

# Decision of the FIFA Appeal Committee

passed on 02 May 2024

## DECISION BY:

**Mr. Neil EGGLESTON (USA), Chairperson**

## ON THE CASE OF:

**Matej Jakubek (Slovakia)**

(Ref. FDD-18062)

## AGAINST:

**Decision of the Chairperson of the FIFA Disciplinary Committee passed on  
18 March 2024 (Ref. FDD-17665)**

## 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 Appeal Committee (**the Committee**) has thoroughly considered any and all evidence and arguments submitted, even if no specific or detailed reference has been made in the present decision.

### A. Proceedings before the FIFA Disciplinary Committee

2. On 06 July 2023, the *Senate for the Protection of Integrity for Competition of the Slovak Football Association* sanctioned the player Matej Jakúbek (**the Appellant** or **the Player**) and decided to impose a "suspension of the performance of sports for 30 months" on him based on art. 52 (4 b) and art. 36, (1 b and d) of the Slovak Football Association Disciplinary Rules (**SFA DC**), *i.e.*, manipulation of football matches and competitions.
3. In this respect, the Player filed an appeal against the aforementioned decision (**the SFA Decision**).
4. On 07 September 2023, the *Jury of Appeals of the Slovak Football Association* rendered a decision, by means of which it decided to reject the appeal brought by the Player. In this respect, the SFA Decision was confirmed and the 30-month suspension imposed on the Player was maintained.
5. On 23 February 2024, the Slovak Football Association (**SFA**) lodged a request *via* the FIFA Legal Portal, requesting the FIFA Disciplinary Committee to extend the SFA Decision to have worldwide effect.
6. On 13 March 2024, upon request of the Secretariat to the FIFA Disciplinary Committee, the SFA submitted *inter alia* the following documents and information:
  - I. an English translation of the SFA Decision;
  - II. a copy of an email by means of which the Player was summoned to a hearing before the *Senate for the Protection of Integrity for Competition of the Slovak Football Association*;
  - III. a copy of an email by means of which the decision on the appeal was notified to the legal representative of the Player;
  - IV. a copy of an email by means of which the Player was informed that the SFA Decision would be submitted to FIFA for a worldwide extension; and
  - V. confirmation that the 30-month suspension imposed on the Player began on 01 June 2023.
7. On 18 March 2024, the Chairperson of the FIFA Disciplinary Committee (**the Chairperson** or **the first instance**) decided to extend the sanction imposed on the Player so as to have worldwide effect in accordance with art. 70 FIFA Disciplinary Code (**FDC**) (**the Appealed Decision**).
8. On 22 March 2024, the grounds of the Appealed Decision were notified to the Appellant.

## **B. Proceedings before the FIFA Appeal Committee**

9. On 25 March 2024, the Appellant notified the Secretariat to the FIFA Appeal Committee (**the Secretariat**) about his intention to appeal the above decision.
10. On 29 March 2024, the Appellant submitted his appeal brief and provided proof of payment of the appeal fee.

## **II. APPELLANT'S POSITION**

11. The position of the Appellant can be summarised as follows:

### **A. Legal Basis**

#### ***a) Conflict with accepted standards of behaviour***

12. The SFA Decision was passed on 6 July 2023 and was confirmed by the *Jury of Appeals of the Slovak Football Association* on 7 September 2023. In particular, the SFA Decision was SFA's first precedent regarding positive incentives as a conduct influencing the integrity of a match.
13. The SFA should have immediately informed FIFA about such a decision but failed to do so. Therefore, the behaviour of the SFA in requesting an extension 7 months after the adoption of the SFA Decision could not have been reasonably expected.
14. As a result, the Appealed Decision violated art. 70 (5) (e) FDC as extending the SFA Decision conflicts with public order or with accepted standards of behaviour.

#### ***b) Absence of proper communication of the SFA Decision***

15. The Player's legal representative was, during the SFA's proceeding, on vacation from 07 July 2023 until 21 July 2023.
16. Without taking into account his request, the SFA communicated the SFA Decision via email to the legal representative on 14 July 2023.
17. This resulted in the violation of equality of arms as the legal representative was forced to submit the appeal via his mobile phone.
18. The notification of the SFA Decision cannot be considered as having been done properly, so that the requirement laid down in art. 70 (5) (c) FDC was not fulfilled.

***c) Violation of the principle of proportionality***

19. The worldwide extension of the sanction is clearly disproportionate to the fact that the Appellant is the first player in Slovakia to be found guilty of such conduct – *i.e.*, positive incentive by a third party to influence a match. However, for decades the SFA accepted such standards of behaviour.
20. As such, the worldwide extension of the ban is disproportionate to the conduct itself.

**B. Conclusion**

21. The behaviour of the SFA could not be reasonably expected and the Appealed Decision is not in line with art. 70 (5) (e) FDC.
22. The SFA Decision cannot be considered to have been communicated properly in accordance with art. 70 (5) (c) FDC.
23. The worldwide extension of the sanction is disproportionate.

**C. Prayers and requests**

24. The Appellant requests the FIFA Appeal Committee to:
- a) Uphold the present appeal;
  - b) Set aside the Appealed Decision;
  - c) Reject the request of the Slovak Football Association lodged *via* the FIFA Legal Portal on 23 February 2024 by means of which the FIFA Disciplinary Committee was requested to extend the SFA Decision;
  - d) Assign the costs and expenses of these proceedings, amounting to CHF 1,000, to FIFA;
  - e) Condemn FIFA to pay the legal expenses incurred by the Appellant in the present proceedings.

**III. CONSIDERATIONS OF THE APPEAL COMMITTEE**

25. In view of the circumstances of the present matter, the Committee first decided to address some key procedural aspects, including its competence to hear the present appeal and the admissibility of the said appeal, before entering into the substance of the case at stake.

**A. Competence of the FIFA Appeal Committee**

26. First, the Committee recalled that the procedural aspects of the matter at stake were governed by the 2023 edition of the FDC, in particular considering that the Appellant lodged the present appeal on 25 March 2024, *i.e.*, while the 2023 FDC was applicable.

27. In this context, the Committee pointed out that, on the basis of art. 70 FDC, the first instance decided to extend the sanction imposed on the Player so as to have worldwide effect.
28. In light of the above, the Committee considered that, in accordance with art. 60 read in conjunction with art. 61 FDC, it was competent to hear the appeal presented by the Appellant against the decision issued by the FIFA Disciplinary Committee on 18 March 2024.
29. This having been established, the Committee acknowledged that:
- i. The grounds of the Appealed Decision were notified on 22 March 2024;
  - ii. The Appellant communicated his intention to appeal on 25 March 2024;
  - iii. The Appellant submitted his appeal brief – together with the proof of payment of the appeal fee – on 29 March 2024;
  - iv. FIFA received the appeal fee.
30. In view of this, the Committee held that the requirements of art. 60 (3), (4) and (6) FDC were met, and therefore declared the present appeal admissible.

## **B. Applicable law**

31. In continuation, the Committee deemed that the present matter should be analysed in light of the 2023 edition of the FDC, which was the edition in force at the time of the events.
32. Specifically, the Committee paid special attention to art. 70 FDC as being of relevance in assessing the current matter, this without prejudice to other rules that may also be at stake.
33. Bearing the above in mind, art. 70 FDC constitutes the relevant provision to assess the present issue as it provides the applicable framework for “[e]xtending sanctions to have worldwide effect”. This provision reads as follows:

**“1.**

*If the infringement is serious, in particular but not limited to discrimination, manipulation of football matches and competitions, misconduct against match officials, or forgery and falsification, as well as sexual abuse or harassment, the associations, confederations, and other organising sports bodies shall request that the Disciplinary Committee extend the sanctions they have imposed so as to have worldwide effect (worldwide extension).*

(...)

**3.**

*The request shall be submitted in writing via the FIFA Legal Portal and enclose a true copy of the decision. It shall show the name and address of the person who has been sanctioned and that of the club and the association concerned as well as evidence that the person concerned has been informed that the sanction will be submitted for a worldwide extension.*

(...)

**5.**

*A worldwide extension will be approved if:*

- a) the person sanctioned has been cited properly;*
- b) they have had the opportunity to state their case (with the exception of provisional measures);*
- c) the decision has been communicated properly;*
- d) the decision is compatible with the regulations of FIFA;*
- e) extending the sanction does not conflict with public order or with accepted standards of behaviour.*

**6.**

*The chairperson of the Disciplinary Committee takes their decision, in principle, without deliberations or orally hearing any of the parties, using only the file.*

*(...)*

**8.**

*The chairperson is restricted to ascertaining that the conditions of this article have been fulfilled. They may not review the substance of the decision.*

**9.**

*The chairperson shall either grant or refuse to grant the request to have the sanction extended.*

*(...)*

**11.**

*If a decision that is not yet final in a legal sense is extended to have worldwide effect, any decision regarding extension shall follow the outcome of the association's or confederation's current decision."*

34. This means that for a decision sanctioning a serious infringement to be extended worldwide, (i) a written request from the relevant body must be received and (ii) the FIFA Disciplinary Committee – or at a later stage the FIFA Appeal Committee – must verify that the conditions listed in art. 70 (5) FDC are met.
35. However, the relevant FIFA judicial body is restricted to ascertaining whether the conditions under art. 70 (5) FDC have been fulfilled and may not review the substance of the decision requested to be extended (art. 70 (8) FDC). In particular, the Court of Arbitration for Sport (**CAS**) already clarified that the recognition of the merits of a national decision is based on a mutual trust, which would be undermined if FIFA was required to undertake a complete and de novo review of the decision to be extended.<sup>1</sup>

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<sup>1</sup> CAS 2015/A/4184 Jobson Leandro Pereira de Oliveira v. FIFA

36. Put differently, the *ratio legis* of the analysis of the five conditions contained in art. 70 (5) FDC is to protect and safeguard the rights of the sanctioned person, including, evidently, the right of the latter to a due process.
37. In this regard, a distinction can be made between the literals (a), (b) and (c) on the one hand, and (d) and (e) on the other hand, as CAS pointed out that “[w]hereas the first three conditions relate to the procedure before the hearing body that has issued the sanction (...), the last two relate to the decision itself (...)”.<sup>2</sup>
38. In particular, CAS further stated that FIFA is not entitled to review every single aspect of the procedure leading up to the decision. To the contrary, literals (a), (b) and (c) limit FIFA’s procedural review to the basic question whether the right to be heard has been respected by the body having rendered the decision to be extended. As regards literals (d) and (e), CAS found that these elements are properly to be interpreted as relating to a legal review only, and they should be limited to issues of fundamental importance that raise serious matters of a certain gravity.<sup>3</sup>
39. This being established, the Committee subsequently turned its attention to the merits of the present case.

### C. Merits of the case

40. Upon reading the Appealed Decision as well as the Appellant’s appeal brief, the Committee observed that the present case related to the extension of the sanction imposed by the *Senate for the Protection of Integrity of Competition of the Slovak Football Association* against the Appellant to have worldwide effect.
41. In this context, the Committee took note that the Chairperson of the Disciplinary Committee considered the requirements listed in art. 70 (5) were fulfilled, namely that the Appellant’s right to be heard had been respected by the *Senate for the Protection of Integrity of Competition of the Slovak Football Association* (cf. art. 70 (5) (a), (b) and (c) FDC) and that the SFA Decision complied with the relevant FIFA regulations and did not conflict with public order or with accepted standards of behaviour (cf. art. 70 (5) (d) and (e) FDC).
42. In particular, the Committee acknowledged from the Appealed Decision that the first instance considered that:
- i. *“The Player has been cited properly given that he was summoned to a hearing before the Senate for the Protection of Integrity for Competition of the Slovak Football Association;”*<sup>4</sup>

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<sup>2</sup> CAS 2015/A/4184 *op. cit.* – In this award, CAS referred to art. 137 of the previous edition of the Disciplinary Code (*i.e.* the 2011 edition). However, the Committee considered this award to be fully relevant given that the elements listed in art. 66 (5) of the [2019 edition] FDC remained identical to those listed in art. 137 of the [2011 edition] FDC.

<sup>3</sup> CAS 2015/A/4184 *op. cit.*

<sup>4</sup> Cf. email dated 14 June 2023 sent by the Secretary of the SKZ Disciplinary Commission to the Player.

- ii. *“The Player had had the opportunity to state his case, as it could submit his “Final Opinion” during the proceedings at national level, where the latter set out his arguments and proposed how the matter should be decided, also supporting his position through the aforementioned hearing<sup>5</sup>. Moreover, the latter appealed against the [SFA] Decision leading to the proceedings before the [SFA] Appeals Commission, which dismissed the appeal and confirmed the [SFA] Decision”.*
  - iii. *“The [SFA] Decision was communicated properly to the Player, as the latter could appeal it. Moreover, the decision issued by the [SFA] Appeal Commission was notified by email to the Player’s legal representative on 12 September 2023”.*
  - iv. The SFA Decision complies with the relevant FIFA regulations and does not conflict with public order or with accepted standards of behaviour.
43. Having acknowledged the main elements contained in the Appealed Decision, the Committee subsequently focused on the position submitted by the Appellant in the course of the present appeal procedure. In particular, the Committee noted that the Appellant claimed that:
- The behaviour of the SFA could not be reasonably expected, alleging that the Appealed Decision did not comply with art. 70 (5) (e) FDC;
  - The SFA Decision was not communicated properly;
  - The worldwide extension of the SFA Decision is disproportionate.
44. In view of the above, the Committee considered that it had to answer the questions below in deciding this appeal:
- a) Did the Slovak Football Association's application to extend the SFA Decision comply with art. 70 FDC?
  - b) Was the SFA Decision communicated properly?
  - c) Is the worldwide extension of the SFA Decision disproportionate?
- a) *Did the Slovak Football Association's application to extend the SFA Decision comply with art. 70 FDC?***
45. To begin with, the Committee acknowledged that the Appellant contended that the SFA's request for a worldwide extension seven (7) months after the issuance of the SFA Decision was unforeseeable and violated the principle of legal certainty.
46. The Committee, in examining the conduct of the Appellant, noted that the latter had fully complied with the terms of the SFA Decision. However, the fact that the Appellant had begun negotiations with new clubs outside Slovakia drew the attention of SFA, which requested FIFA to extend the ban worldwide in order to ensure that the sanction imposed was respected.

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<sup>5</sup> Cf. point 3 of the SFA Decision.



47. In this regard, the Committee held that the Appealed Decision at no point infringed art. 70 (5) (e) FDC, as the SFA's action when requesting FIFA to extend the sanction worldwide was in line with the usual procedure followed by member associations, as the purpose of the extension is to ensure fairness and the consistent application of disciplinary sanctions between the different member associations and confederations.
48. Finally, and for the sake of good order, the Committee highlighted that art. 70 FDC does not set any statutory deadline by which a request for a worldwide extension should be filed.
49. Therefore, the Committee decided to reject the first argument of the Appellant and confirmed that the SFA's request to extend the SFA Decision was in line with art. 70 FDC.

***b) Was the SFA Decision communicated properly?***

50. The above being established, the Committee subsequently examined the Appellant's contention that there was an absence of proper communication of the SFA Decision on the grounds that it was notified to his legal representative while the latter was on vacation.
51. In this context, and after analysing the Appellant's Appeal Brief, the Committee found that the SFA Decision was duly notified to the Appellant's legal representative *via* email on 14 July 2023, a fact not contested by the Appellant.
52. While the Committee acknowledged the circumstances surrounding the legal representative at the time of the SFA Decision's notification, it stressed that it was the legal representative's duty to manage ongoing cases and to make arrangements in case of absence. Legal representatives are expected to anticipate such situations and make appropriate arrangements, which may include delegating responsibilities.
53. Consequently, the Committee determined that the allegation that the SFA Decision had not been properly notified due to the vacation of the Appellant's legal representative cannot be considered a proper ground for a violation of the right to a fair procedure.

***c) Is the worldwide extension of the SFA Decision disproportionate?***

54. Lastly, the Committee considered that the Appellant's contentions as to the proportionality of the sanctions could be divided into two aspects, namely that the 30-month suspension imposed at national level was disproportionate and that the worldwide extension as such was also disproportionate.
55. As already mentioned, the first argument related to the substance of the SFA Decision, which cannot be reviewed by the FIFA Appeal Committee pursuant to art. 70 (8) FDC in the meaning that FIFA Judicial Bodies – the FIFA Disciplinary Committee first, and the FIFA Appeal Committee – are restricted to ascertaining that the conditions for the worldwide extension have been fulfilled and cannot review the merits of the decision, *in casu* the SFA Decision.

56. Turning to the issue that may be examined by the FIFA Appeal Committee, namely that the extension *per se* of the SFA Decision is disproportionate, the Committee considered it important to recall that the purpose of art. 70 FDC is to prevent a person sanctioned in a specific association from moving to another jurisdiction, *i.e.*, another member association, in order to avoid having to serve the sanction imposed by the “first” member association. This idea is expressed in art. 70 (10) FDC, which stipulates that “[a] *sanction imposed by an association or a confederation has the same effect in each association of FIFA, in each confederation and in FIFA itself as if the sanction had been imposed by any one of them*”.
57. Consequently, the Committee established that to consider that the worldwide extension of a decision would be disproportionate would be tantamount to rendering this provision inapplicable.
58. Finally, the Committee stressed that the CAS had already been called upon to rule on appeals against similar decisions based on art. 70 FDC and had never considered that the mere fact of extending a decision to have worldwide effect was disproportionate.<sup>6</sup>

#### **D. Conclusion**

59. As a result, the Committee concluded that the present appeal should be rejected, and the decision of the FIFA Disciplinary Committee should be confirmed in its entirety.

#### **E. Costs**

60. The Committee decided, based on art. 49 (1) FDC, that the costs and expenses of these proceedings amounting to CHF 1,000 shall be borne by the Appellant.
61. In this sense, since the Appellant has already paid the appeal fee of CHF 1,000, the costs and expenses of the proceedings are set off against this amount.

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<sup>6</sup> TAS 2021/A/7650 Club Atlético de Madrid S.A.D c. FIFA

## **IV. DECISION OF THE APPEAL COMMITTEE**

- 1. The appeal lodged by Mr Matej Jakubek against the decision notified by the Chairperson of the FIFA Disciplinary Committee on 18 March 2024 is dismissed. Consequently, said decision is confirmed in its entirety.**
- 2. The costs and expenses of these proceedings in the amount of CHF 1,000 are to be borne by Mr Matej Jakubek. The amount is set off against the appeal fee of CHF 1,000 already paid.**

FÉDÉRATION INTERNATIONALE  
DE FOOTBALL ASSOCIATION



**Neil Eggleston**

Chairperson of the FIFA Appeal Committee

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## LEGAL ACTION

According to art. 58 (1) of the FIFA Statutes reads together with art. 49 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.