EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

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Michel Platini: suspension from football-related professional activity was justified

In its decision in the case of Platini v. Switzerland (application no. 526/18) the European Court of Human Rights has unanimously declared the application inadmissible. The decision is final.

The case concerned Michel Platini, a former professional football player, president of UEFA and vice-president of FIFA. Disciplinary proceedings had been brought against him in respect of a salary "supplement" of 2 million Swiss francs (CHF), received in 2011 in the context of a verbal contract between him and FIFA's former President. He was suspended from any football-related professional activity for four years and fined CHF 60,000.

The Court found in particular that, having regard to the seriousness of the misconduct, the senior position held by Mr Platini in football's governing bodies and the need to restore the reputation of the sport and of FIFA, the sanction did not appear excessive or arbitrary. The domestic bodies had taken account of all the interests at stake in confirming the measure taken by FIFA, subsequently reduced by the Court of Arbitration for Sport (CAS).

Lastly, the Court noted that the applicant had been afforded the domestic institutional and procedural safeguards allowing him to challenge FIFA's decision and submit his arguments in his defence.

Principal facts

In 2015, after a preliminary investigation, the FIFA authorities initiated disciplinary proceedings in respect of an alleged salary supplement of 2 million Swiss francs (CHF) that Mr Platini had received in 2011, in the context of a verbal contract between him and FIFA's President, for activities as adviser between 1998 and 2002.

The applicant was initially given an eight-year suspension from all football-related activities at national and international levels and was fined CHF 80,000 by the adjudicatory chamber of the FIFA Ethics Committee. The sanction was upheld by the FIFA Appeal Committee, which reduced the length of the suspension to six years.

The applicant appealed against this decision to the Court of Arbitration for Sport (CAS). He alleged, in particular, that the Articles of the FIFA Code of Ethics relied upon had not been applicable at the time of the relevant acts and that the sanction appeared excessive. The CAS rejected this complaint but reduced the suspension period from six years to four and the fine from CHF 80,000 to CHF 60,000.

The applicant lodged a civil-law appeal against the CAS decision before the Swiss Federal Court, which upheld that decision, holding that, in view of the applicant's age (61 in 2015), the length of the suspension did not appear excessive.

Complaints, procedure and composition of the Court

The application was lodged with the European Court of Human Rights on 22 December 2017.

Relying on Article 6 (right to a fair hearing), the applicant complained that the disciplinary proceedings and the CAS proceedings had been incompatible with that Article. Under Article 7 (no punishment without law), he complained that the prohibition on retrospective application of law had been breached, as the rules in force at the relevant time – between 2007 and 2011 – had not been applied. Lastly, relying on Article 8 (right to respect for private and family life), he argued that the four-year suspension was incompatible with his freedom to exercise a professional activity.

The decision was given by a Chamber of seven judges, composed as follows:

Paul **Lemmens** (Belgium), *President*,
Georgios A. **Serghides** (Cyprus),
Helen **Keller** (Switzerland),
Alena **Poláčková** (Slovakia),
María **Elósegui** (Spain),
Gilberto **Felici** (San Marino),
Lorraine **Schembri Orland** (Malta),

and also Stephen **Phillips**, *Section Registrar.*

Decision of the Court

Article 6 § 1

The Court reiterated that under Article 35 of the Convention any complaints brought before it should first have been raised before the relevant domestic courts, failing which the application would be inadmissible[1].

In the present case, the Court noted that the applicant had only raised before the Federal Court his complaints alleging the arbitrariness and unfairness of the arbitral award. He had not referred, before the Swiss court, to the other complaints he had submitted in his application: illegality of the evidence used by the CAS, suspicion of subordination of FIFA's adjudicatory bodies to its executive, failure to respect defence rights, unfairness of the proceedings.

Consequently, the Court rejected the complaints under Article 6 § 1 for non-exhaustion of domestic remedies.

Article 7

The Court examined whether the sanction imposed on the applicant fell within the criminal sphere of Article 7 of the Convention. It pointed out in particular that, according to its case-law, disciplinary sanctions ordered following professional misconduct could be distinguished from criminal sanctions. It further noted that sanctions imposed on a "small group of individuals possessing a special status" did not fall within that criminal scope.

In the present case, the applicant, a high-ranking FIFA official, had been disciplined based on the Federation's Code of Ethics and disciplinary rules. The sanction had been imposed by FIFA's adjudicatory bodies. It was therefore a sanction based on a special status concerning a member of a small group.

The Court thus declared the Article 7 complaint inadmissible on account of its incompatibility with the provisions of the Convention.

[1] *Gäfgen v. Germany* [GC], no. 22978/05, 1 June 2010

Article 8

The Court reiterated that the concept of "private life" was a broad and non-exhaustive one. In the instant case, the sanction imposed on the applicant had been based on acts committed in his professional life which had no connection with his private life. However, the Court acknowledged that the negative repercussions had affected his private life.

The Court thus accepted that the applicant had established that those consequences reached a certain threshold of seriousness. He had spent his entire career in the world of football, which therefore constituted his sole source of income, and he had been deprived of that source. The scope of the sanction was such that it was capable of preventing him from developing social relations with others. Lastly, his reputation had suffered as a result of the sanction, "in the sense of a certain stigmatisation".

Furthermore, the Court examined whether the respondent State had complied with its positive obligation to protect the applicant's right to respect for his private life *vis-à-vis* the sanction imposed by FIFA, which was reduced but confirmed by the CAS, and in particular whether the applicant had been afforded sufficient judicial safeguards.

The Court noted that the applicant had freely consented to the waiver of certain rights by signing compulsory arbitration clauses excluding the possibility of submitting disputes to an ordinary domestic court. He had nevertheless been able to appeal against the measure imposed by FIFA before the CAS. The CAS had duly reasoned its decision to reduce but confirm the sanction in a 63-page decision responding to the applicant's complaints. It had held, among other things, that the particular seriousness of the facts, the senior position held by the applicant, and the need to restore the reputation of football and FIFA, justified the four-year suspension from professional activity.

Lastly, the applicant had lodged a civil-law appeal in the Federal Court against the CAS decision. The Federal Court had likewise upheld the previous decisions, finding the sanction to be well-founded and duly reasoned.

Consequently, the applicant had been afforded sufficient institutional and procedural safeguards. The Court dismissed the Article 8 complaint, declaring it manifestly ill-founded.

The decision is available only in French.

Press contacts
echrpress@echr.coe.int | tel: +33 3 90 21 42 08

Denis Lambert (tel: + 33 3 90 21 41 09)
Tracey Turner-Tretz (tel: + 33 3 88 41 35 30)
Inci Ertekin (tel: + 33 3 90 21 55 30)
Patrick Lannin (tel: + 33 3 90 21 44 18)