

Decision of the FIFA Disciplinary Committee

passed on 18 July 2022

DECISION BY:

Thomas HOLLERER, Austria (Member)

ON THE CASE OF:

Honduran Football Association

(Decision FDD-11404)

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 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.

A. Factual background

2. On 25 February 2021, the FIFA Dispute Resolution Chamber rendered a decision (under ref. 20-00828/FPD-31– **the DRC Decision**) regarding an employment-related dispute concerning the player Mr. Roman Rubilio Castillo Alvarez, a Honduran national (**the Player**). In particular, the Player was ordered to pay compensation for breach of contract without just cause to the club Nantong Zhiyun FC (**the Creditor**), the intervening party, CD Saprissa (**Saprissa**), being held jointly and severally liable for the payment of the aforementioned compensation. In this respect, the Player was *inter alia* notified that:-

“7. In the event that the amount due as compensation, as established above is not paid by the player, Roman Rubilio Castillo Alvarez, to Nantong Zhiyun FC, within 45 days, as from the notification by the club of the relevant bank details to the aforementioned player, the following consequences shall arise:

1. *A restriction will be imposed on the player on playing in official matches up until the due amounts are paid. The overall maximum duration of the restriction, including possible sporting sanctions, shall be of six months on playing in official matches. (cf. art. 24bis of the Regulations on the Status and Transfer of Players)*
2. *CD Saprissa shall be banned from registering any new players, either nationally or internationally, up until the due amount is paid and for the maximum duration of three entire and consecutive registration periods. The aforementioned ban will be lifted immediately and prior to its complete serving, once the due amount is paid. (cf. art. 24bis of the Regulations on the Status and Transfer of Players).*
3. *In the event that the aforementioned amount payable as per in this decision is still not paid by the end of the aforementioned ban and restrictions, the present matter shall be submitted, upon request, to the FIFA Disciplinary Committee.”*

3. The grounds of the DRC Decision were duly communicated to the parties on 25 February 2021.
4. On 15 March 2021, Saprissa filed an appeal before the Court of Arbitration for Sport (**CAS**) against the Player, the Creditor and FIFA with respect to the DRC Decision (CAS 2021/A/7784).
5. On 17 March 2021, the Player filed an appeal before the CAS against the Creditor and FIFA with respect to the DRC Decision (CAS 2021/A/7792).
6. On 25 May 2021, the CAS pronounced a Termination Order with regards to the appeal of the Player (CAS 2021/A/7792), thereby terminating and removing the appeal procedure from the CAS roll.

7. On 31 May 2021, in light of the aforementioned Termination Order and as the amount(s) due by the Player to the Creditor in accordance with the DRC Decision had not been paid, the Creditor *inter alia* requested FIFA to implement a restriction from playing in official matches upon the Player for six (6) months in accordance with point 7. of the DRC Decision (**the Restriction**).
8. On 22 June 2021, in accordance with the DRC Decision and following the aforementioned request of the Creditor, the FIFA Secretariat informed the parties that the above-mentioned restriction on playing in official matches had been imposed upon the Player. In particular, the notification of the imposition of the Restriction in accordance with the DRC Decision against the Player was communicated to the Player's then legal representatives, the Honduran Football Association (**the Respondent** or **FENAFUTH**), the Bolivian Football Association (**FBF**), the Portuguese Football Federation, Sapriisa, the Creditor and the Creditor's Member Association (the Chinese Football Association).
9. On the same date (22 June 2021), following a request for clarification received from the Player, the FIFA Secretariat confirmed¹, the imposition of the aforementioned restriction against the Player. The communication was notified, *inter alia*, to the Player's then legal representatives, the Respondent, the Bolivian Football Association and to the Creditor.
10. On 18 January 2022, the Creditor *inter alia* reported to the FIFA Secretariat that the Player had not complied with the imposed restriction from playing in official matches in accordance with the DRC decision, as it seemed that he had been "*playing in official matches*" for "*his national team*" and "*on the Division Profesional (Bolivia first league) on behalf of Royal Pari Fútbol Club has from 10.07.2021 up 11.12.2021 (...)*". In addition, the Creditor stipulated that the Player had "*not paid any amount until the present day*".
11. On the same date (18 January 2022), the Respondent provided the Secretariat with further information which may be summarized as follows (*free English translation*):-
 - The Player was "*active in his club in Bolivia*" and it had wrongly assumed that he had already paid all his outstanding obligations as it received the notification of his sanction in June, more than eight (8) months prior, and unfortunately did not "*follow up on his situation*".
 - The Respondent had wrongly believed, in good faith, that the Player had "*already overcome his problem*" as he "*continued to play abroad*".
 - The Player will not be called up again under any circumstances to its national team until he "*resolves his situation with the Claimants and completes his sanction*".
 - The Respondent deeply regrets "*the situation*" and apologised for "*the mistake*" having "*acted in good faith at all times*".

¹ In light of the CAS Termination Order (cf. par. I. 6).

B. Procedural background

12. Based on the information received from the Creditor (cf. par. I.10 *supra*) and the Respondent (cf. par. I.11 *supra*), the Secretariat to the FIFA Disciplinary Committee (**the Secretariat**) conducted investigations with respect to the present matter.
13. The case file constituted by the Secretariat as well as the related findings contained in its report (**the Investigatory Report**) can be summarised as follows:
- i. Position of the FBF:

“The Player was transferred (on loan) from the club CD Tondela (Portugal) to the club Royal Pari (Bolivia) on 26 January 2021 until 31 December 2022.

- Due to an internal oversight, the FBF did not implement the FIFA DRC Decision.

- The FBF enclosed a report issued by the FBF's Competitions Department on 8 March 2022, according to which the Player was duly registered for the club Royal Pari FC on 26 January 2021 and participated in the following 22 matches as from 22 June 2021 until 22 December 2021:

Number of Matches	Date	Competition	Match
1	10 July 2021	División Profesional	Bolivar vs Royal Pari
2	17 July 2021	División Profesional	Royal Pari vs Blooming
3	21 July 2021	División Profesional	Guabira vs Royal Pari
4	25 July 2021	División Profesional	Royal Pari vs Real Potosi
5	30 July 2021	División Profesional	Royal Pari vs Independiente
6	5 August 2021	División Profesional	Royal Pari vs CA MCEPAL VINTO PALMA FLOR
7	9 August 2021	División Profesional	Wilstermann vs Royal Pari
8	15 August 2021	División Profesional	Royal Pari vs The Strongest
9	19 August 2021	División Profesional	Oriente Petrolero vs Royal Pari
10	22 August 2021	División Profesional	Royal Pari vs CA Nacional Potosi
11	11 September 2021	División Profesional	Real Santa Cruz vs Royal Pari
12	18 September 2021	División Profesional	Royal Pari vs San Jose
13	23 September 2021	División Profesional	Real Tomayapo vs Royal Pari
14	27 September 2021	División Profesional	Royal Pari vs Aurora
15	19 October 2021	División Profesional	Royal Pari vs Bolivar

16	23 October 2021	División Profesional	Bloomings vs Royal Paru
17	28 October 2021	División Profesional	Royal Pari vs Guabira
18	20 November 2021	División Profesional	Real Potosi vs Royal Pari
19	28 November 2021	División Profesional	Independiente vs Royal Pari
20	2 December 2021	División Profesional	Royal Pari vs Always Ready
21	5 December 2021	División Profesional	CA Mcepal Vinto Palma Flor vs Royal Pari
22	10 December 2021	División Profesional	Royal Pari vs Wistermann

ii. Position of the club Royal Pari FC (Bolivia):

“The Player was transferred from the Portuguese club CD Tondela to the club Royal Pari FC on 26 January 2021.

- The club Royal Pari FC did not know about the Player’s suspension dated 22 June 2021.

- The transfer system that the FBF’s uses (COMET) did not show any suspension for the Player within the season 2021, thus the club Royal Pari FC acted in good faith and fielded the Player. Moreover, the latter did not inform the club Royal Pari FC with regard to his suspension at any time.”

iii. Position of the Player:

“The FENAFUTH called the Player to play for the representative team of Honduras (...) while he had a suspension.

- FIFA approved the FENAFUTH’s call. In fact, the Transfer Matching System (TMS) did not contain any restriction imposed on the Player nor in the International Transfer Certificate (ITC).

- The FBF registered the Player for the club Royal Pari without any restriction nor the FBF and said club were notified of any disciplinary sanction on the Player.

- FIFA has not complied with Article 32 (4) of the FDC, Art 12 (2) of the Regulations on the Status and Transfer of Players (RSTP), and the Art 6 (6) of Annexe 3 of the RSTP.

- The Player declared to have acted all times in good faith and not being dully counselled by his former legal representatives. In particular, Mr Astor Shermon Henríquez Cooper, who did not communicate him the disciplinary sanction imposed on him by FIFA.

- The Player stated to have complied with the club Royal Pari’s orders and highlighted that, as a player, he is in attach to the club’s directives which, in case of non-compliance, could lead to disciplinary sanctions.

- *In light of the aforementioned, the Player indicated to not have any responsibility since he was induced to an error with respect to the interpretation of the abovementioned facts.*"

iv. Recommendation:

- *"(...) this Investigatory Report for the FIFA Disciplinary Department concludes that disciplinary proceedings should be opened against: (...) - The FENAFUTH for potential violation of Article 15 of the FDC (...)"*

C. Disciplinary proceedings

14. On 24 June 2022, based on the above, disciplinary proceedings were opened against the Respondent with respect to a potential breach of art. 15 of the FIFA Disciplinary Code (**FDC**). In particular, the latter was provided with the Investigatory Report and was granted a six-day deadline to provide the Secretariat with its position.

15. On 01 July 2022, the Respondent submitted its position.

II. RESPONDENT'S POSITION

16. The position received from the Respondent can be summarised as follows (*free English translation*):

- A series of factors combined to create confusion and misunderstanding on the part of the Respondent, so that the Player was called up and participated in two matches.
- On 22 June 2021, the Respondent received notification *via* email that the Player had been sanctioned with a restriction from playing in official matches until he fulfilled his obligation(s) towards the Creditor - the maximum duration of the Restriction being for six (6) months.
- The obligation of the Player to make the payment to the Creditor is the personal responsibility of the Player and only he is responsible for making the payment - it is not the responsibility of the Respondent – only the Player knows whether or not he has paid *"the sanction applied"*.
- The Respondent was aware that the Player had been transferred from the club CD Tondela to the club Royal Pari FC on 26 January 2021, and had played league matches for the latter club.
- The Player participated in matches in the local league of Bolivia and within the Investigatory Report it mentions that he participated in 22 matches in the period from 22 June 2021 to 22 December 2021.
- In view of the above, the Respondent did not know if the Player had paid his debt (with regards to the DRC decision) and as a result of the fact that he was participating in official matches with the club Royal Pari FC, the Respondent deduced that the Player was entitled to play.

- In the same vein, the Respondent, seeing that the Player was active with *"his team"* and participating in official games, summoned him to participate in matches for the Honduras national team by sending to FIFA the *"request for registration of the provisional list"*.
- In accordance with the applicable regulations, the Player was included on the list of players for the *"organisation of the Preliminary Phase"* and on 10 November 2021, the relevant FIFA Department acknowledged receipt of the application for registration.
- The Respondent at all times acted in good faith and was unaware that the sanction imposed on the Player was still in force as the Player was active *"in his Club"*, and, that the time of notification of the above-mentioned provisional list the Respondent was not informed of any sanction on the Player.
- The Player participated in official matches with the club Royal Pari FC of Bolivia, since at the time of the transfer and at no later time was the club notified that the Player had a disciplinary sanction, and in the TMS system the sanction was not described or imposed.
- The FBF sent a note from the club Royal Pari FC stating that at the time of registering and qualifying the Player to play in the 2021 tournament, Royal Pari FC had no knowledge of the disciplinary sanction against the Player as there was no sanction either in the FIFA TMS or the COMET system used by the FBF.
- In the same way, the Respondent *"has been surprised by all the miscommunication and mistakes that were made during the process"* since the Player did indeed participate in official matches despite his inclusion in the *"provisional list"* - the Respondent at no point being notified or alerted that there was a sanction imposed against the Player.
- Under no circumstances did the Respondent summon the Player with the intention of failing to comply with the Restriction, the Respondent always acting in good faith as demonstrated by its full support in the present proceedings.
- The mistake made was not intentional and was caused by the circumstances mentioned above, the fact that the Player was participating in matches for the Bolivian club Royal Pari FC led the Respondent to believe that the Player had already cleared his sanction - the Respondent not conceiving the idea that the Player or Royal Pari FC was in breach of the sanction imposed in accordance with the DRC decision - the former being reinforced by the Player's inclusion in the *"provisional list"* communicated to FIFA.
- The Respondent considers that a sanction should not be applied against it in view of the fact that at no time did it act with the intention of breaching the sanction or through negligence, the aforesaid being due to errors not attributable to the Respondent.
- In conclusion, the Respondent ratifies its position that due to an involuntary error and due to the circumstances of the case, the Restriction imposed on the Player in accordance with the DRC Decision was not complied with.

- In this respect, taking into consideration all the circumstances and facts of the case, the Respondent requests that it is determined that it is not responsible for non-compliance in view of the fact that it was an involuntary error.

III. CONSIDERATIONS OF THE COMMITTEE

17. In view of the circumstances of the present case, the Committee decided to first address the procedural aspects of the case, namely, its jurisdiction and the applicable regulatory framework, before proceeding to the merits of the case and determining the possible infringements as well as the potential sanctions resulting therefrom.

A. Jurisdiction of the FIFA Disciplinary Committee

18. 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.
19. Notwithstanding the above and for the sake of good order, the Committee found it worthwhile to emphasise that, on the basis of with arts. 53 and 54 FDC, it was competent to evaluate the present case and to impose sanctions in case of corresponding violations.
20. In addition, and on the basis of art. 51 (2) of the FIFA Statutes, the Committee 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

21. With regard to the matter at hand, the Committee pointed out that the disciplinary offense, *i.e.* the potential failure to respect a decision, was committed after the 2019 FDC entered into force. As a result, the merits as well as the procedural aspects of the present case should fall under the 2019 edition of the FDC.
22. Against such background, the Committee referred to art. 15 FDC which reads as follows:

Art. 15 of the FDC – Failure to respect decisions

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;

(...)

d) in the case of associations, 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, additional disciplinary measures may be imposed;

(...)

23. The wording of this provision is clear and unequivocal in so far that its main purpose is to ensure that (financial or non-financial) decisions passed by a body, a committee or an instance of FIFA or CAS are duly complied with. Any such breach shall result in the imposition of the measures listed under said provision.
24. 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.

C. Standard of proof

25. Firstly, the Committee recalled that the burden of proof lies with FIFA, which is required to prove the infringement under art. 36 (1) FDC.
26. 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.
27. Having clarified the foregoing, the Committee proceeded to consider the merits of the case.

D. Merits of the case

1. Issue(s) of review

28. 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.
29. In this context, as a preliminary remark, the Committee wished to emphasise that the DRC Decision – which was passed on 25 February 2021 – specifically provided that if the amount(s) due as compensation as denoted therein by the Player to the Creditor were not paid within the specified period of time, a "*restriction [would] be imposed on the [Player] on playing in official matches up until the due amounts are paid. The overall maximum duration of the restriction, including possible sporting sanctions, shall be of six months on playing in official matches. (cf. art. 24bis of the Regulations on the Status and Transfer of Players)*".

30. With the above in mind, the Committee subsequently turned its attention to FIFA's communications addressed *inter alia* to the Respondent on 22 June 2021. In particular, the Committee was eager to underline that the aforementioned communications were clear and left no room for interpretation, in so far that the Respondent was informed that the Restriction had been imposed against the Player in accordance with the DRC Decision - the imposition of the Restriction being expressly confirmed by the FIFA Secretariat in its latter communication of 22 June 2021, following a request for clarification from the Player (to which the Respondent also read in copy).
31. As such, the Committee was satisfied that the instructions provided to the Respondent *via* the abovementioned communications from FIFA in relation to the DRC Decision were unequivocal: the Player was restricted (and as such prevented) from playing in official matches as from 22 June 2021 "*up until the due amounts are paid*", the overall maximum duration of the Restriction being of "*six months on playing in official matches*".
32. Put differently, starting from 22 June 2021, the Player was not permitted to play in any official matches². The foregoing being up until, and unless, the amount(s) due to the Creditor in accordance with the DRC Decision would be paid or up until the said restriction had been served by the Player for the maximum duration of six months.
33. Against such background, the Committee subsequently observed from the information and/or documentation at its disposal that to date, no payment of the amount(s) due by the Player to the Creditor in accordance with the DRC Decision had been executed.
34. Therefore, summarising the above information, the Committee concluded that the Player was restricted from playing in official matches as from 22 June 2021 up until 22 December 2021 in accordance with the Restriction. In other words, and from the Respondent's perspective, the Player was not permitted to play in any official matches for the Respondent or otherwise during the aforementioned period of time.
35. With those elements in mind, the Committee however remarked from the case file before it that it appeared that the Player had, in particular, proceeded to participate in two (2) official matches for the national team of the Respondent (namely on 13 and 17 November 2021) *i.e.* during a period in which the Player was still serving the restriction from playing in official matches.
36. In this context, the Committee acknowledged that the Respondent did not contest that the Player had played those two (2) matches for the FENAFUTH national team, or that it had received notification *via* FIFA's abovementioned email(s) of 22 June 2021 of the Restriction imposed on the Player. To the contrary, the Respondent rather emphasised that (i) it did not know if the Player had paid his debt(s) in connection with the DRC Decision - the Player being the party responsible for making the relevant payment(s) and not the Respondent - and deduced that as a result of the fact that the Player had been participating in official matches for Royal Pari FC, the Player had cleared his sanction (*i.e.* the Restriction) and was entitled to play; (ii) it had summoned the Player to participate in official matches for its national team upon observing that the Player was active with "*his team*" and participating in

² RSTP June 2020 edn. Definition no. 5. - "*Official matches: matches played within the framework of organised football, such as national league championships, national cups and international championships for clubs, but not including friendly and trial matches.*"

official matches; (iii) it was unaware that the Restriction was still in force and at no point was alerted or informed of any sanction upon the Player, in particular at the time of its notification of the "request for registration of the provisional list" by means of which it summoned the Player; (iv) the Respondent always acted in good faith as demonstrated by its full support in the present proceedings and had no intention of failing to comply with the Restriction, the breach resulting from errors not attributable to the Respondent; (v) the Restriction against the Player was not described or imposed in the Transfer Matching System (**TMS**).

37. In these circumstances, given the arguments put forward by the Respondent, the Committee began by pointing out that in accordance with art. 60 (1) and (2) of the FIFA Statutes June 2019 edn., member associations agree to comply in full with any decisions passed by the relevant FIFA bodies – such as the DRC Decision – and are required to take every precaution necessary to ensure that their own members, such as the Player, comply with these decisions.
38. With the foregoing in mind and by way of continuation, the Committee next proceeded to emphasise that in accordance with art. 8 FDC infringements of the Code are punishable regardless of whether the said infringement(s) may have been committed deliberately or negligently. In particular, *"associations (...) may be responsible for the behaviour of their (...) players (...) even if the association (...) concerned can prove the absence of any fault or negligence"*.
39. As such, the Committee was settled in its opinion that the submissions of the Respondent pertaining to i) its supposed lack of awareness of (and incorrect conclusion(s) with regards to) the status of the Restriction imposed upon the Player, and; ii) its lack of intention of failing to comply in full with the Restriction imposed pursuant to the DRC Decision; may be disregarded. The Respondent having been responsible for ensuring that the Restriction imposed on the Player *as per* the DRC Decision was complied with and for taking *"every precaution necessary"* in this regard to ensure that the former would be the case – the Committee noting that at no point did the Respondent seek clarification and/or confirmation from FIFA's services as to the status of the Restriction imposed on the Player, the Respondent rather instead drawing its own (incorrect) conclusions on the basis of the Player's (again incorrect) participation in official matches for the Bolivian club Royal Pari FC and the alleged lack of notification of the ongoing Restriction prior to the Player's participation in the abovementioned matches for the Honduran national team. The foregoing being despite the Respondent having previously been informed *via* FIFA's above-mentioned communications that the Restriction would imposed for the *"overall maximum duration of (...) six months" or "up until the due amounts [in accordance with the DRC Decision were] paid"* – the Committee likewise remarking that the Respondent could not legitimately have assumed that the amounts due by the Player had been paid in the absence of any further communication from FIFA confirming as such.
40. Therefore, on account of the foregoing, the Committee concluded that the Respondent should have reasonably been aware of its duty to comply with the Restriction from playing in official matches imposed upon the Player, with any negligence and/or lack of intent on the part of the former not exonerating the Respondent from its responsibility to have complied with the Restriction and to have

not permitted the Player to play in official matches as from 22 June 2021 onwards in line with the DRC Decision.

41. With this being established, the Committee had no other alternative but to conclude that, by proceeding to allow the Player to participate in two (2) official matches for the Honduran national team whilst the latter was still serving the Restriction imposed by FIFA, the Respondent had failed to respect the DRC Decision and the subsequent order from FIFA, and, as such, had to be held liable for a breach of art. 15 FDC.
42. In this regard, for the sake of good order, the Committee recalled that the Court of Arbitration for Sport (**CAS**) had already confirmed that an association, although not being the party directly sanctioned by the relevant FIFA decision, may be considered to violate art. 15 FDC if it fails to comply with said decision *"and FIFA's subsequent clarifications"*⁴. This, whether such violation is committed *"intentionally, or at least utterly negligently"*.
43. Having determined the foregoing, in particular that the Respondent should be held liable for having breached art. 15 FDC, the Committee held that the latter had to be sanctioned accordingly.

2. Determination of the sanction

44. As a preliminary consideration, the Committee found it worthwhile to provide some context on the functioning of FIFA, the FIFA Disciplinary Committee and the mechanism for the implementation of the disciplinary measures. Such context is indeed important to understand the position of clubs within the organization of association football and, specially, the role that member associations play in the implementation of sanctions imposed by FIFA on their affiliated members.
45. In brief, association football follows a so-called "pyramidal" model: individual athletes (the football players) are registered with clubs, the clubs, in turn, are affiliated to (regional and/or national) football associations, and the national football associations are members of FIFA (an association under Swiss law). As a consequence, football clubs are not direct members of FIFA.
46. However, within the framework of Swiss association law, as well as in sports law in general, it is duly established that football clubs are, under the aforementioned circumstances, considered as "indirect members" of FIFA.
47. Due to such indirect membership, the individual clubs that are affiliated to a member association, are subject to and bound by the FIFA Statutes and all other FIFA rules and regulations as well as all relevant decisions of the FIFA bodies. In the current context, this specific indirect membership enables the FIFA Disciplinary Committee to pass decisions against clubs in line with the provisions of the FDC.
48. The aforementioned principle is embedded in both art. 14 (1) (d) of the FIFA Statutes (according to which, the member associations have the obligation *"to cause their own members to comply with the Statutes, regulations, directives and decisions of FIFA bodies"*) and art. 59 (2) of the FIFA Statutes (which

⁴ CAS 2020/A/7251

stipulates that member associations *"shall take every precaution necessary to ensure that their own members, players and officials comply with these decisions"*).

49. On account of the above, and as stipulated in art. 14 (1) of the FIFA Statutes, the member associations also have to comply fully with the Statutes, regulations, directives and decisions of the FIFA bodies and the CAS. In fact, this provision is of utmost importance as the whole football pyramidal model is underpinned by this principle, which has become even more relevant in the past decades due to the professionalization, commercialization and globalization of sport.
50. In this regard, the Committee was of the firm opinion that the only way to enhance and protect competitive balance between clubs competing in the same national leagues, and to ensure that the rights of all football stakeholders (clubs, players, coaches, player agents, etc.) are guaranteed and respected, is if FIFA and its member associations maintain a transparent relationship based on mutual trust.
51. In order for this relationship to work, it is crucial that member associations respect and comply with the FIFA regulations, as well as with the directives and decisions adopted by the FIFA bodies.
52. As a result, any failure to respect a FIFA rule, directive or decision is considered to be a very serious infringement as it jeopardizes the football game and the trust of all stakeholders in the system.
53. Such stance had been confirmed by CAS which deemed that a violation of art. 15 FDC by a member association is a *"serious violation that warrants a serious sanction"*⁵. In particular, the Panel *"concur[red] with FIFA that by flagrantly and intentionally, or at least utterly negligently, disrespecting the decisions and directive given by FIFA (...), the [Appellant] has put at risk the viability and effectiveness of the overall system put in place by FIFA to ensure that FIFA's and CAS' decisions are duly and timely respected by all football stakeholders"*, further emphasizing that *"[m]ember associations play an essential role in ensuring FIFA's mechanism is strictly applied and that sanctions are respected"*.
54. The above being clarified, the Committee subsequently recalled that the Respondent is a legal person, and as such subject to the sanctions described under art. 6 (1) and (3) FDC.
55. 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).
56. As established above, the Respondent was found liable for the failure to respect/comply with a decision passed by FIFA (art. 15 FDC).
57. In this respect, the Committee wished to express its appreciation for the cooperation of the Respondent in the present proceedings and took into account that the Respondent had articulated its regret for (*free English translation*) *"the situation that [had] occurred"* and had apologised for its

⁵ CAS 2020/A/7251

"mistake" which was the result of a *"misunderstanding"* on its part. The Committee however held that notwithstanding, it could not be disregarded that the Player had played in two (2) official matches for the Respondent's national team in contravention of the Restriction, and that such a violation – even if committed by negligence – is considered to be very serious in light of FIFA's principles and mechanisms, and that it needed to be sanctioned accordingly.

58. Given the above, the Committee recalled that anyone found in breach of art. 15 FDC – as is the case of the Respondent – shall *"be fined for failing to comply with a decision"*. In the case of associations, additional measures may also be imposed.
59. This being determined, the Committee 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.
60. As a result, in view of the above and in consideration of the entirety of the case file before it, the Committee held that a fine amounting to CHF 50,000 is to be considered appropriate and proportionate to the circumstances of the case. In particular, the Committee was satisfied that such amount would serve the necessary deterrent effect.
61. Lastly, in addition to the foregoing, the Committee considered it necessary in view of the fact that the Player had indeed proceeded to participate in two (2) official matches for the Respondent's national team despite the Restriction imposed, to pronounce an additional measure upon the Respondent.
62. In this respect, the Committee held that surplus to the above, the appropriate sanction to be imposed on the Respondent in relation to above-mentioned infringement would be a warning. In particular, the Committee was satisfied that such a measure was justified in view of the contextual elements of the present proceedings and would serve as a necessary reminder to the Respondent with regards to its obligation(s) to comply in full with decision(s) passed by the FIFA bodies or by the Court of Arbitration for Sport.

IV. DECISION OF THE DISCIPLINARY COMMITTEE

- 1. The Honduran Football Association is ordered to pay a fine to the amount of CHF 50,000 for failing to comply in full with a FIFA decision (ref. 20-00828/FPSD-31).**
- 2. The Honduran Football Association is warned on its future conduct.**
- 3. The fine is to be paid within 30 days of notification of the present decision.**

FÉDÉRATION INTERNATIONALE
DE FOOTBALL ASSOCIATION



Thomas HOLLERER

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 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.