BDT 2,643,240 and various supporting documents including photographs of their premises, trading licence, VAT registration;
- *Robin Enterprise*: affidavit of 04.01.2023 regarding its quote of 16 July 2020 of BDT 2,599,740 and various supporting documents including photographs of their premises and trading licence.
- *Sports Link*: affidavit of 12.01.2023 from BFF concerning their purchase from Sports Link of sports goods for BDT 2,588,500, and the actual delivery and use thereof.

229. Against this background, the Chamber first noted that the abovementioned "affidavits" submitted by Mr Shohag could not be considered as such, a finding that was shared during the Hearing by the Chairperson of the Adjudicatory Chamber with the counsels of the Accused, who ultimately admitted that they were not affidavits in the strict sense of the term.

230. Furthermore, the Chamber observed that the Accused merely asserted that the bidders did exist and that the goods had allegedly been delivered. Indeed, apart from the problem of signatures on the documents submitted by *Sports Link*, on which the Accused stated that in Bangladesh it is quite normal in small businesses for one manager to sign for another with the latter's explicit or implicit agreement, he did not submit any comments on the various problems affecting the quotations, as identified in the Final Report.

231. In this regard, the Chamber was not convinced by the explanation of the signature and wished to point out that the usual way of signing documents on behalf of others is to add "p.p." for *per procuracionem* in front of the signature, but not to try to imitate the signature of the other person, as appears to be the case on the documents of *Sports Link*.

232. Overall, the Chamber found that the Final Report had not only identified an isolated problem, but had listed several, not to mention the similarities detected between the quotations, for which the Accused had no explanation. Furthermore, after having thoroughly examined the three quotations, the Chamber noted that they had the same "look and feel" and the same issues as those raised in the Final Report, and was therefore comfortably satisfied that the quotations received for Transaction 1 were false and/or falsified.

(ii) Footballs (Transaction 2)

233. With the second Transaction, the Chamber noted that BFF received three quotations from *Maria International*, *M/S H.U Zaman Trading* and *Ophelia's Closet* on 18 and 19 December 2019, respectively, for the potential purchase of 400 footballs.

234. In this respect, the Final Report listed various issues identified by BDO, Control Risks or the Expert in their respective reports, which indicated that these quotations were false:

- *Ophelia's Closet* did not exist on the address provided on the quotation and is involved in tailoring of women's wear and it was therefore unlikely that this company could provide the footballs to BFF;

- *Ophelia's Closet* did not have an import licence and used the one of "a friend", as explained by the supplier;
- Even though no invoice had been received from *Ophelia's Closet*, BFF still made the payment to the supplier;
- *Maria International* and *M/S H.U Zaman Trading's* quotations did not provide sufficient identifiers and had no seal of the company;
- The quotations were all made up of table and had some overlapping elements; and
- The quotation belonging to *Maria International* and *M/S H.U. Zaman Trading* had signatures made on a photocopy and not on the original document.

235. On the other hand, the Chamber noted that during the investigatory proceedings, Mr Shohag explained that *Ophelia's Closet* was selected because it is a general one supplying goods like fashion/dress/items and sports goods and could provide the large quantity of footballs with a flexible credit line.

236. Moreover, during the adjudicatory proceedings, Mr Shohag submitted a set of new evidence to prove that the bidders existed and that the respective audit firms engaged by FIFA had failed to carry out their research diligently:

- *Ophelia's Closet*: affidavit of 08.01.2023 and trading licence, and BFF affidavit and supporting documents concerning the 400 footballs purchased from *Ophelia's Closet* and actual delivery and use thereof.
- *Maria International*: affidavit of 07.01.2023 regarding its quote of 18 December 2020.
- *Zaman Trading*: affidavit of 08.01.2023 regarding its quote of 18 December 2020 and trading licence and photographs of premises.

237. Against this background, the Chamber could only repeat its observations and conclusions reached for the first transaction:

- the "affidavits" submitted by the Accused could not be considered as such (cf. §229 *supra*.)
- the Accused merely asserted that the bidders did exist and that the goods had allegedly been delivered but did not submit any comments on the various problems affecting the quotations, as identified in the Final Report.

238. Overall, the Chamber found once more that the Final Report had not only identified an isolated problem, but had listed several, not to mention the similarities detected between the quotations, for which the Accused had no explanation. Furthermore, after scrutinising the three quotations, the Chamber found that they contained overlapping elements, such as a similar table and the same location on the documents for "terms and conditions" and "VAT and Tax".

239. However, the Chamber was more concerned by the fact that the quotations belonging to *Maria International* and *M/S H.U. Zaman Trading* had signatures made on a photocopy and not on the original document as well as by the fact that the said quotations did not provide sufficient identifiers and did not bear the company's seal, so that it was not possible for the relevant audit firm to certify the existence of these two companies. In particular, the pictures purporting to prove the existence of *M/S H.U Zaman Trading's* premises were of limited probative value as they

were a simple banner with the company's name on the front of a warehouse. In any event, the pictures did not outweigh the issues raised in the Final Report and did not prove to the Chamber' comfortable satisfaction that this company actually existed.

240. As a result, the Chamber was therefore comfortably satisfied that some of the quotations, if not all, received for Transaction 2 were false and/or falsified.

(iii) Flight tickets (Transaction 3)

241. With the third Transaction, the Chamber noted that three quotations addressed to Mr Shohag were received from *Al Marwah International*, *Purabi International* and *Multiplex Travels & Tours* for the purchase of flight tickets in connection with the BFF National Team – World Cup 2022, Oman tour.

242. In this respect, the Final Report listed various issues identified by BDO, Control Risks or the Expert in their respective reports, which indicated that these quotations were false:

- All three quotations contained several similarities, in particular the same opening statement *"we are pleased to submit the following rout air tickets quotations"* and contained the same typo (*"rout"*);
- *Multiplex Travels & Tours* is listed in two business Bangladeshi directories as a travel agency but there appeared to be a typo in the name of the supplier on the quotation, the latter being mentioned in it as *"(...) & Tourse"* (emphasis added);
- *Purabi International* is a manpower recruitment agency, so that it appeared unlikely that said entity would have been requested to provide a quotation for air tickets;
- The body text of the quotations is identical, the quotations have the same numbering error and were issued on the same date. Therefore, due to these unusual similarities, it was unlikely that *Multiplex Travels & Tours* and *Purabi International* have actually sent the quotations;
- Both *Purabi International* and *Multiplex Travels & Tours* confirmed that they have not provided any quotations to BFF nor performed services for the said association;
- All three quotations had the same table structures, date and referencing format;
- The tables on the quotations were made up of the same size and fully coincident in their base content. Moreover, the sentence with the same typo was present on all three quotations; and
- *"[T]he doubtful documents (...) are made by the same pattern or template, being made by the same company and not different."*

243. Moreover, during the adjudicatory proceedings, Mr Shohag submitted a set of new evidence intending to prove that the bidders existed and that the respective audit firms engaged by FIFA had failed to carry out their research diligently:

- *Purabi International*: affidavit of 01.01.2023 regarding its quote of 21 October 2019 of BDT 1,919,000 and various supporting documents including photographs of their premises, trading licence and travel agency registration renewal certificate.
- *Multiplex Travels and Tours*: affidavit of 08.01.2023 regarding its quote of 21 October 2021 of BDT 1,875,000 and photographs of their premises and trading licence.
- *Al Marwah International*: Affidavit of 12.01.2023 by BFF regarding the purchase of 32 air tickets for BDT 1,663,44 in total for Oman travel.

244. Against this background, the Chamber could only repeat its observation and conclusion reached for the first and second transactions, namely that:

- the "affidavits" submitted by Mr Shohag could not be considered as such (cf. §229 *supra*.)
- the Accused merely asserted that the bidders did exist and that the goods/services had allegedly been delivered but did not submit any comments on the various problems affecting the quotations, as identified in the Final Report.

245. Overall, the Chamber found once again that the Final Report had not only identified an isolated problem, but had listed several, not to mention the similarities detected between the quotations, for which the Accused had no explanation. Furthermore, after having thoroughly examined the three quotations, the Chamber noted that they had the same "look and feel".

246. On top of that, the Chamber observed from the pictures submitted by the Accused to establish that *Purabi International* and *Multiplex Travels and Tours* existed, that these two companies appeared not only to have their premises in the same building (at the same address), but also have the same contact details. In other words, these two companies appeared to be linked to each other and casted strong doubt on the quotations submitted, in particular the one of *Purabi International*, as the latter was a "manpower agency".

247. In view of the above, the Adjudicatory Chamber was therefore comfortably satisfied that some quotations, if not all, received for Transaction 3 were false and/or falsified.

(iv) Lawn mowers (Transaction 4)

248. With the fourth Transaction, the Chamber noted that two quotations were received from *Bangladesh Hardware* and *Shova Enterprise* on 15 December 2019 and on the same day, the order to purchase the lawn mowers from *Bangladesh Hardware* was issued by Mr Shohag.

249. However, the Adjudicatory Chamber noticed that a third quotation was received two days later, on 17 December 2019, from *Sharmin Enterprise*.

250. As to the three other transactions, Final Report listed various issues identified by BDO, Control Risks or the Expert in their respective reports, which indicated that these quotations were false:

- BFF provided Control Risks' auditors with three undated quotations, whereas those submitted to the Investigatory Chamber were dated;

- The one of *Bangladesh Hardware* had a typo in its name "*Bangladesh Hardwar*", with a slightly different address;
- The quotations of *Shova Enterprise* and *Sharmin Enterprise* had several similarities and the same imagery;
- When *Sharmin Enterprise* was contacted, the person on the phone responded as *Shova Enterprise* and *Bangladesh Hardware* could not be reached;
- The quotations contained a table filled by hand and all quotations had the same background;
- *Shova Enterprise* and *Sharmin Enterprise* have a very similar structure in typography, size and style, so that these documents "*are made by the same template, the same origin, and not from different companies.*"; and
- There were discrepancies in the signatures on the documents submitted by *Bangladesh Hardware*, *i.e.*, the quotation and the acknowledge receipt letters.

251. Moreover, the Chamber observed that no particular evidence or comments were submitted by the Accused on the abovementioned issues.

252. In this context, the Chamber expressed serious concerns regarding the fact that the quotations included in the Final Report had dates, *i.e.*, 15 and 17 December 2019, while the one provided to the audit company Control Risks were all without dates. Moreover, the Chamber found that the Final Report had not only identified an isolated problem, but had listed several, not to mention the similarities detected between the quotations, for which the Accused had no explanation. Furthermore, after having thoroughly examined the three quotations, the Chamber noted that they had the same "look and feel", in particular those submitted by *Shove Enterprise* and *Sharmin Enterprise*.

253. In view of the above, the Adjudicatory Chamber was therefore comfortably satisfied that quotations received for Transaction 4 were false and/or falsified.

2) Involvement of Mr Shohag in transactions 1-4

254. Having established that the above facts had occurred, namely that false (and/or falsified) quotations were presented in the scope of Transactions 1-4, the Chamber next examined whether Mr Shohag was involved in those transactions.

255. As stated in the Final Report, Mr Shohag appears to be deeply involved in the said transactions as he approved and selected the winning quotation. He also issued the orders to purchase the goods and services and finally approved the payments from the FIFA designated bank account, as summarized on this table:

	Sport wearable goods	Footballs	Flight Tickets	Lawn mowers
Initiated the procurement procedure		x		
Quote sent to his attention	x	x	x	

Participation in the Comparative Statement of Quotations	x	x		
Issued order for goods	x			x
Authorised the payment	x	x	x	

256. In this regard, the Accused stressed that he had not approved the vendor selected in Transactions 1 and 2, as it was the relevant committees that took the decision, and that in any event the "Comparative Statement of Quotations" did not contain only Mr Shohag's signature. In the same vein, he explained that once the vendor had been selected, the issuing of the corresponding work order was a mere formality carried out by him in his capacity as General Secretary, and that it was not his responsibility to check or examine the quotations. Finally, Mr Shohag indicated that he had no approval authority, but rather had to submit the request to the BFF Finance Chairperson for his approval.

257. In this context, the Chamber observed that Mr Shohag did not deny that he had been involved at some stage of the process for each of the four transactions in which false quotes were received. On the contrary, he tried to minimise his involvement in the said transactions by stating that there were also other individuals implicated or by explaining that it was not the work of the General Secretary.

258. However, in the view of the Chamber, it is undeniable that, as shown in the above table, Mr Shohag was involved in several stages of the procurement process for the four transactions in which false (and/or falsified) quotations were received/presented. Indeed, in three of the four transactions, the quotations were addressed to him, he signed two "Comparative Statements of Quotations" relating to two transactions and requested the work order and payment for it in two and three transactions, respectively.

259. In addition, the Chamber noted that during the Hearing, Mr Shohag confirmed that if his signature was missing, the process could not proceed further, leading the Chamber to conclude that Mr Shohag's involvement in the procurement process was "indispensable" in order for the process to be completed.

c) Legal assessment

260. Having clarified that the aforementioned facts occurred, namely that for Transactions 1-4 false and/or falsified quotations were received/presented and that Mr Shohag had not only been involved in each of the transactions but that his involvement was in fact indispensable, the Chamber had to analyse whether these circumstances amounted to a violation of art. 24 FCE, as stated in the Final Report.

261. In this regard, the Chamber recalled that there is nothing on file suggesting that Mr Shohag forged or falsified the quotations, but rather that he did not examine the quotations with the care that one would expect from a person running the secretariat of an association. In fact, the Chamber submitted that, having the necessary expertise, Mr Shohag would have realised that the quotations were false and/or falsified if he had exercised his duty properly and carefully.

262. In other words, if Mr Shohag had been more diligent, he would have realised, or at least questioned, the authenticity of the quotations, which would have led to further checks, and he would not have signed the relevant documents to allow the procurement process to be completed.

263. With this in mind, the Chamber pointed out that CAS, in the award *Worawi Makudi*, has already shed light on the lower end of the scope of this provision and determined that “indirect intent” or “*dolus eventualis*” was the minimum required action or lack of action to constitute a breach of art. 24 FCE²⁵. In particular, in the said award, CAS noted that “*this issue has been extensively addressed in CAS jurisprudence, particularly in the context of anti-doping rule violations. One CAS panel stated the following in this respect:*

(...) “This Panel holds that the term “intent” should be interpreted in a broad sense. Intent is established – of course – if the athlete knowingly ingests a prohibited substance. However, it suffices to qualify the athlete’s behaviour as intentional, if the latter acts with indirect intent only, i.e. if the athlete’s behaviour is primarily focused on one result, but in case a collateral result materializes, the latter would equally be accepted by the athlete. If – figuratively speaking – an athlete runs into a “minefield” ignoring all stop signs along his way, he may well have the primary intention of getting through the “minefield” unharmed. However, an athlete acting in such (reckless) manner somehow accepts that a certain result (i.e. adverse analytical finding) may materialize and therefore acts with (indirect) intent” (...).

Following the definition of “intent” given in Article 19.3 FIFA ADR it follows that in order for the anti-doping rule violation to be committed intentionally, the Player i) must have known that there was a significant risk that his conduct might constitute or result in an anti-doping rule violation; and ii) manifestly disregarded that risk”.

264. The Chamber understood from this award that if Mr Shohag had acted recklessly in the various procurement procedures and did not take the necessary precautions, he could be found guilty of using false documents in violation of art. 24 FCE in view of his deep involvement in Transactions 1-4 and the need for his signature during the said process.

265. In the light of the above, the Chamber noted that Mr Shohag is the General Secretary of BFF and is responsible for the execution of all administrative work of BFF. This means that Mr Shohag holds a senior position with significant responsibilities. Furthermore, the Chamber recalled that the FIFA Forward Fund had been restricted in the past and that action plans between FIFA and the BFF had been implemented. Therefore, Mr Shohag was aware that BFF was under FIFA's financial supervision as far as FIFA funds were involved.

266. It results that Mr Shohag cannot simply claim that he was not the only person signing the documents, that the order to perform the work/services was a mere formality, or that he had no approval power with regard to payment. In other words, it would be too easy for Mr Shohag to claim that he did not see the quotations but was involved in several procedural steps of the transaction, whether it was the signing of the “Comparative Statement of Quotations”, the work

²⁵ CAS 2018/A/5769 *Worawi Makudi v. FIFA*

order or the payment order. In summary, the Chamber found that Mr Shohag could not simply argue that *"it is not the function of the General Secretary to verify or scrutinize the quotations"*, while he had carried out all other related orders and formalities.

267. On the contrary, it was his duty to check the quotations, especially as the transactions were to be paid with Forward FIFA funds, and BFF had already faced problems in this area in the past.

268. The Chamber therefore concluded that Mr Shohag acted recklessly and that by signing the relevant document(s) during the procurement process for Transactions 1-4 without reviewing the quotations, he clearly disregarded the risk that could be associated with these quotations, in particular with regard to their authenticity. This, particularly considering that some of the issues related to those documents which were pointed out in the Final Report, as outlined *supra*, were particularly blatant in the Chamber's view.

d) Conclusion

269. In light of the above reasoning, the Chamber found that Mr Shohag failed to act with the required diligence and verify the quotations received prior to signing any related documents, and therefore violated art. 24 of the FCE by using false and/or falsified documents, namely quotations, in the context of Transactions 1-4 to justify payments made with FIFA Forward funds.

270. This being established, the Chamber then focused on the second issue included in the Final Report, namely whether FIFA funds were misused.

2. Did Mr Shohag misuse or misappropriate funds in contravention of art. 28 FCE?

271. As a starting point, and given that the Final Report considered that Mr Shohag had misused FIFA Forward funds, the Chamber wished first to define the notion of *"misappropriation and misuse"*, in order to assess whether or not the conduct of Mr Shohag could fall within the context of art. 28 FCE, as advanced by the Investigatory Chamber.

a) Notion of "misappropriation and misuse"

272. To begin with, the Chamber recalled that art. 28 FCE relates to the misappropriation or misuse of funds and *inter alia* provides the following:

" 1.

Persons bound by this Code shall not misappropriate or misuse funds of FIFA, the confederations, associations, leagues or clubs, whether directly or indirectly through, or in conjunction with, third parties.

2.

Persons bound by this Code shall refrain from any activity or behaviour that might give rise to the appearance or suspicion of a breach of this article. (...)"

273. Upon reading these paragraphs, the Chamber noted that the foregoing offers a broad description of the notion of misappropriate or misuse. In this respect, the Chamber further noted that existing jurisprudence has clarified the concept of misappropriation as *"the illegal use of funds of another person/entity for one's own use or other unauthorized purpose"*²⁶.

274. Moreover, specifically with regards to "misuse", the Chamber noted on the one hand that the Cambridge dictionary defines the former as *"the act of using something wrongly or in a dishonest way or to use something in an unsuitable way or in a way that was not intended"*²⁷, and, on the other hand, that the applicable jurisprudence of the Ethics Committee (confirmed by CAS) specified that the misappropriation of funds shall be seen as *"the intentional, illegal use of funds/assets of another person/entity for one's own use or other unauthorized purpose. It is also clear that the concept of assets includes funds"*²⁸.

275. Taking into account the foregoing, the Chamber endorsed the abovementioned definitions and as such considered that art. 28 FCE therefore prohibits any person bound by the Code from the use of the funds of *"FIFA, the confederations, associations, leagues or clubs, whether directly or indirectly through, or in conjunction with, third parties"* for unauthorised purposes or in ways which were not intended, or indeed activities or behaviours which may *"give rise to the appearance or suspicion of a breach"*.

276. Having clarified the above, the Chamber turned to focus on the relevant allegations levied against the Accused in this respect, as outlined within the Final Report.

b) Factual assessment

277. As starting point, the Chamber noted that the Final Report *inter alia* reported the following:

- As General Secretary of BFF, Mr Shohag had the responsibility to implement regulations and internal processes to make sure that all transactions were properly recorded and carried out.
- However, the questioned transactions and identified issues are all related to the use of FIFA funds.
- Moreover, BFF used FIFA funds against what was permitted in the regulations by:
 - executing payments to cover expenses that were not approved by FIFA through its FIFA programs and projects, and;
 - utilizing money from accounts different from the FIFA designated account to pay for FIFA-related expenditure.
- As a result, Mr Shohag has been involved in misuse of funds by having repeatedly and systematically surpassed the FIFA Regulations, in breach of art 28 FCE.

278. In reply thereto, Mr Shohag recalled that the issues mentioned in the Final Report for the period 2016-2020 were known by FIFA and were resolved by BFF as part of the action plan. In particular,

²⁶ Decision of the Adjudicatory Chamber passed on 19 November 2020, Adj. ref. no. 09/2020 Mr. Ahmad Ahmad, par. 339.

²⁷ [Meaning of misuse in English – Cambridge dictionary.](#)

²⁸ Decision of the Adjudicatory Chamber, Adj. ref. E17-00006, *Chabour Goc Alei*, par. 77, and Decision of the Adjudicatory Chamber, Adj. ref. 15/2018, Mr Musa Hassan Billity, par.92.

the Accused recalled that all the recommendations have been successfully implemented by BFF, so that the funding restriction were largely lifted. Moreover, the Final Report never stated that the goods/services paid with the FIFA funds had not been provided nor that they had been procured at non-competitive market prices.

279. Finally, Mr Shohag pointed out that he is not the owner of the FIFA account, hence he cannot be held responsible for the unsupported cash withdrawals and hence the allegation of misuse of the FIFA funds is not correct.
280. In this context, the Chamber noted that, like the allegations made by the Investigatory Chamber against Mr Shohag with respect to art. 24 FCE, it is not suggested that he misappropriated FIFA funds, but rather that as General Secretary, he failed to implement internal regulations and processes to ensure that all transactions were properly recorded.
281. While for the violation of art. 24 FCE it was established that Mr Shohag was deeply involved in the procurement process of Transactions 1-4 and that he recklessly signed documents relating to these transactions, the question of the potential violation of art. 28 FCE is different.
282. Indeed, with regard to Transactions 1 to 4, the Chamber found that there was no indication in the Final Report that i) the services or goods ordered had not been received (ii) that they had been paid for at a price higher than the market price or (iii) that they could not be paid with FIFA Forwards Funds. In other words, with regard to these four transactions, there is no indication that the FIFA Forwards funds were misused or used for purposes not permitted by the applicable regulations. Similarly, there is no evidence that FIFA or the BFF was harmed or suffered any financial loss.
283. Therefore, if the procurement procedure for Transactions 1-4 was affected by the use of false documents, which was dealt with under art. 24 FCE, there is nothing in the Final Report suggesting that the funds were misused in the context of these transactions, thus ruling out a potential violation of art. 28 FCE on the part of Mr Shohag in this respect.
284. With regard to the other allegations, namely the withdrawal of cash from the FIFA designated account, the use of other accounts to pay for FIFA-related projects/programs and the use of FIFA funds for expenses not related to FIFA projects/programs, the Chamber noted that these failures to comply with the FIFA Forwards Regulations 2.0 were well known to FIFA. Indeed, following several central reviews, funding was restricted, and an action plan was implemented (successfully), with the restriction on funding partially lifted in 2019.
285. Furthermore, the Chamber considered, without even making a legal assessment, that on the basis of the evidence on file, there is no evidence linking Mr Shohag to any potential misuse of FIFA funds. Indeed, while there were documents signed by Mr Shohag in relation to Transactions 1-4 and it has been established that his involvement in the procurement process was indispensable, as far as the misuse of funds is concerned, there are no such documents on file nor any explanation as to the role Mr Shohag may have played in other transactions where a non-FIFA account was used for FIFA expenditures or that the transaction could not be paid for with FIFA funds.

286. As a result, the Chamber could not establish to its comfortable satisfaction, on the basis of the Final Report and the evidence presented before it, that Mr Shohag had himself either (i) misused or misappropriated the funds or (ii) was involved in any transactions where FIFA funds were misused or misappropriated.

287. In view of the above, including the grey areas regarding the manner in which Mr Shohag might have been involved in the (mis)use of FIFA funds for the period 2016-2020, the Chamber concluded that, on the basis of the documents at its disposal, it could not be established that Mr Shohag violated art. 28 FCE. As such, the Chamber decided that the charges against the latter regarding art. 28 FCE should be dismissed.

D. Summary

288. To summarise the above, the Chamber was comfortably satisfied to conclude that the information and evidence on file and contained in the Final Report demonstrated that Mr Shohag had used false documents in the scope of Transactions 1-4, in particular by signing documents relating thereto without first verifying the quotations received. By extension, Mr Shohag was also seen as having breached arts. 13 and 15 FCE in so far that he failed to both behave in an ethical manner and to act in accordance with his fiduciary duty towards BFF and FIFA.

E. Determination of sanctions

289. The violations of the FCE by the Respondent having been established, the Chamber subsequently considered the sanction(s) to be imposed.

290. According to art. 6 (1) FCE, the Chamber may pronounce the sanctions described in the FCE, the FIFA Disciplinary Code (**FDC**) and the FIFA Statutes.

291. For the sake of good order, the Chamber underlined that it was responsible to determine the scope and extent of any sanction and shall take into account all relevant factors of the case, including the nature of the offense, the offender's assistance and cooperation, the motive, the circumstances, the degree of the offender's guilt, the extent to which the offender accepts responsibility and whether the person mitigated his guilt by returning the advantage received (art. 9 FCE).

292. In particular, when evaluating the appropriate sanctions to be imposed, the Chamber should also take into consideration the seriousness of the violation, and the endangerment of the legal interest protected by the relevant provisions of the FCE.

293. Against this background, the Adjudicatory Chamber pointed out that the Accused was found guilty of having violated arts. 13, 15 and 24 FCE in relation to the use of false quotations to justify payment(s) made with FIFA funds– the established infringement of art. 24 FCE corresponding to the most serious of the allegations levelled against Mr Shohag.

294. In this context, the Chamber remarked that the Accused's position as General Secretary of BFF for several years placed the latter as part of the executive body of BFF and therefore in a position of power and authority.
295. Resultantly, by virtue of the prominence of the Accused's position, the Chamber underlined that Mr Shohag was expected to uphold the highest standards of professionalism. As such, the latter was expected and entrusted to act as a role model towards the Bangladeshi football community, however, instead of maintaining these expectations, he rather engaged in unethical conduct and *inter alia* used false documents to justify the use of FIFA funds.
296. Similarly, as previously mentioned, this Chamber recalled that the Accused had also served as member of the FIFA Dispute Resolution Chamber (between 2017 and 2021) and is General Secretary of BFF for more than 10 years. As such, the latter was therefore undoubtedly considered as a highly experienced professional football official based on both his extensive background in football and the years of his activity in this regard.
297. In particular, the Chamber underlined that by virtue of such positions, it was even more so the case that irreproachable standards of behaviour were expected from the Accused, this, alongside the expectation that he maintains additional levels of diligence, particularly with respect to ensuring compliance with the provisions of the FCE and to upholding FIFA's ethical values.
298. However, despite such lengths of experience and his position of authority within BFF, the Accused's conduct demonstrated a clear pattern of disrespect for the core principles and values of the FCE – Mr Shohag having violated and/or breached multiple provisions of the Code.
299. Furthermore, the Chamber also noted that despite the magnitude of the evidence levelled against him, Mr Shohag had not expressed any particular awareness and/or admission of his wrongdoing(s), and neither had he showed any degree of remorse for his actions.
300. In addition, the Chamber considered the infringements committed by Mr Shohag to be serious given that he was aware of the actions plans between FIFA and BFF and knew that BFF was under FIFA's scrutiny as far as the FIFA Forward funds were concerned.
301. Notwithstanding the above, the Chamber also noted that the Accused had, up until the present proceedings, presented a clean record, pointing out that the Accused lacked any known precedents or previous records of any infringements of the FIFA regulations. Moreover, the Committee also acknowledged that Mr Shohag was not the sole individual that was involved in the procurement process with respect to Transactions 1-4.
302. Against this background, the Chamber recalled that under art. 11 FCE, in case of concurrent violations of the Code, such as in the present case where the Respondent was found to be in breach of arts. 13, 15 and 24 FCE, the sanction should be based on the most serious violation and recalled that the most serious violation in the present proceedings related to the Accused's established infringement of art. 24 FCE – *Forgery and falsification*.

303. In this respect, the Chamber recalled that in accordance with the Code, established violations of art. 24 FCE call not only for the imposition of a ban on taking part in any football-related activity for a minimum of two (2) years, but also for the imposition of a fine of at least CHF 10,000.
304. In view of the above, the Chamber considered that, although the offences committed by Mr Shohag were serious, it also recognised that some mitigating circumstances had to be taken into account, such as the fact that the latter had no previous disciplinary record, that he was not the only person involved in the procurement process for Transactions 1-4 and that there was no evidence that the goods or services relating to these four transactions were not received or paid for at a higher price. Therefore, having considered all the elements of the case, with particular regard to the fact that the respondent had to manage BFF in accordance with the highest ethical standards, the Chamber found that the sanction fell within the lower range of art. 24 FCE.
305. Consequently, the Chamber saw no reason to impose sanctions higher than the minimum sanctions provided for in art. 24 FCE, but also pointed out that there was no evidence on file that would justify a sanction lower than the minimum provided for by this provision. Therefore, the Chamber decided to impose a ban from participating in any football-related activity at national and international level for two (2) years, as well as a fine of CHF 10,000, which are appropriate and proportionate to the offences committed by the Respondent and which have not only a deterrent character but also a strictly punitive one.
306. Finally and for the sake of good order, the Chamber specified that the prohibition comes into force as soon as this decision is communicated in accordance with art. 42 (1) FCE.

III.DECISION OF THE ADJUDICATORY CHAMBER

1. Mr Shohag is found responsible for having breached art. 13 (General duties), art. 15 (Duty of loyalty) and art. 24 (Forgery and falsification) of the FIFA Code of Ethics, in relation to the use of false and/or falsified documents to justify payments made with FIFA funds, whilst serving as General Secretary of BFF.
2. Mr Shohag is hereby banned from taking part in any kind of football-related activity at national and international level (administrative, sports or any other) for a duration of two (2) years, as from the notification of the present decision.
3. Mr Shohag is ordered to pay a fine to the amount of CHF 10,000.
4. The fine is to be paid within 30 days of notification of the present decision.

FÉDÉRATION INTERNATIONALE
DE FOOTBALL ASSOCIATION



Vassilios Skouris

Chairperson of the adjudicatory chamber of the FIFA Ethics Committee

NOTE RELATED TO THE LEGAL ACTION:

According to art. 57 (1) of the FIFA Statutes reads together with art. 84 of the FCE (2023 edition), this decision may be appealed against before the Court of Arbitration for Sport (CAS). The statement of appeal must be sent to CAS directly within 21 days of receipt of notification of this decision. Within another 10 days following the expiry of the time limit for filing the statement of appeal, the appellant shall file a brief stating the facts and legal arguments giving rise to the appeal with CAS.

NOTE RELATED TO THE FINANCIAL SANCTION:

Payment can be made either in Swiss francs (CHF) to account no. 0230-325519.70J, UBS AG, Bahnhofstrasse 45, 8098 Zurich, SWIFT: UBSWCHZH80A, IBAN: CH85 0023 0230 3255 1970 J or in US dollars (USD) to account no. 0230-325519.71U, UBS AG, Bahnhofstrasse 45, 8098 Zurich, SWIFT: UBSWCHZH80A, IBAN: CH95 0023 0230 3255 1971 U, with reference to the abovementioned case number.

NOTE RELATED TO THE PUBLICATION:

The public may be informed about the reasons for any decision taken by the Ethics Committee. In particular, the chairperson of the adjudicatory chamber may decide to publish the decision taken, partly or in full, provided that the names mentioned in the decision (other than the ones related to the party) and any other information deemed sensitive by the chairperson are duly anonymized (cf. art. 37 (3) FCE (2023 edition)).