

Disciplinary Committee

FIFA[®]

Date: 04 August 2024

Sent to:

Ms. Marta Vieira da Silva
Via Brazilian Football Confederation

Cc:

Brazilian Football Confederation

Notification of the grounds of the Decision

Ref. no. FDD-19032

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 2 August 2024.

The Brazilian Football Confederation (in copy) is kindly requested to forward this decision to Ms. Marta Vieira da Silva.

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 02 August 2024

DECISION BY:

Thomas HOLLERER (Austria), Member

ON THE CASE OF:

Marta VIEIRA DA SILVA
(Decision FDD-19032)

REGARDING:

Article 14.1.e of the FIFA Disciplinary Code (ed. 2023) - *Serious foul play*

I. FACTS

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 and in the ensuing discussion on the merits.

A. Facts of the case

2. On 31 July 2024, a match was played between the representative teams of Brazil and Spain (**the Match**) in the context of the Women's Olympic Football Tournaments - Games of the XXXIII Olympiad Paris 2024™- Final Competition (**OFT**).
3. In this context, the Referee indicated in his report (**the Referee Report**) that one of the players of the representative team of Brazil, Ms Marta Vieira da Silva (**the Player** or **the Respondent**), had been sent-off in the 45+6th minute of the Match for an offense type "H" (i.e. Serious foul play).
4. In particular, the Referee Report outlined the following (quoted *verbatim*):

"Player nr.10 Brazil was sent off min 45+6 for serious foul play. For a tackle where she endangering the safety of her opponent, with a high foot and showing studs."
5. Similarly, the Match Commissioner indicated in his report (**the Commissioner Report**) as follows (quoted *verbatim*):

"In the 45th+6 of the first half the player No 10 MARTA of Brazil was sent off for a serious fouls play. "
6. Based on the above, on 1 August 2024, the Secretariat to the FIFA Disciplinary Committee (**the Secretariat**) *inter alia* informed the Respondent that the aforementioned incident would constitute a potential breach of art. 14(1)(e) of the FIFA Disciplinary Code (**FDC**). In this respect, the Secretariat proposed the following sanction to the Respondent in accordance with art. 58 FDC as read in conjunction with Annexe 1 FDC:

The Respondent, Ms Marta VIEIRA DA SILVA, is suspended for two (2) matches, including the automatic match suspension which will be served during the match France v Brazil to be played on 3 August 2024. The remaining suspension will be served during the next official match(es) of the representative team of Brazil in the scope of the Women's Olympic Football Tournament Paris 2024 (where applicable).

7. On the same day (i.e., within the 2 days deadline granted by the Secretariat), the Respondent rejected the proposed sanction and requested regular disciplinary proceedings to be conducted.
8. On 2 August 2024, the Committee notified the terms of the present decision to the Respondent.
9. Later that same day, the Respondent requested the grounds of the decision.

II. Respondent's position

10. The Respondent's position submitted on 1 August 2024 can be summarised as follows:

- Based on the FIFA Laws of the Game (**LG**) the foul committed by the Respondent does not constitute a "serious foul play", but rather an "unsporting behaviour". In particular, the Respondent asserts that the foul was worthy of a yellow card under rule 12 LG, i.e. cautions for unsporting behaviour in instances where a player commits a direct free kick offense in a reckless manner. As such, the Respondent states the offense should be classified under art. 14.1.b of the FDC.
- The Respondent is of the opinion that the evidence provided, consisting of a picture of the play in question, should satisfy the Committee that no further sanctions are required.
- Although the play is unfortunate and there is contact with the opposing player, the Respondent had no intention to harm her or to endanger her safety. The Respondent always had eyes on the ball and was trying to dispute the ball legally. In the end, the tackle did not hurt or endanger the safety of the opponent, as she was able to continue playing without the assistance of medical staff.
- There are inaccuracies in the Referee's Report since the opposing player from the Spanish team lowered her head to waist level, which lessened the impact of the Respondent's high foot contact.
- In evaluating the circumstances of this case, several mitigating factors should be considered, namely (a) the Respondent's well-established reputation for fair play, (b) the absence of injury to the opposing player and (c) the fact that the Respondent has never been disciplined for violent conduct. The Respondent equally underlines that the Spanish players publicly recognized that the foul was not a violent one.
- The Respondent accordingly requests the closure of the proceedings without any additional match suspensions or disciplinary measures, considering that the Player has already been punished with an automatic match suspension.

III. CONSIDERATIONS OF THE DISCIPLINARY COMMITTEE

11. 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

12. 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.

13. 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. 55 and 56 FDC, it was competent to decide on the present matter.

14. In addition, the Committee recalled that, in line with art. 58 FDC, where a party rejects the proposed sanction from the Secretariat, the matter shall be referred to it for a formal decision to be rendered.

15. Moreover, in line with art. 57(1)(a) FDC, the Committee found that a member of the Committee can rule on the matter alone as a single judge.

16. In view of the above, the Committee confirmed that it was competent to evaluate the present case and to impose sanctions in case of corresponding violation(s).

B. Applicable law

17. In continuation, the Committee deemed that the substance of the matter should be analysed under the 2023 edition of the FDC, which was the edition in force at the time of the incident in question, i.e. the foul committed by the Respondent at the Match.

18. The Committee made special attention to art. 14 FDC ("*Misconduct of players and officials*") as being of relevance in assessing the current matter, which reads:

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

(...)

e) at least two matches for serious foul play;

(...)".

19. This being recounted, the Committee underlined that art. 14.1 FDC provides for the (minimum) disciplinary sanction(s) to be imposed on players or officials in case of misconduct during a match.
20. Indeed, and in line with art. 14.6 FDC, the competent FIFA judicial body may decide to impose additional disciplinary measures on the player or official concerned (on top of the minimum (sporting) sanction(s) to be imposed for a specific offence as per art. 14.1 FDC).

C. Standard of proof

21. The above being recounted, the Committee recalled that the burden of proof lies with FIFA, which is required to prove the infringement under art. 41.1 FDC.
22. Secondly, the Committee pointed out that, according to art. 39.3 FDC, the standard of proof to be applied in FIFA disciplinary proceedings is that of “comfortable satisfaction”. In other words, 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(s).
23. Finally, the Committee referred to art. 40 FDC, according to which the facts contained in the match officials' reports and in any additional reports or correspondence submitted by them are presumed to be accurate, bearing in mind that proof of their inaccuracy may be provided.
24. Having clarified the foregoing, the Committee proceeded to consider the merits of the case.

D. Merits of the dispute

I. Issue of review

25. The Committee started to analyse the evidence at its disposal, specifically the Referee Report and the images and videos of the foul at issue, to determine the potential violations of the FDC.
26. In this context, the Committee acknowledged from the Referee Report and the Commissioner Report that the Respondent had been sent off in the 45+6th minute of the Match for an offense type “H”, which, according to the same reports, corresponds to a “serious foul play”. The Committee further took into consideration the description made in the Referee Report of the offense in question.
27. With this in mind, after looking at the images and videos of the incident at its disposal, the Committee noted that the Respondent made a high tackle, raising her leg, with cleats up and partially hitting the opposing player, endangering her safety.

28. Against such background, the Committee acknowledged that the Respondent challenged the qualification of the incident as made by the referee, explaining that (i) she had no intention to harm the opposing player or endanger her safety, and (ii) the tackle did not result in an actual injury to the opponent, so that the foul at hand should be qualified as “unsporting behaviour towards an opponent” as per art. 14(1)(b) FDC, and not a “serious foul play”.
29. In these circumstances, after careful analysis of the images and videos of the incident, the Committee saw no legitimate reason to depart from the assessment made by the referee and could not agree with the Respondent’s submission that the incident at hand had to be seen as an unsporting behaviour. Contrary to what Respondent suggests, the LG does not require intentionality or an actual injury for a foul to qualify as a “serious foul play”. The LG defines a “serious foul play” as *“a tackle or challenge that endangers the safety of an opponent or uses excessive force or brutality”*, which matches with precision the description of the play in question.
30. Notwithstanding the above and for the sake of good order, the Committee wished to recall that, in accordance with art. 9.1 FDC, the decisions taken by the referee on the field of play are final and may not be reviewed by the FIFA Judicial Bodies.
31. Therefore, the Committee considered that, in any event and as a general rule, it was bound by the assessment made by the referee as transposed in his Referee Report.
32. Consequently, the Committee was comfortably satisfied to conclude that the incident at stake fell within the scope of art. 14(1)(e) FDC and should be sanctioned accordingly.

II. The determination of the sanction

33. 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 arts. 6.1 and 6.2 FDC.
34. As established above, the Respondent was sent off by the referee for a serious foul play, meaning that her misconduct should be sanctioned in accordance with art. 14(1)(e) FDC, which provides for a minimum suspension of two matches for such an offence. Moreover, the Committee pointed out that it is bound by the minimum sanctions foreseen under this provision.
35. This being established, the Committee recalled that in line with art. 14(6) FDC, additional disciplinary measures may be imposed on top of said sporting sanction.
36. Against such background, 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. 25(1) FDC).

37. This being said, the Committee acknowledged the Respondent's statements that she had no prior record of discipline for violent conduct in her professional career and that she had no intention to harm her opponent. The Committee further took into consideration the fact that the Respondent is one of the most accolated players in the history of football (including both the men's and woman's game) and has had an unparallel and pioneering career, which is commendable.
38. In view of this, and after a careful analysis of the evidence at its disposal, the Committee considered that there was no reason to deviate from the minimum sanction under the applicable provision, namely a suspension of two (2) matches, and concluded it was appropriate and proportionate to the offence committed.

Decision

- 1. The Respondent, Marta Vieira da Silva, is suspended for two (2) matches, including the automatic match suspension which shall be served during the match France v. Brazil to be played on 3 August 2024 in the frame of Women's Olympic Football Tournament Paris 2024. The remaining suspension will be served during the next official match of the representative team of Brazil, irrespective of the competition, in accordance with art. 69 par. 1 and 2.e of the FIFA Disciplinary Code.**

FÉDÉRATION INTERNATIONALE
DE FOOTBALL ASSOCIATION



Thomas Hollerer (Austria)
Member of the FIFA Disciplinary Committee

NOTE RELATING TO THE GROUNDS OF THE DECISION:

According to art. 61(1)(c) of the FDC, read together with arts. 47(2) and 50(3) of the FIFA Statutes, this decision is final and binding and may not be appealed to the FIFA Appeal Committee or the Court of Arbitration for Sport (CAS).