

Date: 09 May 2022

Sent to:
Mr. Javier SANCHEZ JARA
c/o Panamanian Football Association

Cc:
- Panamanian Football Association
- CONCACAF

Notification of the grounds of the Decision

Ref FDD-10808

Dear Madam, Dear Sir,

Please find attached the grounds of the decision passed in the aforementioned case by the Chairperson of the FIFA Disciplinary Committee on 21 April 2022.

The Panamanian Football Association (in copy) is kindly requested to forward this decision to Mr. Javier SANCHEZ JARA.

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 FIFA Disciplinary Committee

passed on 21 April 2022

DECISION BY:

Jorge Ivan PALACIO (Colombia), Chairperson

ON THE CASE OF:

Mr. Javier SANCHEZ JARA

(Decision FDD-10808)

REGARDING:

FIFA Disciplinary Code, Article 12 - Misconduct of players and officials

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 Chairperson of the FIFA Disciplinary Committee (**the Committee**) has thoroughly considered 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 30 March 2022, a match was played between the representative teams of Panama and Canada in Panama City (Panama – Attendance 8,325 spectators - Final score 1-0) in the context of the Preliminary Competition of the FIFA World Cup Qatar 2022™, CONCACAF Zone (**the Match**).
3. In this context, the referee of the Match indicated in his report (**Referee Report**) that the Panamanian Assistant Coach, *i.e.* the official Mr. Javier Sanchez Jara (**the Official** or **the Respondent**), had been sent off in the 84th minute of the Match. In particular, the referee reported the following in relation to the Official:

“Incidents caused by players or officials:

Yellow card was issued to Panama Assistant Coach, Javier Sanchez Jara, in the 15 minute for dissent by word and action. (...) In the 84 minute, Assistant Coach Javier Sanchez Jara was shown red card for deliberately leaving the technical area acting in a provactive and inflammatory manner toward the match officials.

Report on incidents:

In the 84 minute, Assistant Coach Javier Sanchez Jara was shown red card for deliberately leaving the technical area acting in a provactive and inflammatory manner toward the match officials.”

4. In addition, in relation to the above, the match commissioner of the Match reported the following in his report (**the MC Report**):

“Incidents caused by players or officials:

1. The Assistant Coach from Panama Javier Sanchez Jara, was cautioned in the 15th minute for dissent by word and action. In the 84th minute, Assistant Coach Javier Sanchez Jara from Panama was shown red card for leaving the technical area acting in a provactive manner toward the Match Officials.”

5. On 31 March 2022, in view of the foregoing, disciplinary proceedings were opened against the Respondent with respect to a potential breach of art. 12 of the FIFA Disciplinary Code (**FDC**). In particular, the Respondent was provided with the aforementioned reports and granted a deadline until 12:00 CET on 04 April 2022 to provide the Secretariat to the FIFA Disciplinary Committee (**the Secretariat**) with his position. Furthermore, the Respondent was informed that the case would be submitted to the FIFA Disciplinary Committee for evaluation on 07 April 2022.

II. RESPONDENT'S POSITION

6. On 06 April 2022, the Panamanian Football Association (**FEPAFUT**) provided the following position on the behalf of the Respondent (*free English translation*):
- The sending off of the Respondent is understood to be in light of art. 12 (1) (c) FDC even though at no time was there any “*incitement to referring error*” and the Respondent’s attitude was not intended to be inflammatory or provocative.
 - In the previous two (2) minutes of the Match, there was a discussion about a possible disallowed goal by the Canadian team. This goal, after being consulted by the referee through the VAR, was indeed disallowed and therefore the Respondent’s “*appeal*” was far from inciting refereeing error and rather sought to incite the “*referee’s own correctness*”, as there could have been an objective error if this play was not re-refereed.
 - The FEPAFUT has absolute respect for the referee’s decisions, however it is important that the Committee can assess the context of the play, and looking at the video footage of the Match it can be observed that the attitude of the Respondent was never aggressive or inflammatory, and accepts the referee’s decision.
 - The Respondent can only be seen to be questioning the linesman about the reason(s) for the referee’s decision.
 - The FEPAFUT therefore requested that it should be borne in mind that the Respondent did not seek to provoke an incorrect decision and it can be observed that his attitude was never aggressive towards the referee or the linesman.
 - The FEPAFUT requests that the circumstances as described above be taken into account in relation to the Respondent’s conduct when assessing a possible sanction and “*weighing it up*”.
7. The FEPAFUT, on the behalf of the Respondent, provided supporting video footage and supporting documentary and photographic evidence with regards to the Respondent’s position as outlined above.

III. CONSIDERATIONS OF THE DISCIPLINARY COMMITTEE

8. In view of the circumstances of the present matter, the Committee decided to first address the procedural aspects, namely, its 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

9. First of all, the Committee noted that at no point during the present proceedings did the Respondent challenge its jurisdiction or the applicability of the FDC.

10. Notwithstanding the above and for the sake of good order, the Committee found it worthwhile to emphasize that, on the basis of art. 2 (1) FDC read together with arts. 53 and 54 FDC, it was competent to evaluate the present case and to impose sanctions in case of corresponding violations.

B. Applicable law

11. In order to duly assess the matter, the Committee firstly began by recalling the content and the scope of the relevant provisions of the 2019 edition of the FDC, which was, in its view, the edition applicable to the present issue. In particular, the Committee considered that both the merits and the procedural aspects of the present case should be covered by the 2019 edition of the FDC.
12. Having established the above, the Committee wished to recall the content and scope of art. 12 FDC in order to duly assess the case at hand:

Art. 12 of the FDC – Misconduct of players and officials

1. Players and officials shall be suspended for misconduct as specified below and may be fined accordingly:

(...)

c) at least one match for officials who are sent off for dissent by word or action;

(...)

6. Additional disciplinary measures may also be imposed in all cases.

13. This being recounted, the Committee underlined that the abovementioned provision provides for the minimum disciplinary sanction(s) to be imposed on players or officials in cases of misconduct during a match. On top of the minimum sanction(s) to be imposed for a specific offence, the FIFA Judicial Bodies may impose additional disciplinary measures on the player or official concerned (cf. art. 12 (6) FDC in conjunction with art. 24 FDC).

C. Standard of proof

14. Firstly, the Committee recalled that the burden of proof lies with FIFA, which is required to prove the infringement under art. 36 (1) FDC.
15. Secondly, the Committee pointed out that, according to art. 35 (3) FDC, the standard of "*comfortable satisfaction*" is applicable in disciplinary proceedings. According to this standard of proof, the onus is on the sanctioning authority to establish the disciplinary violation to the comfortable satisfaction of the judging body, taking into account the seriousness of the allegation.
16. Finally, the Committee referred to art. 40 FDC, according to which the facts contained in the match officials' reports, as well as in the supplementary reports or correspondence submitted by the match officials, are presumed to be accurate, bearing in mind that proof of their inaccuracy may be provided.
17. Having clarified the foregoing, the Committee proceeded to consider the merits of the case.

D. Merits of the dispute

1. Issue of review

18. The relevant provisions having been recalled, and the above having been established, the Committee proceeded to analyse the evidence at its disposal, in particular the documentation and information provided in the scope of the present disciplinary proceedings, in order to determine the potential violations of the FDC.
19. In this context, the Committee recognised from the Referee Report that the Respondent had been sent off in the 84th minute of the Match. More specifically, the Committee acknowledged, in the words of the referee, that the Respondent had been sent off for *“deliberately leaving the technical area acting in a provocative and inflammatory manner toward the match officials”*.
20. Given the above, the Committee subsequently went on to examine the video footage available of the pertinent incident and took into account both the FEPAFUT and the Respondent’s submissions that:
 - i. the Respondent had no intention to incite the referee to error;
 - ii. the Respondent did not intend to be inflammatory or provocative in his attitude;
 - iii. the video footage demonstrates that the attitude of the Respondent was never aggressive or inflammatory and that he accepts the referee’s decision;
 - iv. the Respondent was only questioning the linesman about the reason(s) for the referee’s decision, the Respondent neither being aggressive towards said linesman.
21. In view of the foregoing, the Committee, having examined the video footage provided by the Respondent, firstly wished to point out that from the footage, the conduct which lead to the issuance of the red card by the Referee cannot be seen, the former only showcasing the point of the issuance of the red card to the Respondent in the 84th minute of the Match onwards, and not the action(s) and/or behaviour(s) of the Respondent which occurred prior to such point. Therefore, the Committee considered that the submission of the Respondent that the video footage demonstrates that the attitude of the Respondent was never aggressive or inflammatory may be disregarded, the footage not sufficiently demonstrating the aforementioned.
22. This being established, the Committee subsequently recalled that in any case, the decisions taken by the referee on the field of play are final and may not be reviewed by the FIFA Judicial Bodies in accordance with art. 9 (1) FDC and art. 14 (6) Regulations for the FIFA World Cup 2022™ Preliminary Competition.
23. Therefore, taking into account the above, the Committee considered itself bound by the assessment made by the referee as transcribed within his report, especially when considering that i) the match commissioner corroborated the assessment of the referee, the facts stated within the MC Report likewise being presumed to be correct pursuant to art. 40 FDC and; ii) the Respondent did not provide sufficient evidence demonstrating the inaccuracy of the Referee Report.

24. Furthermore, given the arguments brought forward by the Respondent and FEPAFUT, the Committee wished to emphasize that the fact that the Respondent may have had no intention of being inflammatory or provocative in his action(s) and/or attitude, was irrelevant when assessing the misconduct itself.
25. Consequently, after a careful analysis of the case file, with particular consideration being afforded to the descriptions/characterization of the incident at hand as denoted within the Referee report and corroborated by the MC Report, the Committee was satisfied that it fell within the scope of art. 12 (1)(c) FDC, and therefore should be sanctioned accordingly.

2. The determination of the sanction

26. In this context, the Committee observed in the first place that the Respondent was a natural person, and as such was subject to the sanctions described under art. 6 (1) and (2) FDC.
27. For the sake of good order, the Committee underlined that it is responsible to determine the type and extent of the disciplinary measures to be imposed in accordance with the objective and subjective elements of the offence, taking into account both aggravating and mitigating circumstances (art. 24 (1) FDC).
28. As established above, the Respondent was sent off by the referee, the incident falling within the scope of art. 12(1)(c) FDC and therefore should be sanctioned accordingly.
29. Given the above, the Committee pointed out that it is bound by the minimum sanctions foreseen under art. 12 (1)(c) FDC (which provides for a suspension of “*at least one match*” for such an offence – “*at least*” warranting that the imposed match suspension(s) may extend beyond that of one match), whilst also recounting that additional disciplinary sanctions may be imposed in accordance with art. 12 (6) FDC.
30. In this context, with respect to art. 12 (1) FDC, the Committee found it worthwhile to call to mind, that in accordance with the pertinent jurisprudence, that is to say, in similar cases decided by the Committee whereby infringement(s) of art. 12 (1) FDC had occurred, such infringement(s) can be seen to have incurred a fine of at least CHF 5,000 (such amount being within the range provided by art. 6 (4) FDC).
31. The above being established as a point of reference, the Committee subsequently observed that the Respondent presented a clean record with respect to the Preliminary Competition for the FIFA World Cup Qatar 2022™.
32. Nevertheless, the Committee deemed that it could not ignore (i) the fact that the Respondent is an experienced assistant coach and as such was (or should have been) fully aware of the potential consequences of his actions, (ii) that the Respondent had behaved and conducted himself in a manner unbefitting of an official, officials being expected to at all times to display exemplary professional attitudes and serve as role models for the football community, and, in particular; (iii) that the Respondent had demonstrated repeated behaviour in the course of the Match, the Respondent having previously received a yellow card in the 15th minute likewise for “*dissent by word or action*” as denoted within the Referee Report, such yellow card having ostensibly no admonishing or cautionary effect towards such behaviours of the Respondent, despite said official ‘warning’.

33. The Committee was therefore satisfied that these circumstances justified a match suspension higher than the minimum foreseen by art. 12 (1)(c) FDC.
34. With such considerations in mind, after a careful analysis of the video footage of the incident and in view of all the circumstances of the case, the Committee considered a suspension of two (2) matches and a fine of CHF 5,000 to be appropriate and proportionate to the offence committed, and in line with the jurisprudence and the provisions of the FDC.

IV. DECISION OF THE DISCIPLINARY COMMITTEE

- 1. The official Javier SANCHEZ JARA is suspended for two (2) matches, which will be served in accordance with art. 65 of the FIFA Disciplinary Code.**
- 2. The official Javier SANCHEZ JARA is ordered to pay a fine to the amount of CHF 5,000.**
- 3. The fine is to be paid within 30 days of notification of the present decision.**

FÉDÉRATION INTERNATIONALE
DE FOOTBALL ASSOCIATION



Jorge Ivan Palacio (Colombia)

Chairperson of the FIFA Disciplinary Committee

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.

NOTE RELATING TO THE LEGAL ACTION:

According to art. 58 (1) of the FIFA Statutes reads together with arts. 49 and 57 of the FDC, this decision may be appealed against before the Court of Arbitration for Sport (CAS). The statement of appeal must be sent to the 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 the CAS.