

Date: 16 May 2022

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Caykur Rizespor
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Notification of the grounds of the Decision

Ref. FDD-10559

Dear Sirs,

Please find attached the grounds of the decision passed in the aforementioned case by a member of the FIFA Disciplinary Committee on 24 March 2022.

The Portuguese Football Federation (in copy) is kindly requested to forward this decision to its affiliated club, Boavista FC.

We would appreciate your taking due note of this decision and ensuring its implementation.

Yours faithfully,

FIFA



Carlos Schneider
Director of the FIFA Judicial Bodies

Decision of the FIFA Disciplinary Committee

passed on 24 March 2022

DECISION BY:

Paola LOPEZ BARRAZA (Mexico), Member

ON THE CASE OF:

Boavista FC, Portugal

(Decision FDD-10559)

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 (hereinafter: “the Committee”) has thoroughly considered any and all evidence and arguments submitted, even if no specific or detailed reference has been made to those arguments in the following outline of its position and in the ensuing discussion on the merits.
2. On 14 December 2021, the FIFA general secretariat provided the clubs Boavista FC (hereinafter also referred to as: ‘*the Respondent*’) and Caykur Rizespor (hereinafter also referred to as: ‘*the Claimant*’) with a proposal related to the distribution of the solidarity contribution in connection with the registration of the player Chidozie Collins Awaziem with the Respondent (Ref. TMS 9503).
3. This proposal was made in accordance with art. 20 of the Procedural Rules Governing the Football Tribunal (hereinafter, “*the Procedural Rules*”), meaning that the aforementioned clubs had to accept or reject the proposal within the time limit granted by the FIFA general secretariat, i.e. by 17 January 2022 in the present case. In addition, it was clearly indicated that should the parties accept the proposal, or should they fail to provide an answer to the FIFA general secretariat within the stipulated deadline, a confirmation letter would be issued and the proposal would become a final and binding decision.
4. On 26 January 2022, as both parties – explicitly or tacitly – accepted the aforementioned proposal, the FIFA general secretariat informed the parties, by means of a confirmation letter, that the proposal had become binding and constituted a final and binding decision (hereinafter “*the FIFA Decision*”) on all parties pursuant to the FIFA Regulations on the Status and Transfer of Players (RSTP). In particular, the Respondent was ordered to pay to the Claimant **the amount of EUR 3,510 as solidarity contribution** plus interest as follows:
 - 5% interest per annum on the amount of EUR 614.25 as from 25 October 2020 until the date of effective payment; and
 - 5% interest per annum on the amount of EUR 2,895.75 as from 27 February 2021 until the date of effective payment.
5. In addition, the confirmation letter specified that the payment, including any applicable interest, had to be made within 30 days as from notification of the said letter, failing which the Claimant could request the submission of the case to the FIFA Disciplinary Committee for consideration and formal decision.
6. On 8 March 2022, the Claimant requested the opening of disciplinary proceedings as the aforementioned amount had not been paid by the Respondent.
7. In light of the foregoing, on 9 March 2022, the Secretariat to the FIFA Disciplinary Committee (hereinafter, “*the Secretariat*”) opened disciplinary proceedings against the Respondent for the potential breach of art. 15 FDC. In this regard, the Respondent was informed that the case would be referred to the next meeting of the FIFA Disciplinary Committee on 24 March 2022 and was invited to provide its position within six days of the notification of the opening of the disciplinary

proceedings. Moreover, the Secretariat emphasized that the FIFA Disciplinary Committee would take a decision based on the documentation in its possession, should the Respondent fail to submit its position by the specified deadline.

8. Following the opening of disciplinary proceedings, no further correspondence was received from either party.

II. CONSIDERATIONS OF DISCIPLINARY COMMITTEE

9. In view of the circumstances of the present matter, the Committee decided first to address the procedural aspects of the case, namely its jurisdiction and the applicable law. Secondly, the nature of the proposal from the FIFA general secretariat should be discussed before proceeding to the merits of the case and determining the possible failure to comply with the FIFA Decision as well as the potential sanctions resulting therefrom.

A. Jurisdiction of the FIFA Disciplinary Committee

10. First of all, the Committee noted that at no point during the present proceedings did the Respondent challenge his jurisdiction or the applicability of the FIFA Disciplinary Code.
11. Notwithstanding the above and for the sake of good order, the Committee found it worthwhile to emphasize that, on the basis of art. 53 (2) of the FIFA Statutes, the Committee may pronounce the sanctions described in the Statutes and the FIFA Disciplinary Code on member associations, clubs, officials, players, intermediaries and licensed match agents.

B. Applicable legal framework

12. With regard to the matter at hand, the Committee pointed out that the disciplinary offense, *i.e.* the potential failure to comply with the FIFA Decision, was committed after the 2019 edition of the FIFA Disciplinary Code (hereinafter, "*the 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 ed. of the FDC.
13. Having established the above, the Committee wished to recall the content and scope of art. 15 FDC in order to duly assess the case at hand.
14. 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.*

15. 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, as in the present case.
16. Finally, the Committee emphasized that, equal to the competence of any enforcement authority, it cannot review or modify as to the substance a previous decision, which is final and binding, and thus has become enforceable.
17. Its jurisdiction having been established and the applicable legal framework determined, the Committee subsequently turned its attention to the confirmation letter dated 26 January 2022.

C. Nature of the confirmation letter

18. The Committee observed that the present disciplinary proceedings referred to a potential failure by the Respondent to comply with a FIFA Decision dated 26 January 2022, which resulted from a proposal made by the FIFA general secretariat on 14 December 2021 in accordance with art. 20 of the Procedural Rules [ed. October 2021].
19. This provision provides that in disputes without *prima facie* complex factual or legal issues, or in cases where there is clear established jurisprudence, the FIFA general secretariat is entitled to make a written proposal to the parties to finalise the matter without a decision having to be issued by a chamber of the Football Tribunal. Moreover, the parties to the procedure, upon receipt of a proposal from FIFA, must either accept or reject it within the time limit granted by the FIFA general secretariat. Thus, if a party does not respond to the proposal, that party will be deemed to have accepted said proposal in accordance with art. 20 (3) of the Procedural Rules.
20. In addition, art. 20 (4) of the Procedural Rules specifies that where a proposal is accepted, a confirmation letter shall be issued and said letter shall be considered a final and binding decision pursuant to the Regulations on the Status and Transfer of Players (RSTP).

21. In view of the above, the Committee concluded that the correspondence sent by the FIFA general secretariat on 26 January 2022 was a confirmation letter within the meaning of art. 20 (4) of the Procedural Rules, since (i) it informed the parties that the FIFA's proposal constituted a final and binding decision for all parties pursuant to the RSTP and (ii) it ordered the Respondent to pay a specified amount to the Claimant within a period of 30 days, failing which the matter could be submitted to the Disciplinary Committee for consideration and decision at the Claimant's request.
22. Thus, the Committee found it evident that, given its content, the confirmation letter dated 26 January 2022 was to be regarded as a decision by virtue of art. 20 (4) of the Procedural Rules, and was therefore enforceable before the competent body.
23. The foregoing being clarified, the Committee turned its attention to the possible non-compliance of the Respondent with the FIFA Decision dated 26 January 2022.

D. Merits of the dispute

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

24. In this context, the Committee noted that, on 26 January 2022, the parties were duly informed by means of a confirmation letter that the proposal issued by the FIFA general secretariat on 14 December 2021 had become binding in accordance with art. 20 of the Procedural Rules. Moreover, and as outlined above, the Committee recalled that this confirmation letter is to be considered a final and binding decision, which should therefore be respected by all parties bound by it.
25. Furthermore, the Committee pointed out that its only task is to analyse whether the Respondent has complied with the decision at stake, but it cannot consider its substance, i.e. it cannot review or check the correctness of the amount to be paid as determined in the decision in question¹.
26. In view of the above, the Committee noted that following the opening of disciplinary proceedings for possible non-compliance with the FIFA Decision, the Respondent neither provided a position nor submitted any proof that the amounts due in accordance with the FIFA Decision had been paid.
27. Similarly, the Claimant did not confirm the receipt of the outstanding amounts or that the debt had been settled.
28. In light of all of the above, the Committee concluded that the Respondent did not comply in full with the FIFA Decision dated 26 January 2022 and is consequently withholding money from the Claimant. As a result, the Respondent is considered guilty of non-compliance with a financial decision under the terms of art. 15 FDC.
29. In view of the foregoing, the Committee concluded that the Respondent, by its conduct as described above, breached art. 15 FDC and had to be sanctioned for the abovementioned infringement.

¹ CAS 2018/A/5779

II. The determination of the sanction

30. With regard to the applicable sanctions, the Committee observed in the first place that the Respondent was a legal person, and as such could be subject to the sanctions described under art. 6 (1) and (3) FDC.
31. In these circumstances, 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.
32. This being established, it is 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.
33. In view of all the circumstances pertaining to the present case and taking into account the outstanding amounts, the Committee regarded a fine amounting to CHF 1,000 as appropriate. This amount complies with the Committee's established practice, namely to the fines imposed in cases in which similar amounts were due.
34. In application of art. 15 (1) (b) FDC, the Committee considered a final deadline of 30 days as appropriate for the amounts due to be paid to the Claimant.
35. 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.
36. For the sake of good order, Portuguese 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, Portuguese Football Federation is referred to art. 34 FDC in what concerns the calculation of time limits. Should Portuguese 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.

III. DECISION OF THE DISCIPLINARY COMMITTEE

- 1. Boavista FC is found responsible for failing to comply in full with the FIFA decision rendered on 26 January 2022 (Ref. TMS 9503).**
- 2. Boavista FC is ordered to pay to Caykur Rizespor as follows:**
 - **EUR 3,510 plus interest as follows:**
 - **5% interest per annum on the amount of EUR 614.25 as from 25 October 2020 until the date of effective payment;**
 - **5% interest per annum on the amount of EUR 2,895.75 as from 27 February 2021 until the date of effective payment;**
- 3. Boavista FC 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 Portuguese 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. Boavista FC is ordered to pay a fine to the amount of CHF 1,000.**
- 5. The fine is to be paid within 30 days of notification of the present decision.**

FÉDÉRATION INTERNATIONALE
DE FOOTBALL ASSOCIATION



Paola LOPEZ BARRAZA

Member of the Disciplinary Committee

NOTE RELATING TO THE LEGAL ACTION:

According to art. 58 (1) of the FIFA Statutes reads together with art. 49 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, Portuguese 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 Portuguese 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, Boavista FC, is directed to notify the secretariat to the FIFA Disciplinary Committee as well as Portuguese Football Federation of every payment made and to provide the relevant proof of payment.

The Claimant, Caykur Rizespor, is directed to notify the secretariat to the FIFA Disciplinary Committee as well as Portuguese 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 Claimant 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.