



Disciplinary Committee

Date: 11 May 2022

Sent to:

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Notification of the grounds of the Decision

Ref. FDD-10838

Dear Madam, Dear Sir,

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

The Saudi Arabian Football Federation (in copy) is kindly requested to forward this decision to its affiliated club, Al Nassr.

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

Fédération Internationale de Football Association

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Decision of the FIFA Disciplinary Committee

passed on 21 April 2022

DECISION BY:

Kia Tong LIM (Singapore), Member

ON THE CASE OF:

Al Nassr

(Decision FDD-10838)

REGARDING:

FIFA Disciplinary Code, art. 15 (Failure to respect decisions)

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 (**the Single Judge**) 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 his position and in the ensuing discussion on the merits.
2. On 25 October 2021, the Court of Arbitration for Sport (**CAS**), in an ordinary arbitration procedure, rendered an Arbitral Award upholding the claim filed on 06 November 2020 by Reis & Reis Advogados Associado (**the Claimant**) against the club Al Nassr (**the Respondent**).
3. In this respect, the CAS ordered the Respondent to pay to the Claimant as follows:
 - EUR 275,000 plus 5% interest *p.a.* as of 1 September 2019 until the date of effective payment.
 - CHF 5,000 as a contribution towards the legal costs and other expenses incurred in connection with the arbitration proceedings.
4. No challenge was lodged before the Swiss Federal Tribunal against the aforementioned CAS Award.
5. On 31 March 2022, as the outstanding amounts due to the Claimant by the Respondent were not paid, the legal representative of the Claimant requested the initiation of disciplinary proceedings and for sanctions to be imposed upon the Respondent for failure to comply with the CAS Award dated 25 October 2021 (**the CAS Award**).
6. On 07 April 2022, in light of the foregoing, and as the aforementioned amounts were not fully paid to the Claimant, the Secretariat to the FIFA Disciplinary Committee (**the Secretariat**) opened disciplinary proceedings against the Respondent. In this regard, the Respondent was informed that the case would be referred to the next meeting of the FIFA Disciplinary Committee on 21 April 2022, and was invited to provide its position within six days of the notification of the opening of the disciplinary proceedings.
7. On 12 April 2022, the legal representative of the Respondent requested an extension of the time-limit to provide its position by five (5) days.
8. On 13 April 2022, the Secretariat informed the Respondent that an extension until 18 April 2022 to provide its position had been exceptionally granted.

II. RESPONDENT'S POSITION

9. On 18 April 2022, the Respondent provided its position which can be summarized as follows:
- The Respondent is doing all it can to settle any possible debts with the Claimant under the CAS Award, and has contacted the Claimant to discuss the matter and in order to find a solution that is beneficial for all parties involved.
 - Under art. 15 FDC, FIFA holds the discretion not to impose a sanction such as a fine on the Respondent.
 - Any possible sanction imposed by the FIFA Disciplinary Committee must respect the principle of proportionality, as confirmed by the CAS (CAS 2020/A/6920).
 - Further, previous decisions must be taken into account by the FIFA Disciplinary Committee in order to determine the appropriate amount of fine, if at all imposed, on the Respondent.
 - Therefore, taking into account the amounts of fines previously imposed by the FIFA Disciplinary Committee against clubs in similar circumstances, if FIFA should decide to impose a fine on the Respondent, the amount of the fine must range between CHF 100 and CHF 12,000 in view of the alleged outstanding amounts due by the Respondent to the Claimant.
 - The Respondent therefore requests the Disciplinary Committee to decide to not impose any sanction on the Respondent or;
 - To decide that if a fine is to be imposed on the Respondent, the fine cannot be higher than CHF 12,000 in due consideration of the principle of proportionality.
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, had only referred to those observations and evidence for which he considered necessary to explain his reasoning.

III. CONSIDERATIONS OF THE DISCIPLINARY COMMITTEE

11. In view of the circumstances of the present matter, the Single Judge decided to first address the procedural aspects of the present matter, namely, his jurisdiction as well as the applicable law, before entering into the substance of the matter and assessing the possible failure of the Respondent to comply with the CAS Award as well as the potential sanctions resulting therefrom.

A. Jurisdiction of the FIFA Disciplinary Committee

12. 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**).

13. Notwithstanding the above and for the sake of good order, the Single Judge found it worthwhile to emphasize that, on the basis of arts. 53 and 54 FDC, he was competent to evaluate the present case and to impose sanctions in case of corresponding violations.
14. In addition, and on the basis of art. 51 (2) of the FIFA Statutes, the Single Judge may pronounce the sanctions described in the Statutes and the FDC on member associations, clubs, officials, players, intermediaries and licensed match agents.

B. Applicable legal framework

15. With regard to the matter at hand, the Single Judge pointed out that the disciplinary offense, *i.e.* the potential failure to comply with the CAS Award, was committed after the 2019 FDC entered into force. As a result, he deemed that the merits as well as the procedural aspects of the present case should fall under the 2019 edition of the FDC.
16. Having established the above, the Single Judge wished to recall the content and scope of art. 15 of the FDC in order to duly assess the case at hand.
17. According to this provision:
 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.*
18. Moreover, for the sake of good order, it is worth emphasizing that in line with art. 54 (1) (h) FDC, cases involving matters under art. 15 of the aforementioned code may be decided by one member of the Disciplinary Committee alone, acting as a single judge, as in the present case.

19. Following the above, the Single Judge next proceeded to recall that pursuant to art. 72 (2) FDC, the Disciplinary Committee may impose disciplinary measures for non-compliance with a final CAS award rendered in the context of an ordinary CAS procedure, provided that the respective CAS procedure was initiated after the entry into force of the FDC on 15 July 2019, as *in casu* (the Single Judge noting in this respect, that the CAS procedure in connection with the CAS Award had been initiated on 06 November 2020).
20. Finally, the Single Judge emphasized that, equal to the competence of any enforcement authority, he cannot review or modify as to the substance of a previous decision, which is final and binding, and thus has become enforceable.
21. His jurisdiction being established and the applicable law determined, the Single Judge subsequently turned his attention to the CAS Award.

C. Merits of the dispute

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

22. The above having been established, the Single Judge once again recalled that no challenge was lodged before the Swiss Federal Tribunal against the aforementioned CAS Award, which is enforceable.
23. In view of what has been explained above, the Single Judge is not allowed to analyse the case decided by the CAS as to the substance, in other words, to check the correctness of the amounts ordered to be paid, but has as a sole task to analyse if the Respondent complied with the award rendered by the CAS on 25 October 2021.
24. In this respect, the Single Judge acknowledged the submissions of the Respondent concerning: -
 - That the Respondent had contacted the Claimant and was attempting to settle any possible debts by way of a solution that is “*beneficial for all parties involved*”.
 - The Respondent requested the FIFA Disciplinary Committee to not impose any sanction, however should a fine be imposed, this fine must range between CHF 100 and CHF 12,000 in view of the principle of proportionality and fines imposed in previous decisions of the FIFA Disciplinary Committee.
25. Taking into account the foregoing, the Single Judge firstly considered the Respondent’s submission that it had contacted the Claimant and was attempting to reach a ‘beneficial solution’ regarding the settlement of any possible debt(s) of the former towards the latter, and began by observing from the case file that the Respondent did not provide any documentary evidence within in submissions which would duly corroborate and/or demonstrate that it indeed had made contact with the Claimant and was attempting to reach a settlement in connection with the CAS Award.

26. This being said, the Single Judge wished in any case to point out that the particulars of any potential payments of the amounts due must be determined independently between the parties and that any possible payment plan and/or settlement agreement has to be agreed upon directly with the Claimant, *in casu* Reis & Reis Advogados Associado, which at its own discretion may accept or reject the any settlement and/or payment plan proposed. In other words, the Claimant is completely free to choose, unencumbered and at its own volition, as to whether it may accept and/or reject any potential settlement and/or payment plan which may be proposed by the Respondent.
27. In addition to the above, the Single Judge underlined that the mere fact that the Respondent may have contacted the Claimant in order to discuss “*the matter*” so as to “*find a solution that is beneficial to all the parties involved*”, does not prevent or preclude the Respondent from its obligations under art. 15 FDC, and thereby, its obligations to make due payment of the outstanding amount(s) due to the Claimant in accordance with the enforceable CAS Award.
28. As such, in view of the above, the Single Judge considered that the arguments raised by the Respondent in this respect shall be disregarded, the fact that the Respondent may have contacted the Claimant in order to discuss a potential settlement having no bearing on its obligations and responsibilities under art. 15 FDC, and the Claimant in any event being under no obligation to reach and/or conclude a payment plan and/or settlement agreement with the Respondent, even should one have been proposed by the latter.
29. In these circumstances, the Single Judge observed that the Respondent had not provided any proof of payment, and neither had the Claimant confirmed receipt of the outstanding amounts.
30. Against this background, the Single Judge concluded that the Respondent had failed to pay to the Claimant the outstanding amounts due to it in accordance with the CAS Award and was therefore in breach of art. 15 FDC.
31. In view of the foregoing, the Single Judge concluded that the Respondent, by its conduct as described above, is considered guilty of non-compliance with a financial decision under the terms of art. 15 of the FDC.
32. This having been established, the Single Judge considered it appropriate that the submissions of the Respondent in connection with (i) its request that no disciplinary sanction be imposed against it and; (ii) that should a fine be imposed this fine must range between CHF 100 and CHF 12,000 in view of the principle of proportionality and fines imposed in previous decisions, be addressed under section ‘III. The determination of the sanction’ *infra*.

II. Summary

33. In view of the foregoing, the Single Judge concluded that the Respondent, by its conduct as described above, violated art. 15 of the FDC.

34. Therefore, the Single Judge considered that the Respondent is to be sanctioned for the abovementioned violation.

III. The determination of the sanction

35. With regard to the applicable sanctions, the Single Judge observed in the first place that the Respondent is a legal person, and as such was subject to the sanctions described under art. 6 (1) and (3) FDC.
36. In these circumstances, the Single Judge underlined that the fine to be imposed under the above-referenced art. 15 (1) (a) FDC in combination with art. 6 (4) FDC shall range between CHF 100 and CHF 1,000,000
37. This being established, the Single Judge 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 total amounts due. As such, the Single Judge concluded without reservation that the Respondent's request for no sanction to be imposed against it could not be accepted.
38. In continuation, in view of all the circumstances pertaining to the present case and taking into account the outstanding amounts, the Single Judge disagreed with the Respondent's submission that any fine to be imposed must range between CHF 100 and CHF 12,000 in view of the principle of proportionality and fines imposed in previous decisions, and instead regarded a fine amounting to CHF 20,000 as appropriate. The Single Judge observing that such amount indeed complies with the Disciplinary Committee's established practice, namely to the fines imposed in cases in which similar amounts were due and the principle of proportionality.
39. In application of art. 15 (1) (b) FDC, the Single Judge considered a final deadline of 30 days as appropriate for the amounts due to be paid to the Claimant.
40. In accordance with art. 15 (1) (c) 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 amounts due are paid. 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.
41. For the sake of good order, the Saudi Arabian Football Federation 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 Saudi Arabian Football Federation is referred to art. 34 FDC in what concerns the calculation of time limits. Should the Saudi Arabian Football Federation fail to automatically implement said sanction and provide the secretariat to the FIFA Disciplinary Committee 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 OF THE DISCIPLINARY COMMITTEE

- 1. Al Nassr is found responsible for failing to comply in full with the award issued by the Court of Arbitration for Sport on 25 October 2021 (Ref. CAS 2020/O/7433).**
- 2. Al Nassr is ordered to pay to Reis & Reis Advogados Associados as follows:**
 - EUR 275,000 plus 5% interest *p.a.* as of 1 September 2019 until the date of effective payment;**
 - CHF 5,000 as a contribution to its legal costs and other expenses incurred in connection with the arbitration proceedings.**
- 3. Al Nassr 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 Saudi Arabian Football Federation 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 Nassr is ordered to pay a fine to the amount of CHF 20,000.**
- 5. The fine is to be paid within 30 days of notification of the present decision.**

FÉDÉRATION INTERNATIONALE
DE FOOTBALL ASSOCIATION



Kia Tong LIM (Singapore)

Member of the FIFA Disciplinary Committee

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.

NOTE RELATING TO THE PAYMENT OF THE AMOUNT DUE:

As a member of FIFA, the Saudi Arabian Football Federation 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 Saudi Arabian Football Federation 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, Al Nassr, is directed to notify the secretariat to the FIFA Disciplinary Committee as well as the Saudi Arabian Football Federation of every payment made and to provide the relevant proof of payment.

The Creditor, Reis & Reis Advogados Associados, is directed to notify the secretariat to the FIFA Disciplinary Committee as well as the Saudi Arabian Football Federation 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.