

# Disciplinary Committee

Date: 09 August 2021

**FIFA**<sup>®</sup>

Sent to:  
Al Nasr SC

C.C:  
United Arab Emirates Football Association, Mr Claudio Cesare Prandelli

abdulrazzak.f@alnasr-club.ae; info.fc@alnasr-club.ae; alnasr.tms@hotmail.com

## Notification of the grounds of the Decision

Ref FDD-8394

Dear Sirs,

Please find attached the grounds of the decision passed in the aforementioned case by a member of the FIFA Disciplinary Committee on 01 July 2021.

The United Arab Emirates Football Association (in copy) is kindly requested to forward this decision to Al Nasr SC.

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

FIFA-Strasse 20 P.O. Box 8044 Zurich Switzerland  
Tel: +41 43/222 7777 - Email: [psdfifa@fifa.org](mailto:psdfifa@fifa.org)

# Decision of the FIFA Disciplinary Committee

passed on 01 July 2021

**DECISION BY:**

**Mr. Jose Ernesto Mejia, Honduras**

**ON THE CASE OF:**

**Al Nasr SC**

**(Decision FDD-8394)**

**REGARDING:**

**Failure to respect decisions (Article 15 FIFA Disciplinary Code)**

## 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 29 October 2019, the Single Judge of the FIFA Players' Status Committee rendered its decision, by which it ordered the club Al Nasr SC (hereinafter also as the Respondent) to pay the coach Claudio Cesare Prandelli (hereinafter: the Claimant) the following amounts:
  - Outstanding remuneration in the amount of **AED 72,000**, plus 5% interest *p.a* as from 20 August 2018 until the date of effective payment.
  - Compensation for breach of contract in the amount of **EUR 3,521,252.37** and **EUR 4,980.65** plus 5% interest *p.a.* as from 20 August 2018 until the date of effective payment.
  - The final costs of the proceedings in the amount of **CHF 5,000**.
3. The grounds of the aforementioned decision were notified to the parties on 4 March 2020.
4. On 25 March 2020, the Respondent lodged an appeal against the FIFA Players' Status Committee decision before the Court of Arbitration for Sport (CAS).
5. On 03 May 2021, the Court of Arbitration for Sport issued an award by means of which dismissed the appeal made by the Respondent and confirmed the abovementioned FIFA decision. Further, the aforementioned CAS award ordered the Respondent to make a contribution of **CHF 14,000** towards the legal costs and other expenses of the Claimant incurred in connection with the arbitration proceedings.
6. The aforementioned award has not been challenged before the Swiss Federal Tribunal and has therefore become final and binding upon the parties.
7. On 07 June 2021, as the outstanding amounts due to the Claimant were not paid, the latter requested the initiation of disciplinary proceedings against the Respondent.
8. On 09 June 2021, in light of the foregoing and as the aforementioned amounts were not paid to the Claimant, the Secretariat opened disciplinary proceedings against the Respondent for a potential failure to respect a decision passed by a body, a committee or an instance of FIFA or a CAS decision. In addition, the Respondent was informed that the case would be submitted to a member of the FIFA Disciplinary Committee for evaluation on 01 July 2021 and was invited to provide its position within six days of the notification of the opening of the disciplinary proceedings. Moreover, the Secretariat emphasized that the member of the FIFA Disciplinary

Committee would take a decision based on the documents in his possession, should the Respondent fail to submit any statement by the specified deadline.

## II. RESPONDENT'S POSITION

9. The position of the Respondent is summarized hereafter. However and for the sake of clarity, this summary does not purport to include every single contention put forth by the Respondent. Nevertheless, the member of the FIFA Disciplinary Committee 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 these arguments in the following outline of his position and in his ensuing discussion on the merits.
10. On 15 June 2021, the Respondent provided its position in relation to the disciplinary proceedings. The arguments brought forward by the Respondent can be summarised as follows:
- The Respondent indicated to *"really intends to pay the referenced outstanding amount to the Coach as soon as possible and as such, comply with the FIFA PSC Decision, it is undisputed that the former has no financial means to afford with such payment right now"*.
  - The Respondent mentioned that the FIFA Disciplinary Committee shall apply the principle of proportionality to the present matter since the Respondent falls under *"exceptional circumstances"*, in particular, that the Respondent is in a grim financial situation due to COVID-19 pandemic;
  - The Respondent stated that is *"in no condition whatsoever to pay the referenced outstanding amount at once to the Coach at this unprecedented juncture"*;
  - The Respondent has never denied the debt and is willing to settle the amounts to the Claimant;
  - Moreover, it indicated that offered a payment plan to the Coach but did not even acknowledge it;
  - The Respondent mentioned that *"will do its best to comply with the payments in an instalment basis to resolve the issue in an amicable manner as soon as possible"*;
  - In this sense, the Respondent said that *"would formulate another suitable payment plan for paying the amounts due"*.
11. The more detailed arguments made by the Respondent in support of his written submissions are set out below as far as they are relevant.

## III. CONSIDERATIONS OF THE DISCIPLINARY COMMITTEE

12. In view of the circumstances of the present matter, the member of the FIFA Disciplinary Committee (hereinafter also referred to as: Single Judge) decides to first address the procedural aspects of the

present matter, namely, his jurisdiction and the applicable law, before entering into the substance of the matter and assessing the possible failure of the Respondent to comply with the award passed by the Court of Arbitration for Sport as well as the potential sanctions resulting therefrom.

#### A. Jurisdiction and applicable law of the FIFA Disciplinary Committee

13. The Single Judge finds it worthwhile to emphasise that, on the basis of art. 53 par. 2 of the FIFA Statutes, the Disciplinary Committee may pronounce the sanctions described in the Statutes and the FDC on member associations, clubs, officials, players, intermediaries and licensed match agents.

14. With regard to the matter at hand, the Single Judge points out that the disciplinary offense, i.e. the potential failure to comply with the award of the Court of Arbitration for Sport, was committed after the 2019 FDC entered into force. As a result, he deems that the merits as well as the procedural aspects of the present case should fall under the 2019 edition of the FDC (hereinafter: the 2019 FDC).

15. Having established the above, the Single Judge wishes to recall the content and scope of art. 15 of the FDC in order to duly assess the case at hand:

*1. Anyone who fails to pay another person (such as a player, a coach or a club) or FIFA a sum of money in full or part, even though instructed to do so by a body, a committee or an instance of FIFA or a CAS decision (financial decision), or anyone who fails to comply with another final decision (non-financial decision), passed by a body, a committee, or an instance of FIFA, or by CAS:*

*a) will be fined for failing to comply with a decision; in addition:*

*b) will be granted a final deadline of 30 days in which to pay the amount due or to comply with the non-financial decision;*

*c) in the case of clubs, upon expiry of the aforementioned final deadline and in the event of persistent default or failure to comply in full with the decision within the period stipulated, a transfer ban will be pronounced until the complete amount due is paid or the non-financial decision is complied with. A deduction of points or relegation to a lower division may also be ordered in addition to a transfer ban in the event of persistent failure, repeated offences or serious infringements or if no full transfer could be imposed or served for any reason.*

*(...)*

*3. If the club disregards the final time limit, the relevant association shall be requested to implement the sanctions threatened.*

16. Moreover, in line with art. 54 par. 1 h) of the FDC, cases involving matters under art. 15 of the FDC may be decided by one member of the Disciplinary Committee alone, as in the present case.

17. Finally, the Single Judge emphasises that equal to the competence of any enforcement authority, he cannot review or modify the substance of a previous decision, which is final and binding and, thus, has become enforceable.
18. His jurisdiction being established and the applicable law determined, the Single Judge subsequently turns his attention to the award issued by the Court of Arbitration for Sport on 03 May 2021.

## B. Merits of the dispute

### I. Analysis of the facts in light of art. 15 FDC

19. As already established above, the award of the Court of Arbitration for Sport is final and binding, as neither party has challenged said award before the Swiss Federal Tribunal. Consequently, the Single Judge is not allowed to analyse the case decided by the Court of Arbitration for Sport as to the substance, i.e. to check the correctness of the amount ordered to be paid. The Single Judge has as sole task to analyse whether the Respondent complied with the final and binding award rendered by the Court of Arbitration for Sport.
20. In this respect, the Single Judge notes that the Respondent argues that offered a payment plan to the Respondent, which was rejected by the latter. Moreover, the Respondent indicates that *“would formulate another suitable payment plan”* and *“will do its best to comply with the payments in an instalment basis to resolve the issue in an amicable manner as soon as possible”*.
21. Against this background, the Single Judge first points out that a possible payment plan has to be agreed upon directly with the Claimant. As such, under no circumstances may the member of the Committee subrogate himself to the rights of the Claimant and impose a payment plan. Further, and according to the case file, the Single Judge duly takes note that no payment plan has been agreed between the parties.
22. Then, the Single Judge observes that the Respondent relied solely on the pandemic to explain its non-compliance with the CAS award but did not present any evidence establishing that it was prevented from making payments because of the pandemic.
23. Notwithstanding the above, the Single Judge finds it worthwhile to emphasize that a club has the duty to be aware of its actual financial strength, constitute provision in anticipation of possible issues and finally conclude contracts that can be fulfilled. In other words, the principle of *pacta sunt servanda* – more relevant in the context of contractual dispute *per se* – is of paramount importance for FIFA and a key issue to be protected among others by the Regulations on the Status and Transfer of Players.
24. To that end, the member of the Committee also wishes to refer to the content of art. 2 of the Swiss Civil Code, according to which *“[e]very person is bound to exercise his rights and fulfil his obligations according to the principle of good faith”*<sup>1</sup>. Thus, in accordance with CAS constant

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<sup>1</sup> CAS 2010/A/2144.

jurisprudence, a debtor cannot invoke its possible financial problems to be exempted from its obligations to pay sums due to a creditor<sup>2</sup>.

25. In this context, the Single Judge wishes to refer first to the FIFA publication of 2 April 2020 titled “COVID-19 – Football Regulatory Issues”.
26. In said publication, it was publicly indicated that *“although FIFA is fully aware of the potential financial difficulties of some clubs flowing from the obligation to comply with financial decisions rendered by the DRC, the PST or the Disciplinary Committee, no exceptions will be granted in this regard. Consequently, decisions passed by the above-mentioned judicial bodies must be respected by MAs, clubs, players and coaches without exception. FIFA will continue to apply article 15 of the FIFA Disciplinary Code in the event of failure to respect these decisions”*.
27. Consequently, the Single Judge deems that the arguments raised by the Respondent could not justify the fact that the amounts due to the Claimant in accordance with the CAS award had not been paid.
28. In light of all the above, the Single Judge concludes that the Respondent failed to comply with the aforementioned award, and is, consequently, withholding money from the Claimant. As a result, the Respondent is considered responsible of not complying with a financial decision under the terms of art. 15 of the 2019 FDC.
29. In other words, the Single Judge concludes that the Respondent, by its conduct as described above, violated art. 15 of the FDC and should be sanctioned accordingly.

## II. The determination of the sanction

30. With regard to the applicable sanctions, the Single Judge observes, in the first place, that the Respondent is a legal person, and as such can be subject to the sanctions described under art. 6 par. 1 and 3 of the FDC.
31. In these circumstances, the Single Judge underlines that the fine to be imposed under the above-referenced art. 15 par. 1 a) of the FDC in combination with art. 6 par. 4 of the FDC shall range between CHF 100 and CHF 1,000,000.
32. This being established, it is emphasized that the Respondent withheld the amounts unlawfully from the Claimant. Even FIFA’s attempts to urge the Respondent to fulfil its financial obligations failed to induce it to pay the amounts due to the Claimant.
33. In view of all the circumstances pertaining to the present case and by taking into account the outstanding amounts, the Single Judge regards a fine amounting to CHF 30,000 as appropriate. This amount complies with the Committee’s established practice, namely to the fines imposed in cases in which similar amounts were due.

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<sup>2</sup> Among other cases: CAS 2005/A/957; CAS 2004/A/1008; CAS 2006/A/1008; CA 2013/A/3358; CAS 2017/A/5117; CAS 2017/A/ 5496.

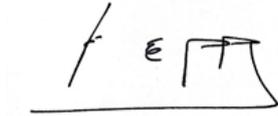
34. In application of art. 15 par. 1 b) of the FDC, the Single Judge considers a final deadline of 30 days as appropriate for the Respondent to settle the amounts due to be paid to the Creditor.
35. In accordance with art. 15 par. 1 c) of the FDC, the Respondent is hereby warned and notified that, in the case of default within the period stipulated, a transfer ban (at national and international level) will be automatically imposed until the complete amount due is paid.
36. For the sake of good order, the United Arab Emirates Football Association is hereby reminded of its obligation to automatically implement the transfer ban upon expiry of the final deadline without having received any proof of payment from the Respondent. In this respect, and for the sake of clarity, the United Arab Emirates Football Association is referred to art. 34 of the FDC in what concerns the calculation of time limits. Should the United Arab Emirates Football Association fail to automatically implement said sanction and provide the Secretariat with the relevant proof of implementation of the transfer ban at national level, disciplinary proceedings – which may lead to an expulsion from all FIFA competitions – may be opened against it.

## IV. Decision

1. **Al Nasr SC is found responsible for failing to comply in full with the award passed by Court of Arbitration for Sport on 3 May 2021.**
2. **Al Nasr SC is ordered to pay to the coach Claudio Cesare Prandelli as follows:**
  - **Outstanding remuneration in the amount of AED 72,000, plus 5% interest *p.a.* as from 20 August 2018 until the date of effective payment;**
  - **Compensation for breach of contract in the amount of EUR 3,521,252.37 and EUR 4,980.65 plus 5% interest *p.a.* as from 20 August 2018 until the date of effective payment;**
  - **Final costs of the proceedings in the amount of CHF 5,000;**
  - **Contribution of CHF 14,000 towards the legal costs and other expenses incurred in connection with the arbitration proceedings.**
3. **Al Nasr SC is granted a final deadline of 30 days as from notification of the present decision in which to settle said amount. Upon expiry of the aforementioned final deadline and in the event of persistent default or failure to comply in full with the decision within the period stipulated, a transfer ban will be pronounced until the complete amount due is paid or the non-financial decision is complied with. The transfer ban will be implemented automatically at national and international level by the United Arab Emirates Football Association and FIFA respectively, without a further formal decision having to be taken nor any order to be issued by the FIFA Disciplinary Committee or its secretariat. In addition, a deduction of points or relegation to a lower division may also be ordered in addition to a transfer ban in the event of persistent failure, repeated offences or serious infringements or if no full transfer could be imposed or served for any reason.**

- 4. Al Nasr SC is ordered to pay a fine to the amount of CHF 30,000. The fine is to be paid within 30 days of notification of the present decision.**

FÉDÉRATION INTERNATIONALE  
DE FOOTBALL ASSOCIATION



**Mr Jose Ernesto Mejia**

Disciplinary Committee

#### **NOTE RELATING TO THE TERMS OF THE DECISION:**

The judicial bodies may decide not to communicate the grounds of a decision and instead communicate only the terms of the decision. The parties have ten days from receipt of the terms of the decision to request, in writing, the grounds of the decision, and that failure to do so will result in the decision becoming final and binding (art. 51 of the FIFA Disciplinary Code).

#### **NOTE RELATING TO THE PAYMENT OF THE AMOUNT DUE:**

As a member of FIFA, the United Arab Emirates Football Association is reminded of its duty to implement this decision and provide FIFA with proof that the transfer ban has been implemented at national level. If the United Arab Emirates Football Association does not comply with this decision, the FIFA Disciplinary Committee will decide on appropriate sanctions on the member. This can lead to an expulsion from FIFA competitions.

The Respondent is directed to notify the secretariat to the FIFA Disciplinary Committee as well as the United Arab Emirates Football Association of every payment made and to provide the relevant proof of payment.

The Creditor is directed to notify the secretariat to the FIFA Disciplinary Committee as well as the United Arab Emirates Football Association of every payment received.

#### **NOTE RELATING TO THE BAN FROM REGISTERING NEW PLAYERS:**

The transfer ban shall cover all men eleven-a-side teams of the Respondent – first team and youth categories –. The Respondent shall be able to register new players, either nationally or internationally, only upon the payment to the Creditor of the total outstanding amount. In particular, the Respondent may not make use of the exception and the provisional measures stipulated in article 6 of the Regulations on the Status and Transfer of Players in order to register players at an earlier stage.

#### **NOTE RELATING TO THE PAYMENT OF THE FINE:**

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 case number above mentioned.