

Disciplinary Committee

FIFA[®]

Date: 16 August 2021

Sent to:
Trinidad and Tobago FA
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Notification of the grounds of the Decision

Ref FDD-8186

Dear Sirs,

Please find attached the grounds of the decision passed in the aforementioned case by a member of the FIFA Disciplinary Committee on 03 June 2021.

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

Yours faithfully,

FIFA



Carlos Schneider
Director of the Judicial Bodies

Fédération Internationale de Football Association

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Decision of the FIFA Disciplinary Committee

passed on 03 June 2021

DECISION BY:

Mr. Yasser Al-Misehal, Saudi Arabia

ON THE CASE OF:

Trinidad and Tobago FA

(Decision FDD-8186)

REGARDING:

Failure to comply with: Art. 46 – FDC - Protests

I. FACTS OF THE CASE

1. The following summary of the facts does not purport to include every single contention put forth by the actors at these proceedings. However, the member of the FIFA Disciplinary Committee (hereinafter also referred to as: *'the Single Judge'*) has thoroughly considered in his discussion and deliberations any and all evidence and arguments submitted, even if no specific or detailed reference has been made to those arguments in the following outline of its position and in the ensuing discussion on the merits.
2. On 25 March 2021, in the context of the Preliminary Competition of the FIFA World Cup Qatar 2022™, CONCACAF Zone, a match was played between the representative teams of Trinidad & Tobago and Guyana in San Cristobal (Dominican Republic).
3. On 24 April 2021, the Guyana Football Federation lodged a protest with respect to the aforementioned match, in addition to the match played on 28 March 2021 in the context of the Preliminary Competition of the FIFA World Cup Qatar 2022™, CONCACAF Zone, between the representative teams of Puerto Rico and Trinidad & Tobago.
4. In this respect, the protest of the Guyana Football Federation concerned the eligibility of the player Mr. Andre Boucaud (hereinafter also referred to as: *'the Player'*), whom appeared in the list of players for the team of Trinidad and Tobago within both the aforementioned match played between Trinidad & Tobago and Guyana, and the aforementioned match played between Puerto Rico and Trinidad & Tobago.
5. In this regard, the protest of the Guyana Football Federation also stipulated the following:

"Andre Boucaud at the time he was a member of the Team that played against Guyana and Puerto Rico was a registered Intermediary with the English FA.

(...)

FIFA Regulations on Working with Intermediaries at Article 4(3) states as follows "Associations must also be satisfied that in carrying his activities, the intermediary contracted by a club and/or a player has no contractual relationship with leagues, associations, confederations or FIFA that could lead to a potential conflict of interest".

(...)

(a) It is our submission that the Republic of Trinidad & Tobago fielded a player that was not eligible under the Rules of FIFA in both matches that they played with Guyana and Puerto Rico as he was then a registered Intermediary with the English FA.

(b) The FA Handbook 2020/2021, Appendix 11 at 1.1 is clear that a Player cannot be an Intermediary. Andre Boucaud was both a player and a current registered Intermediary and clearly in breach of the FA Handbook Regulations.

(c) FIFA also recognizes the position of Intermediary and their regulations on his role and limitations is found at FIFA Regulations on Working with Intermediaries. He is by their

definition a person who represents players or clubs. He cannot be both a player and an intermediary.

- (d) The Preamble of these Regulations speaks of FIFA's responsibility to safeguard integrity and high ethical standards, to protect players and clubs from being involved in unethical and or illegal practices and circumstances between players and clubs.*
- (e) The playing of Andre Boucaud in both matches when he was a registered intermediary is against the high standards set out in the Preamble.*
- (f) Andre Boucaud was clearly in breach of the English FA Handbook 2020/2021 Regulations, Appendix 11 – Registration of Intermediaries 1.2 which state that a player cannot be an intermediary.*
- (g) Andre Boucaud cannot shed the cloak of being a registered Intermediary and become a Player in the afore-mentioned two matches. That should not be countenanced and goes against the spirit and objectives of what FIFA intended.*
- (h) No notification was given to either Guyana or Puerto Rico that Andre Boucaud was an Intermediary and obtained their consent. Even if any consent was obtained it would have been of no effect.*
- (i) Andre Boucaud being an Intermediary could have created a conflict of interest among all the players and who knows, the fact that as an intermediary he would have contacts with clubs and associations, how this would have affected the performance of the players. Was he to be pleased in return for a possible contract with a club? When he played, was he treated with kid's gloves? This is the spirit of what FIFA wished to encapsulate in their Preamble and in their Regulations that there should not be no possibility of any conflict of interest.*

(...)

As a result of the fore-going, we respectfully submit that the inclusion of Andre Boucaud was wrong, that he was ineligible, that there was a breach of the Regulations of FIFA and as a consequence, the points secured by the Republic of Trinidad & Tobago should be forfeited. The clear wording in Appendix 11 – Registration of Intermediaries (1.2) that a player cannot be an intermediary should also be of great persuasive value to uphold this protest."

6. On 14 May 2021, in view of the foregoing, disciplinary proceedings were opened against the Trinidad and Tobago Football Association (hereinafter also referred to as: *'the Respondent'*) with respect to the potential breach of art. 46 of the FIFA Disciplinary Code (FDC). In particular, the Respondent was granted a six-day deadline within which to provide the Secretariat to the FIFA Disciplinary Committee (hereinafter also referred to as *'the Secretariat'*) with its position.
7. On 19 May 2021, the Respondent requested an extension of six (6) days to provide its position.

8. On 20 May 2021, the Secretariat granted the Respondent an extension of six (6) days and invited the latter to submit its position to the Secretariat by 25 May 2021 at the latest.

II. RESPONDENT'S POSITION

9. On 25 May 2021, following the opening of disciplinary proceedings, the Respondent provided the Secretariat with its position which can be summarized as follows:

- The Player was not fielded against Guyana and played 5 minutes in the match against Puerto Rico.
- Approximately a month after the matches took place, the Guyana Football Federation lodged a protest, claiming that the Player was ineligible to play in the Matches.
- Not only is the protest belated, and as a consequence inadmissible, as it had to be lodged within two hours of the respective matches and followed-up with grounds within a non-extendable 24 hours of the respective matches, it is also baseless on numerous grounds.
- There is no dispute that the Player is of Trinidad nationality and fulfils all the criteria of eligibility as per the Regulations Governing the Application of the FIFA Statutes.
- In continuation, there is no legal provision in the FIFA regulatory framework (or even in the on-applicable FA regulatory framework) that would imply even remotely that the Player would be ineligible to represent the Respondent.
- The Player was not even fielded in the match against Guyana, and so did not even participate in the match in questions, and therefore, no disciplinary sanction can be imposed if a Player only sits on the bench during a match.
- In what concerns the match against Puerto Rico, it is very doubtful that the Guyana Football Federation would have any standing to lodge a protest, given that it did not partake in that match.
- The Player of Trinidad and Tobago nationality played for his national team 46 times and scored 2 goals since 2004. He never played for any other representative team of any category whatsoever in any official competition
- In the match against Guyana, the Player was a substitute and was not fielded at all. In the match against Puerto Rico, the Player came out from the bench and played for 5 minutes.
- No protest regarding the eligibility of a player was lodged within two hours following the two Matches with the Match Commissioner.
- On 23 April 2021, i.e. almost a month after the Matches have been played, the GFF lodged a protest *"with respect to the matches played by the Republic of Trinidad & Tobago in the Group F of the CONCACAF Qualifiers to the FIFA World Cup, Qatar 2022 against Guyana and Puerto Rico"*.
- In its protest, the Guyana Football Federation claims that the Player was ineligible for the Matches for the unique reason that he is a registered intermediary with the FA.
- However, the Guyana Football Federation did not claim, let alone prove, that it would have lodged the protest within the deadline provided for in art. 14 of the Regulations FIFA World Cup 2022™ Preliminary Competition ("WC Regulations") nor that it would have the possibility to do so in a match it was not a party to (the match against Puerto Rico).

- According to the WC Regulations, a protest has to be submitted in writing to the FIFA Match Commissioner within two hours of the match in question and followed up with a full written report, including a copy of the original protest to be sent by email to the FIFA General Secretariat within 24 hours of the end of the match. Otherwise the protest shall be disregarded (art. 14 pars. 3 and 8 WC Regulations).
- The FDC confirms that a protest must be lodged within 24 hours of the end of the match. This 24-hour time limit cannot be extended (art. 46 pars. 1 and 2 FDC). Furthermore, a protest fee of CHF 1,000 must be paid when the protest is lodged (art. 46 par. 3 FDC).
- A protest is only admissible if it is based on an ineligible player's participation in a match as a consequence of that player not fulfilling the conditions defined in the relevant FIFA regulations (art. 46 par. 4 lit. a) FDC).
- The Matches were played on 25 and 28 Match respectively and the Match Reports do not mentioned that the Guyana Football Federation had submitted a written protest to the FIFA Match Commissioner within two hours of the match.
- The Guyana Football Federation contacted FIFA on 23 April 2021, i.e. approximately a month following the matches in question. Consequently, the requirement related to the 24 hours deadline to submit the grounds of the protest had not been fulfilled.
- In application of art. 14 of the WC Regulations and art. 46 of the FDC, the protest submitted by the Guyana Football Federation is inadmissible and shall be disregarded entirely.
- The Guyana Football Federation does not state in its Letter of Protest that it would have paid the mandatory protest fee as per art. 46 par. 3 FDC in respect of the Matches and does not provide any documentary evidence related thereto.
- The Guyana Football Federation did not point towards any provisions of the FIFA regulations which would have prevented the Player from being ineligible to represent the Respondent.
- Art. 7 of the WC Regulations state two conditions for players to be eligible: - A player shall hold the nationality of its country and be subject to its jurisdiction; A player shall be eligible for selection in accordance with the FIFA Statutes, the Regulations Governing the Application of the FIFA Statutes and other relevant FIFA rules and regulations.
- According to art. 5 of the Regulations Governing the Application of the Statutes, any person holding a permanent nationality that is not dependent on residence in a certain country is eligible to play for the representative teams of the association of that country.
- It is undisputed – the Guyana Football Federation does not even attempt to imply anything different – that the Player fulfils the criteria set out in art. 5 of the Regulations Governing the Application of the Statutes. The Player holds the permanent nationality of Trinidad and Tobago and has played for the representative team for more than 16 years already.
- Therefore, it is evident that the Player is eligible to play for the representative team of the Respondent.
- The Regulations Governing the Application of the Statutes, i.e. the main regulations governing the eligibility of players to play for the representative teams, do not state anything and/or do not provide for any kind of limitation regarding the eligibility of a player who would also be an intermediary.
- The Guyana Football Federation refers in its protest to the Regulations on Working with Intermediaries. However, these regulations do not provide for any possible ineligibility to play for a representative team if a player would also be an intermediary.

- A Preamble does not carry any rights and obligations (similar to recitals of a contract) and cannot serve as basis for any disciplinary sanction for reasons of predictability of sanctions. Secondly, and in any event, the Preamble does not state at all that a player, who would also be an intermediary, would be ineligible to play for a national team.
- In any event, even if there was a breach of the Regulations Working with Intermediaries, *quod non*, this will never lead to a declaration of ineligibility of a player. This is simply not provided for in these regulations, bearing in mind that the competence to impose sanction on intermediaries belong to associations (art. 9).
- For this reason already, the Regulations on Working with Intermediaries cannot serve as legal basis governing the eligibility of players. Likewise, they cannot serve as legal basis for the opening of disciplinary proceedings in relation to the eligibility of players and do not provide for any sanction in respect of a possible ineligibility of a player (which is in any event contested).
- For the same reasons, any reference to regulations of The FA are of no avail. The eligibility of players is only connected to the FIFA regulations and in particular the Regulations Governing the Application of the FIFA Statutes. Therefore, no provision outside of these FIFA regulations could be the basis for declaring a player ineligible
- Art. 4 of the FA Handbook 2020/2021 is merely referring to clubs mentioning that an intermediary shall not have any interest in a club. There is absolutely no reference to the issue at stake here.
- For the abovementioned reasons it is demonstrated that the Player is eligible to play for the Respondent's national team. It is equally clear that the Guyana Football Federation was unable to demonstrate otherwise.
- The Guyana Football Federation has presented an inadmissible and baseless protest.
- Consequently, the disciplinary proceedings opened against the Respondent should be closed and all charges dismissed.
- Art. 46 par. 4 lit. a) of the FDC stipulates that "*an ineligible player's **participation** in a match as a consequence of that player not fulfilling the conditions defined in the relevant FIFA regulations*".
- It is undisputed that the Player was a substitute only in the match played between Trinidad and Tobago and Guyana and he never entered the field of play.
- Assuming that the protest would be admissible or that the Player were to be declared ineligible to play for the Respondent, which is entirely not the case, this would have no influence on the outcome of the match played between the Respondent and Guyana, since the Player did not participate therein
- Therefore, for that reason as well, the protest in what concerns the match Trinidad and Tobago – Guyana shall be dismissed as the Player did not participate in that match.
- The Guyana Football Federation does not have standing to sue or to lodge a protest in relation to the match played between Trinidad and Tobago and Puerto Rico on 28 March 2021.
- The Guyana Football Federation was not involved whatsoever in that match. The only connection the Guyana Football Federation has with this match is that it was also a match of Group F.

- CAS 2018/A/5746 is very clear what concerns the standing of competitor: *“The correct approach when dealing with standing is to deem mere competitors indirectly affected – and thus exclude them from standing – when the measure does not have tangible and immediate direct consequences for them beyond its generic influence on the competitive relationship as such.”* (par. 174.)
- Here, the Guyana Football Federation is only a competitor, which is only indirectly affected by a match played between two other teams. Consequently and by analogy, the Guyana Football Federation does not have any standing to lodge a protest in relation it did not partake.
- For these reasons, the Respondent requested the FIFA Disciplinary Committee to issue a decision in line with the Respondent’s Prayers for Relief – that the protest shall be declared inadmissible and the proceedings closed, or, in the alternative, that all charges shall be dismissed and the proceedings closed.

10. The Single Judge once again reiterated that he had considered all the facts, allegations, legal arguments and evidence provided by the Respondent and in the present decision has only referred to those observations and evidence for which he considers necessary to explain his reasoning.

III. CONSIDERATIONS OF THE DISCIPLINARY COMMITTEE

1. In view of the circumstances of the present matter, the Single Judge decided to first address the procedural aspects, namely, his jurisdiction and the applicable law, before entering into the substance of the matter and assessing the possible breaches committed, as well as the potential sanctions, if applicable, resulting therefrom.

A. Jurisdiction of the FIFA Disciplinary Committee

2. First of all, the Single Judge noted that at no point during the present proceedings did the Respondent challenge his jurisdiction or the applicability of the FIFA Disciplinary Code (FDC).
3. Notwithstanding the above and for the sake of good order, the Single found it worthwhile to emphasise that, on the basis of arts. 2 and 53 of the FDC, he is competent to evaluate the present case and to impose sanctions in case of corresponding violations.
4. Moreover, in line with art. 54 of the FDC, the present case can be decided by one member of the FIFA Disciplinary Committee acting as a single judge.

B. Applicable law

5. With respect to the applicable regulations, the Single Judge first emphasized that, in accordance with art. 46 FDC:

“1. Associations and their clubs are entitled to lodge protests. Protests must reach the Disciplinary Committee in writing, indicating the relevant grounds, within 24 hours of the end of the match in question.

2. The 24-hour time limit cannot be extended. For the sake of the smooth running of the competition, the corresponding competition regulations may shorten the protest deadline accordingly.

3. The protest fee is CHF 1,000. It must be paid when the protest is lodged and is reimbursed only if the protest is admitted in full.

4. A protest is admissible only if it is based on:

a) an ineligible player’s participation in a match as a consequence of that player not fulfilling the conditions defined in the relevant FIFA regulations;

b) an unfit field of play, as long as the referee was informed as soon as the problem was reported or observed (whether in writing before the match, or orally by a team captain, in the presence of the captain of the opposing team, during the match);

c) an obvious error by the referee as defined in article 9 of this Code, in which case the protest may be directed only at the disciplinary consequences of the referee’s obvious error.”

6. In continuation, the Single Judge recalled that in accordance with art. 1 par. 3 of the Regulations for the FIFA World Cup 2022™ Preliminary Competition (hereinafter also referred to as: ‘the WCPC Regulations’):

“3. The Regulations for the FIFA World Cup 2022™ Preliminary Competition (hereinafter: the Regulations) regulate the rights, duties and responsibilities of all associations taking part in the FIFA World Cup 2022™ preliminary competition. The Regulations and all directives, decisions, guidelines and circulars issued by FIFA shall be binding for all parties participating and involved in the preparation, organisation and hosting of FIFA World Cup 2022™ preliminary competition matches.”

7. Subsequently, the Single Judge also referred to art. 14 pars. 3 and 8 of the WCPC Regulations, pursuant to which:

“3. Protests regarding the eligibility of players selected for matches in the preliminary competition shall be submitted in writing to the FIFA Match Commissioner within two hours of the match in question and followed up with a full written report, including a copy of the original protest, to be sent by email to the FIFA general secretariat within 24 hours of the end of the match, otherwise they will be disregarded.

(...)

8. If any of the formal conditions of a protest as set out in these Regulations are not met, such protest shall be disregarded by the competent body. Notwithstanding the above, the

FIFA Disciplinary Committee remains competent to prosecute any disciplinary infringement ex officio, as established in the FIFA Disciplinary Code.”

C. Merits of the dispute

I. Issues of review in light of the provisions relating to protests

8. The relevant provisions having been recalled, and the above having been established, the Single Judge acknowledged that the present matter is related to the match played on 25 March 2021 between the representative teams of Trinidad & Tobago and Guyana, and to the match played on 28 March 2021 between the representative teams of Puerto Rico and Trinidad & Tobago, both within the context of the Preliminary Competition of the FIFA World Cup Qatar 2022™, CONCACAF zone (hereinafter also referred to as: ‘*the Matches*’).
9. In particular, the Single Judge observed that on 24 April 2021, the Guyana Football Federation lodged a protest with respect to the aforementioned Matches, alleging that the Respondent had fielded a player, Mr. Andre Boucard, “*that was not eligible under the Rules of FIFA in both matches that they played with Guyana and Puerto Rico as he was then a registered Intermediary with the English FA.*” (hereinafter also referred to as: ‘*the Protest*’).
10. In this regard, the Single Judge acknowledged the submissions of the Respondent in connection with the apparent inadmissibility of the Protest lodged by the Guyana Football Federation, the participation of the Player in the Matches, the eligibility of the Player to play for the representative team of the Respondent, and the Guyana Football Federation’s alleged lack of standing to sue/standing to lodge the Protest. In particular, the Single Judge acknowledged the position of the Respondent that the Protest lodged by the Guyana Football Federation does not comply with the formal requirements as set out under art. 14 pars. 3 and 8 of the WCPC Regulations and art. 46 of the FDC, as the respective Protest was lodged by the Guyana Football Federation approximately one month following the Matches.
11. Taking into account the foregoing, the Single Judge considered that he had, as first task, to analyze whether the Protest lodged by the Guyana Football Federation fulfilled the formal requirements as provided for under the above mentioned provisions of the WCPC Regulations and the FDC, which must be duly satisfied in order for a protest to be considered as admissible. Should it be the case, the Single Judge considered that he would subsequently proceed to address the further issues for analysis. In the contrary and should the Protest be deemed inadmissible, the Single Judge remarked that no further evaluation would be required in the present case.

i) Admissibility of the protest

12. To this end, the Single Judge first observed that in accordance with art. 14 par. 3 of the WCPC regulations as outlined above, protests regarding the eligibility of players in the context of the Preliminary Competition of the FIFA World Cup Qatar 2022™, such as that of the Protest lodged by the Guyana Football Federation in the present proceedings, must be submitted in

writing to the FIFA Match Commissioner within two hours of the match in question, and followed up with a full written report, including a copy of the original protest, which must then be sent via email to the FIFA general secretariat within 24 hours of the end of the match, otherwise such protest will be disregarded.

13. In continuation, the Single Judge further remarked that art. 14 par. 8 of the WCPC Regulations provides that should any of the formal conditions of a protest as set out within said regulations not be satisfied, such protest shall be disregarded by the competent body.
14. With the above in mind, and for the sake of completeness, the Single Judge wished to emphasize that pursuant to art. 46 FDC pars. 1, 2 and 3 (as denoted above), the following formal conditions for a protest to be considered as admissible apply: -
 - The protest must reach the Disciplinary Committee in writing, indicating the relevant grounds, within 24 hours of the end of the match in question.
 - The 24-hour time limit cannot be extended. The corresponding competition regulations (in the present case the WCPC regulations¹) may shorten the protest deadline accordingly².
 - The protest fee of CHF 1,000 must be paid when the protest is lodged³.
15. In this sense, the Single Judge pointed out that the protest of the Guyana Football Federation with respect to the Matches and concerning the eligibility of the player Mr. Andre Boucaud, was lodged on 24 April 2021 and that the aforementioned Matches concerned took place on 25 March 2021 and 28 March 2021 respectively.
16. In this regard, the Single Judge highlighted that the provisions of the FDC and the WCPC regulations are clear – protests regarding the eligibility of players selected for matches in the context of the Preliminary Competition of the FIFA World Cup Qatar 2022™, must be submitted in writing to the FIFA Match Commissioner within two hours of the match in question, and followed up with a full written report, including a copy of the original protest, to be sent by email to the FIFA general secretariat within 24 hours of the end of the match, otherwise they will be disregarded. Furthermore, the formal conditions of a protest as set out under the WCPC regulations must be satisfied, otherwise such protest shall be disregarded by the competent body.
17. With the above in mind, the Single Judge observed from the case file, and as also submitted by the Respondent, that the Guyana Football Federation lodged the Protest on 24 April 2021, i.e. approximately 1 month after the pertinent Matches had been played.
18. In this respect, the Single Judge next remarked that there is no indication that the Protest of the Guyana Football Federation would have been lodged within the aforementioned deadline(s) provided for under the WCPC Regulations, in particular no mention of such a

¹ Art. 1 Regulations for the FIFA World Cup 2022™ Preliminary Competition

² As outlined *supra*

³ And will only be reimbursed if the protest is admitted in full.

protest could be found within the match commissioner reports for the Matches in question. Likewise, the Single Judge pointed out that the Guyana Football Federation did not provide any evidence establishing that the requirements as set out under the aforementioned regulations had been complied with.

19. Moreover, the Single Judge recalled that the payment of the protest fee of CHF 1,000 established under art. 46 par. 3 of the FDC is mandatory, and must be duly paid at the point when the protest is lodged.
20. In this regard, the Single Judge noted that the Protest lodged by the Guyana Football Federation made no mention of the payment of the mandatory protest fee, and neither did the Guyana Football Federation provide any documentary evidence demonstrating the alleged payment of said fee.
21. Taking into account the foregoing evaluations, the Single Judge concluded that, based on the information and documentation and his disposal, the Protest lodged by the Guyana Football Federation had not met the requisite formal conditions as established under art. 14 par.3 of the WCPC Regulations read in conjunction with art. 46 of the FDC, and is therefore considered inadmissible.
22. In this regard, the Single Judge recalled that pursuant to art. 14 par. 8 of the WCPC Regulations, it is expressly stipulated that if any of the formal conditions of a protest as set out within said Regulations are not met, such protest shall be disregarded by the competent body.
23. As a result, the Single Judge concluded that the Protest lodged by the Guyana Football Federation shall be disregarded.
24. The Single Judge therefore determined that further consideration of the case file would not be required.
25. In accordance with the above, the Single Judge determined that all charges against the Respondent must be dismissed.

IV. DECISION

All charges against the Trinidad and Tobago FA are dismissed.

FÉDÉRATION INTERNATIONALE
DE FOOTBALL ASSOCIATION



Mr. Yasser Al-Misehal, Saudi Arabia

Disciplinary Committee

NOTE RELATING TO THE LEGAL ACTION:

This decision can be contested before the FIFA Appeal Committee (art. 57 of the FDC, 2019 edition). Any party intending to appeal must announce its intention to do so in writing within three (3) days of notification of the grounds of the decision. Reasons for the appeal must then be given in writing within a further time limit of five (5) days, commencing upon expiry of the first time limit of three (3) days (art. 56 par. 4 of the FDC, 2019 edition). The appeal fee of CHF 1,000 is payable on the submission of the appeal brief at the latest (art. 56 par. 6 of the FDC, 2019 edition).