

The Dissolution of the Egyptian Football Association's Board of Directors

Laila El Shentenawi - Senior Associate - Arbitration / Mediation
- Dubai International Financial Centre

May 2016

This article looks at the reasons for this decision and its implications.

Background

The issue that led to the decision of the Court arose from a dispute regarding elections that were held in 2012 for appointments to the Board of Directors of EFA, the governing body for football in Egypt, for the period 2012 – 2016.

Losing candidates claimed that the elections were void due to procedural violations. These violations included (i) defects in the invitation to the general assembly meeting (as it was sent by a person who did not have the required authority to send the invitation); (ii) the change of venue of the elections, 24 hours prior to the general assembly meeting by the executive manager of the EFA, who did not have the capacity to take such a decision; (iii) providing hotel rooms and common transportations for a number of EFA former board members and members of the general assembly, which reflected potential bias; (iv) breaches relating to sorting the votes, and the final results of the voting process. It was further stated that the relevant electoral committee, when sorting the candidates' votes, followed the "partial" invalidation method of the voting card instead of the "complete" invalidation method, which is, according to the Decision, required by Article 24.2 of the EFA Articles of Association and Article 5 of the Sports Associations Bylaws hence leading to the invalidity of the elections' final results.

A case was first filed on 20 October 2012, by these former candidates before the Administrative Court in Cairo (case number 3548 for the judicial year 67). They requested the Court to rule on an expedited basis to stop the issuance and declaration of the final results of the EFA elections, and to revoke the results. The Court requested the State Commissioners Office to prepare an opinion on the matter. The State Commissioners Office report is non-binding on the Court, therefore, whilst the report was in favor of the claimants, the Court decided against the claimants as they did not find the violations in the voting process material to the extent that would lead to revoking the results.

The claimants appealed the Court's decision before the Egyptian National Supreme Administrative Court, Conseil d'Etat, in case number 24259 for the Supreme judicial year 61. The Supreme Court decided for the claimants in its final and binding judgment dated 27 March 2016. In its judgement, the Supreme Court confirmed the dissolution of the EFA's Board of Directors.

Consequences - Is there a risk that the EFA gets suspended?

FIFA (Fédération Internationale de Football Association) is the governing body for world football and organises the World Cup. Article 17 of the FIFA Statutes states that the members (e.g. EFA) shall manage their affairs independently and with no influence from third parties (e.g. national governments). The provision is quite general and does not specify exactly which types of interventions would be considered influence by third parties.

Therefore, questions have been raised as to whether FIFA's Associations Committee would find the

dissolution of the EFA's Board of Directors by the Court amounts to being "influence from third parties" leading to the risk of suspension. If suspended, Egypt would not be able to take part in recognised international matches, most significantly the African Cup of Nations.

Further questions have been raised as to whether the Egyptian Minister of Youth and Sports would interfere and whether such interference, in addition to the decision on dissolution, would amount to being "influence from third parties" leading to the risk of suspension. The Minister was quoted saying that any actions from his side would not take place prior to the regionally-perceived critical matchup between Egypt and Nigeria, to be played in Alexandria on 29 March 2016 as part of the 2017 Africa Cup of Nations qualifications. The match was played following the withdrawal of the Chadian national team from the 2017 Africa Cup of Nations qualifications, specifically Group G, which includes Egypt, Nigeria and Tanzania. The withdrawal of Chad led to the cancelation of the points relating to matches played against it within Group G; this required that another match between Egypt and Nigeria takes place during this tournament following such withdrawal. Egypt won the match raising its points to 7 points, while Nigeria's points became 2 and Tanzania 1. Following the match the Minister was further quoted saying that he will respect and comply with the FIFA regulations.

Until date, no new elections have been announced by the EFA. To the contrary, the dates for the next elections seem to be unchanged (September 2016) despite the dissolution of the Board of Directors. There have been announcements by Egyptian media outlets, including Al Ahram Online on 26 April 2016, that FIFA warned Egypt that any interference in football affairs is strictly prohibited. It has been stated that FIFA notified Egypt that "sanctions will be considered, including suspension" if the court judgment is enforced. The existence of such warning is yet to be confirmed.

Will a New Sports Law Help?

Discrepancies between the national sports laws and international sports laws and regulations remain an issue in Egypt. A new draft law for sports has been proposed and discussed this year, taking into consideration the international regulations, the requirements set by the sports' governing bodies including the International Counsel for Sports Arbitration, the Olympics and the different federations. However the draft law has yet to be passed.

It remains to be seen how Egypt's Minister for Youth & Sports and the relevant authorities will deal with the Court's decision in light of the currently enforced Egyptian Laws and the non-intervention requirement by the FIFA Statutes. Any infringement of the FIFA requirement may lead to a complaint being filed against Egypt with FIFA, and could lead to Egypt's suspension and the risk that the national team does not participate, yet another time, in the African Cup of Nations (which will next take place in 2017). This would undoubtedly demoralise Egyptians in what is already a trying time for the nation. Football remains Egypt's favorite pastime, a sport followed with passion. Given Egypt's historical success at the African Cup of Nations, an inability to participate would only add salt to the open wound.

Laila El Shentenawi (l.elshentenawi@tamimi.com) is a Senior Associate in the Arbitration and Dispute Resolution practice based in the Dubai office and a member of Al Tamimi's dedicated Sports Law & Events Management practice. Laila focuses on international commercial arbitration, investment arbitration, mediation and sports dispute resolution. Her clients include governments, regional organisations, international organisations, multi-national companies, banks, investors, international athletes and sports bodies.