

# Disciplinary Committee

Date: 11 April 2022

**FIFA**<sup>®</sup>

**Sent to:**

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**Cc:**

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Hellenic Football Federation  
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## Notification of the grounds of the Decision

Ref. FDD-10228

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 24 February 2022.

The Hellenic Football Federation (in copy) is kindly requested to forward this decision to its affiliated club, Aris 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

Fédération Internationale de Football Association

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# Decision of the FIFA Disciplinary Committee

passed on 24 February 2022

**DECISION BY:**

**Thomas HOLLERER (Austria), Member**

**ON THE CASE OF:**

**Aris FC**

**(Decision FDD-10228)**

**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 in his discussion and deliberations any and all evidence and arguments submitted, even if no specific or detailed reference has been made to those arguments in the following outline of his position and in the ensuing discussion on the merits.
2. On 10 May 2021, the Court of Arbitration for Sport (**CAS**), in an ordinary arbitration procedure, issued an Award on Costs (**CAS Award**) by which the club Aris FC (**the Respondent**) was ordered to pay Promoesport Andalucia SL (**the Claimant**) the net amount of **CHF 5,000** as contribution towards the legal fees incurred by the latter in connection with the arbitration procedure (*CAS 2021/O/7691*). Moreover, CAS ruled that the costs of the arbitration should be borne in their entirety by the Respondent and would be determined and served on the parties at a later stage.
3. On 25 October 2021, the CAS Court Office informed the parties that the costs of the arbitration of the aforementioned procedure amounted to CHF 6,400, which in accordance with the CAS Award were to be borne by the Respondent. Consequently, the Respondent was ordered to pay the Claimant the amount of **CHF 6,400** as costs of the arbitration.
4. On 31 January 2022, as the outstanding amounts due to the Claimant by the Respondent were not paid, the legal representative of the Claimant requested the initiation of disciplinary proceedings and for sanctions to be imposed upon the Respondent for failure to comply with the CAS Award.
5. On 7 February 2022, in light of the foregoing, and as the aforementioned amounts were not fully paid to the Claimant, the Secretariat to the FIFA Disciplinary Committee (**the Secretariat**) opened disciplinary proceedings against the Respondent. In this regard, the Respondent was informed that the case would be referred to the next meeting of the FIFA Disciplinary Committee and was invited to provide its position within six days of the notification of the opening of the disciplinary proceedings.
6. On 10 February 2022, the Respondent requested six more days to submit its position, "*i.e. until the 21<sup>st</sup> February 2022 since the expiry of the six days' extension falls on a weekend*". Said request was granted on the same day and the Respondent was invited to provide its position by 21 February 2022 at the latest.
7. On 21 February 2022, the Respondent acknowledged that it owed the Claimant the amount of CHF 11,400 and that despite its willingness to settle its debt, it has been unable to make this payment due to the dramatic decrease in its income caused by the pandemic. "*Nonetheless, [the Respondent] confirm[ed] its intention to proceed with the payment of the outstanding amount to [the Claimant] as soon as possible and would like to inform [the Secretariat] that such payment is expected to be in fact possible within March 2022*".

## II. CONSIDERATIONS OF THE DISCIPLINARY COMMITTEE

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

### A. Jurisdiction of the FIFA Disciplinary Committee

9. 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 (FDC).
10. Notwithstanding the above and for the sake of good order, the Committee found it worthwhile to emphasize that, on the basis of arts. 53 and 54 FDC, he was competent to evaluate the present case and to impose sanctions in case of corresponding violations.
11. 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

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 CAS Award, was committed after the 2019 FDC entered into force. As a result, he deemed that the merits as well as the procedural aspects of the present case should fall under the 2019 edition of the FDC.
13. Having established the above, the Committee wished to recall the content and scope of art. 15 of the 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. Following the above, the Committee next proceeded to recall that pursuant to art. 72 (2) FDC, the Disciplinary Committee may impose disciplinary measures for non-compliance with a final CAS award rendered in the context of an ordinary CAS procedure, provided that the respective CAS procedure was initiated after the entry into force of the FDC on 15 July 2019, as *in casu* (the Committee noting in this respect, that the CAS procedure in connection with the CAS Award had been initiated on 5 February 2021).
17. Finally, the Committee emphasized that, equal to the competence of any enforcement authority, he cannot review or modify as to the substance a previous decision, which is final and binding, and thus has become enforceable.
18. His jurisdiction being established and the applicable law determined, the Committee subsequently turned his attention to the CAS Award.

## **C. Merits of the dispute**

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

19. The above having been established, the Committee noted that CAS, by means of an Award on Costs, ordered the Respondent to pay to the Claimant as outlined above.
20. This being recalled, the Committee observed that the CAS Award was enforceable since it had not been challenged before the Swiss Federal Tribunal.
21. In view of what has been explained above, the Committee is not allowed to analyse the case decided by the Court of Arbitration for Sport as to the substance, in other words, to check the correctness of the amounts ordered to be paid, but has as a sole task to analyse if the Respondent complied with the Award on Costs rendered by CAS on 10 May 2021 and the subsequent letter of the CAS Court Office dated 25 October 2021.
22. In this regard, the Committee noted that the Respondent has acknowledged the debt owed to the Claimant and is willing to pay the amounts due, but has not been able to settle its debt so far due

- to the drop in its income caused by the pandemic. Nevertheless, the Committee observed that the Respondent intends to pay the amounts due as soon as possible, and probably during the month of March.
23. Taking into account the foregoing, the Committee firstly considered the supposed financial situation of the Respondent and deemed it necessary to emphasize that clubs have the duty to be aware of their actual financial strength, constitute provision in anticipation of possible issues, such as a decrease in the income or a relegation (i.e. a contingency that any club may face), and finally conclude contracts that can be fulfilled. In other words, the principle of *pacta sunt servanda* – more relevant in the context of contractual dispute *per se* – is of paramount importance for FIFA and a key issue to be protected, amongst others, by the Regulations on the Status and Transfer of Players.
  24. Further, the Committee wished to refer to the content of art. 2 of the Swiss Civil Code, according to which “[e]very person is bound to exercise his rights and fulfil his obligations according to the principle of good faith”. Therefore, the sole fact that Respondent may be undergoing financial problems does not exonerate it from its obligations to pay the outstanding amounts owed to the Claimant, as confirmed by CAS on numerous occasions<sup>1</sup>.
  25. This having been established, the Committee also noted that the Respondent was allegedly willing to settle its debt as soon as possible and should be in a position to make the payment during the month of March.
  26. Against such background, and even though the Respondent did not explicitly request an extension of the payment deadline, the Committee deemed it useful to recall that the particulars of any potential payments of the amounts due must be determined independently between the parties and that any possible payment plan, including the granting of an additional time to settle the amounts due, has to be agreed upon directly with the Claimant, *in casu* Promoesport Andalucia SL, which at its own discretion may accept or reject the payment plan proposed. In other words, the Claimant is completely free to choose, unencumbered and at its own volition, as to whether it may accept or reject any potential payment plan proposed by the Respondent.
  27. Having demonstrated the aforementioned, the Committee observed that subsequent to the opening of the disciplinary proceedings against the Respondent, the latter did not provide any proof of payment. Similarly, the Claimant did not confirm the receipt of the outstanding amounts or grant the Respondent any further time to settle its debt.
  28. Against this background, the Committee concluded that the Respondent had failed to pay the outstanding amounts due to the Claimant in accordance with the CAS Award – as well as with the letter of the CAS Court Office dated 25 October 2021 – and was therefore in breach of art. 15 FDC.
  29. In view of the foregoing, the Committee concluded that the Respondent, by its conduct as described above, is considered guilty of non-compliance with a financial decision under the terms of art. 15 of the FDC and should be sanctioned accordingly.

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<sup>1</sup> CAS 2018/A/5779; CAS 2016/A/4402; CAS 2014/A/3533; CAS 2005/A/957.

## II. The determination of the sanction

30. With regard to the applicable sanctions, the Committee observed in the first place that the Respondent is a legal person, and as such was subject to the sanctions described under art. 6 (1) and (3) FDC.
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 by taking into account the outstanding amounts, the Committee regarded a fine amounting to CHF 2,000 as appropriate. This amount complies with the Disciplinary 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, the Hellenic Football Federation is hereby reminded of its obligation to automatically implement the transfer ban upon expiry of the final deadline without having received any proof of payment from the Respondent. In this respect, and for the sake of clarity, the Hellenic Football Federation is referred to art. 34 FDC in what concerns the calculation of time limits. Should the Hellenic 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. Aris FC is found responsible for failing to comply in full with the award issued by the Court of Arbitration for Sport on 10 May 2021 - and the subsequent letter of the CAS Court Office dated 25 October 2021 - (Ref. CAS 2021/O/7691).**
- 2. Aris FC is ordered to pay to Promoesport Andalucia SL as follows: -**
  - CHF 5,000 as a contribution towards the expenses incurred in connection with the arbitration procedure;**
  - CHF 6,400 as costs of the arbitration.**
- 3. Aris 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 Hellenic 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. Aris FC is ordered to pay a fine to the amount of CHF 2,000.**
- 5. 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

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**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 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 CAS.

**NOTE RELATING TO THE PAYMENT OF THE AMOUNT DUE:**

As a member of FIFA, the Hellenic Football Federation is reminded of its duty to implement this decision and provide FIFA with proof that the transfer ban has been implemented at national level. If the Hellenic 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, Aris FC, is directed to notify the secretariat to the FIFA Disciplinary Committee as well as the Hellenic Football Federation of every payment made and to provide the relevant proof of payment.

The Creditor, Promoesport Andalucia SL, is directed to notify the secretariat to the FIFA Disciplinary Committee as well as the Hellenic 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.