

Decision of the FIFA Appeal Committee

passed in Zurich, Switzerland, on 24 June 2020,

COMPOSITION:

Mr. Thomas Bodström, Sweden (Chairman)

Mr. Salman Al Ansari, Qatar (member)

Mr. Samuel Ram, Fiji (member)

RESPONDENT:

Udinese Calcio, Italy

Regarding the appeal lodged by the club Udinese Calcio against the decision passed by the FIFA Disciplinary Committee on 26 February 2020

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 FIFA Appeal Committee has thoroughly considered in its 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 its position and in the ensuing discussion on the merits.
2. On 27 January 2019, the Italian club Udinese Calcio (hereinafter: *Udinese*) signed an agreement with the Spanish club, Cádiz CF (hereinafter: *Cádiz*), in order to loan the player Darwin Daniel Machís Marcano (hereinafter: *the Player*) to the latter.
3. In this regard, the loan agreement uploaded in TMS by Udinese (hereinafter: *the Agreement*) contains Clause 3 that reads as follows:

“La cesión temporaria objeto del presente Contrato es sin cargo.

No obstante, en el caso de que el Jugador no juegue con el primer equipo del Cádiz, al menos el 70% (setenta por ciento) de los partidos de campeonato de Segunda División 2018/19 de España (fase regular), durante 45 minutos por cada partido, el Cádiz pagará a Udinese dentro del 30 de junio de 2019, una cantidad neta de EUR 150.000,00 (Euros ciento cincuenta mil//00), antes del 30 de junio de 2019 (en lo sucesivo, “Pago fijo por el préstamo”), salvo que se produjese la resolución anticipada del préstamo, supuesto en el cual la presente cláusula quedaría ineficaz y carente de efectos.”

Free translation provided by TMS Compliance:

“The loan under this Agreement is free of charge.

However, in the event that the Player does not play with the first team of Cádiz at least 70% (seventy percent) of the Spanish Second Division 2018/19 championship matches (regular phase), for 45 minutes for each match, Cádiz shall pay Udinese, within 30 June 2019, a net amount of EUR 150.000,00 (Euro hundred and fifty thousand//00), before 30 June 2019 (hereinafter, “Fixed payment for the loan”), except in the case of early termination of the loan, in which case this clause would be ineffective and without effects.”

4. On 29 January 2019, Udinese entered the relevant transfer instruction in TMS (TMS ref. 225036) in order to release the Player to Cádiz. The club indicated in TMS that it *“has not entered into an agreement which enables the counter club/counter clubs, and vice versa, or any third party to acquire the ability to influence its independence and policies in transfer-related matters.*
5. Following an investigation conducted by FIFA’s TMS Compliance, disciplinary proceedings were opened against the Appellant on 20 January 2020 for a possible violation of art. 18bis par. 1 of the Regulations on the Status and Transfer of Players [2018 ed.] (hereinafter: *the RSTP* or *the Regulations*) and art. 4 par. 3 of Annexe 3 of the RSTP.

6. On 26 February 2020, the Disciplinary Committee passed a decision against the Appellant (hereinafter: *the Appealed Decision*), whereby it decided as follows:
 1. *The FIFA Disciplinary Committee found the club Udinese Calcio responsible for the infringement of the relevant provisions of the RSTP related to third-party influence on clubs (art. 18bis par. 1) and the failure to enter correct information in TMS (art. 4 par. 3 of Annexe 3).*
 2. *The FIFA Disciplinary Committee orders the club Udinese Calcio to pay a fine to the amount of CHF 20,000.*
 3. *In application of art. 6 par. 1 lit. a) of the FIFA Disciplinary Code, the club Udinese Calcio is warned on its future conduct.*
 4. *The above fine is to be paid within thirty (30) days of notification of the present decision.*
7. The terms of the Appealed Decision were notified to the Appellant on 2 March 2020. Upon request of the Appellant, the grounds of the Appealed Decision were notified on 30 March 2020.
8. On 2 April 2020, the Appellant informed the secretariat to the FIFA Appeal Committee (hereinafter: *the Secretariat*) about its intention to appeal the aforementioned decision.
9. On 7 April 2020, the Appellant submitted its reasons for the appeal and provided a copy of the proof of payment of the appeal fee.
10. On 25 April 2020, the Secretariat acknowledged receipt of the two abovementioned correspondences and confirmed that the payment of the appeal fee had been duly received by FIFA.

II. APPELLANT'S POSITION

1. The position of the Appellant is summarized hereafter. However and for the sake of clarity, this summary does not purport to include every single contention put forth by the Appellant. Nevertheless, the FIFA Appeal Committee (hereinafter: *the Committee*) has thoroughly considered in its discussion and deliberations any and all evidence and arguments submitted, even if no specific or detailed reference has been made to these arguments in the following outline of their positions and in their ensuing discussion on the merits.
 - The Player joined Udinese at the beginning of the sporting season 2018/19. However, after a few matches played with Udinese's first team in the first part of the season, it became evident that his level was not yet appropriate for the Italian first division, so the club decided to loan him for the second part of the season.
 - Cádiz was a good option for the loan of the Player considering that he had been previously playing for five years in Spain. However, Cádiz had limited budget for

transfers during the January 2019 registration period, which is why the parties agreed on a loan fee of EUR 150,000 that would have to be paid by Cádiz in case that the Player participated in less than 70% of the matches of the Spanish team, which in principle was not due to happen given that Cádiz confirmed that its intention was to field the Player regularly, as it actually did since the Player was fielded in enough matches for Clause 3 not to be applied.

- In this regard, the Player signed a high salary with Cádiz in comparison with the amount of the loan fee (EUR 490,000 plus performance bonuses) and the parties agreed on an option for a future transfer of the Player from loan to permanent for EUR 6,500,000.
- As regards the possible violation of art. 18bis of the RSTP, Udinese has never exercised any influence on Cádiz, as the parties acted freely when negotiating the contract, and Clause 3 was mutually accepted by them. As a consequence, Cádiz was free at all time to decide whether the Player was fielded or not, just knowing that a conditional payment would be due in case that it decided not to field him.
- Moreover, the intention of the parties when signing the contract must be taken into account when assessing a possible breach of art. 18bis of the RSTP. In this regard, it must be taken into account that Cádiz is a club from a strong sporting league such as the Spanish second division, and that the conditional loan fee is considerably lower than the salary perceived by the player (EUR 490,000 plus performance bonuses) and the agreed transfer fee for Cádiz to acquire the Player on a permanent basis (EUR 6,500,000). Therefore, it is evident that for a club like Cádiz that is undertaking to pay such high amounts in salary and eventual permanent transfer fee, the payment of a conditional fee of EUR 150,000 represents rather a symbolic amount.
- It is clear from the above that the conditional fee was only aimed at ensuring playing practice to the Player, being Cádiz's exclusive prerogative to choose to field the Player or not. Therefore, the conditional fee had no influence on the decision-making process in sporting policies of an established club of the size of Cádiz, which maintained at all times control over its economic and sporting decisions.
- Consequently, Udinese was not involved in any technical and/or sporting decision-making process of Cádiz, not being given by the Agreement the possibility to exercise any real and effective influence on the Spanish club, in the terms that the CAS jurisprudence determines that would represent a breach of art. 18bis of the RSTP.
- In addition to the above, the Appealed Decision also errs when comparing the conditional loan fee for not fielding the Player in a certain number of matches determined by Clause 3 of the Agreement with the contractual clauses whereby clubs pay higher amounts the more matches that a player is fielded (appearance bonuses), and stating that the latter do not breach art. 18bis of the RSTP.
- In Udinese's view, the above argument cannot stand because both types of clauses, and even the "sell-on" clauses included in many transfer agreements, are of a similar type. Therefore, concluding that a clause of the type of Clause 3 of the Agreement is in breach of art. 18bis of the RSTP would entail that the "appearance bonus" clauses

as well as the “sell-on” clauses would also constitute a breach of art. 18bis of the RSTP, which would result in virtually all conditional clauses inserted in loan or transfer agreements being in breach of art. 18bis of the RSTP.

- In sum, and in relation to the possible breach of art. 18bis of the RSTP, Udinese insists that Clause 3 of the Agreement did not give to the Italian club a real and effective capacity to influence Cádiz, namely considering the symbolic amount payable by the Spanish club as conditional loan fee, and that Cádiz has never been restricted in any way in its decision-making process by Udinese.
- Finally, Udinese also considers not to have breached art. 4 par. 3 of Annexe 3 of the RSTP, given the fact that it specified in the “Payments” section in TMS that the loan fee was conditional, in addition to the fact of the club not considering having breached art. 18bis of the RSTP for the reasons explained above, and therefore not having to declare any third party influence.

Requests for relief

- In view of the foregoing arguments, Udinese requests that the Appealed Decision is set aside, that the Appeal Committee establishes that the club did not commit and violation of the RSTP, and finally that the fine of CHF 20,000 and the warning imposed on the club are cancelled and the appeal fee of CHF 1,000 is reimbursed to Udinese.

III. CONSIDERATIONS OF THE APPEAL COMMITTEE

1. In view of the circumstances of the present matter, the Committee first decided to address some key procedural aspects (A), before entering into the substance of the case at stake (B).

A. PROCEDURAL ASPECTS

1. Competence of the FIFA Appeal Committee and admissibility of the Appeal

2. First, the Committee recalled that the procedural aspects of the matter at stake were governed by the 2019 edition of the FIFA Disciplinary Code (hereinafter: *the FDC*), in particular considering that the Appellant lodged the present appeal on 2 April 2020, *i.e.* while the 2019 FDC was applicable.
3. In this context, the Committee underlined that the sanctions imposed by the first instance on the Appellant were a fine amounting to CHF 20,000 and a warning. As such, the Committee pointed out that, in accordance with art. 56 in conjunction with art. 57 of the FDC, it was competent to hear the appeal presented by the Appellant against the decision rendered by the Disciplinary Committee on 26 February 2020.
4. This having been established, the Committee acknowledged that:
 - i. The grounds of the Appealed Decision were notified on 30 March 2020;
 - ii. The Appellant communicated its intention to appeal on 2 April 2020;

- iii. The Appellant submitted its reasons for the appeal and the proof of payment of the appeal fee on 7 April 2020;
 - iv. FIFA received the appeal fee.
5. In view of this, the Committee held that the requirements of art. 56 pars. 3, 4 and 6 of the FDC have been met and therefore declared the present appeal admissible.

2. Applicable law

6. In continuation, the Committee deemed that it had to determine which edition of the Regulations on the Status and Transfer of Players (RSTP) applied to the substance of the matter at stake.
7. In these circumstances, the Committee notes from the Appealed Decision that the Appellant was sanctioned for having infringed the provisions of the RSTP related to third-party influence on clubs (art. 18bis par. 1) and the failure to enter correct information in TMS (art. 4 par. 3 of Annexe 3), in relation to the agreement signed on 27 January 2019 with Cádiz for the loan of the Player.
8. Consequently, the Committee considers that the present matter should be analysed in light of the 2018 edition of the RSTP, which was the edition in force at the time of the signing of the Agreement.
9. This being established, the Committee will subsequently analyse the merits of the present case.

B. MERITS

10. In this context, the present proceedings are related to a decision rendered by the Disciplinary Committee by means of which the Appellant has been sanctioned (i) for entering into a transfer agreement which enabled it to influence the counter club's independence and policies in transfer-related matters, and (ii) for not declaring that influence in the relevant transfer instruction entered in TMS to release the Player to Cádiz.
11. In this sense, the Committee notes that in the Appellant's opinion Clause 3 of the Agreement is not in breach of art. 18bis of the RSTP, and consequently the club has neither breached art. 4 par. 3 of Annexe 3.
12. In this regard, the Appellant believes that the Agreement did not give it the possibility to exercise a real and effective influence on Cádiz, being the Spanish club free at all time when making its sporting and economic decisions. Moreover, Udinese argues that Clause 3 is only a conditional clause aimed at ensuring playing practice to the Player, which is clearly shown by the fact that the conditional amount to be paid by Cádiz was symbolic in comparison with the salary that the latter paid to the Player and the fee that it signed for an eventual transfer of the Player.
13. Finally, Udinese considers that the conditional fee determined in Clause 3 is not different to other "appearance bonus" clauses or "sell-on" clauses that are commonly admitted not to be in breach of art. 18bis RSTP.

14. In light of the Appellant's allegations, the Committee considers that in order to decide on this appeal there are five questions that have to be answered:
- i. What is the prohibition foreseen in art. 18bis of the RSTP?
 - ii. Does Clause 3 of the Agreement constitute a breach of art. 18bis of the RSTP?
 - iii. Does the Committee concur with the interpretation of Clause 3 made by the Appellant in its position?
 - iv. Did the Appellant fail to enter correct information in TMS and breach art. 4 par. 3 of Annexe 3 of the RSTP?
 - v. Is the sanction imposed by the FIFA Disciplinary Committee on the Appellant proportionate?

i. What is the prohibition foreseen in art. 18bis of the RSTP?

15. First and foremost, the Committee refers to the allegations made by the Appellant that the Disciplinary Committee made a wrong interpretation of Clause 3 in accordance with art. 18bis of the RSTP, as the clause at stake did not give the Appellant the possibility to exercise a real and effective influence on Cádiz but is only a conditional clause aimed at ensuring playing practice to the Player.
16. In this sense, the Committee wishes to stress that a correct interpretation of the FIFA regulations in general, and of art. 18bis of the RSTP in particular, must show their true meaning. This is possible only through the analysis of the purpose sought, of the interest protected as well as of the legislator's intent¹.
17. In this respect, the Committee would like to recall the content of art. 18bis par. 1 of the RSTP, which establishes that:

"No club shall enter into a contract which enables the counter club/counter clubs, and vice versa, or any third party to acquire the ability to influence in employment and transfer-related matters its independence, its policies or the performance of its teams."

18. In this context, the Committee would first of all like to point out that according to the wording of art. 18bis of the RSTP – *"No club shall enter into a contract which enables the counter club/counter clubs, and vice versa, or any third party to acquire the ability to influence [...]"* – , there is an active stance: clubs are prohibited from being able to actively influence other clubs in employment and transfer-related matters. In this sense, the Committee emphasises that this provision is addressed to both clubs, *i.e.* the influencing club and the influenced club. As far as the influencing clubs are concerned – as is the case of the Appellant –, the Committee stresses that they are undoubtedly responsible to ensure that they do not exercise any kind of influence on the counter club.
19. In other words, this prohibition aims at avoiding that a club concludes any type of contract by means of which it is in a position to influence another club's independence in employment and transfer-related matters, its policies or the performance of its teams. In particular, there should be no influence on the other club's ability to independently determine the conditions and policies concerning purely sporting issues such as the composition and performance of its teams. This provision applies to the influencing club as well as to the influenced club (*vice versa*).

¹ CAS 2008/A/1673; CAS 2009/A/1810; CAS 2009/A/1811; CAS 2017/A/5173

20. Secondly, the Committee refers to the jurisprudence of the Court of Arbitration for Sport (CAS) which has shed some light on the notion of "influence"². In this regard, CAS ruled that the prohibition foreseen in art. 18bis of the RSTP applies whenever "*any other party to that contract or any third party*" is granted the real ability to effect on, determine or impact the behaviour or conduct of the concerned club in relation to employment and transfer-related matters in such a way as to restrict the club's independence or autonomy in such matters.
21. Consequently, the Committee considers that a club will be in breach of art. 18bis of the RSTP every time it enters into an agreement that enables it to have a real ability to determine or impact the behaviour or conduct of another club in employment and transfer-related matters or the performance of its team, and therefore is in a position to influence the club's independence and policies in these matters. Furthermore, the Committee emphasises that the mere fact that such a clause is included in an agreement is an infringement *per se* and it is therefore irrelevant whether any influence has actually been exercised or not.
22. In light of the above, the Committee observes that the Appealed Decision clearly set out the background and *rationale* of art. 18bis of the RSTP in order to enable the Appellant to understand the intention of the legislator and the interest that this provision intends to protect. Moreover, the Committee notes that the Appealed Decision also specified the regulatory content and the scope of application of art. 18bis of the RSTP.
23. As a result, the Committee is fully satisfied with the Disciplinary Committee's analysis of art. 18bis of the RSTP and therefore considers that the said Committee has correctly interpreted this provision.

ii. Does Clause 3 of the Agreement constitute a breach of art. 18bis of the RSTP?

24. As a preliminary remark, the Committee highlights that it is undisputed from the information provided by the parties in TMS that the Appellant entered into a loan agreement with Cádiz in order to release the player Daniel Machís Marcano. Therefore, Udinese can be considered the counter club to Cádiz in accordance with the wording of art. 18bis of the RSTP.
25. Having determined the above, the Committee analyses the possible breach of art. 18bis of the RSTP by Clause 3 of the Agreement, which reads as follows:

"The loan under this Agreement is free of charge.

However, in the event that the Player does not play with the first team of Cádiz at least 70% (seventy percent) of the Spanish Second Division 2018/19 championship matches (regular phase), for 45 minutes for each match, Cádiz shall pay Udinese, within 30 June 2019, a net amount of EUR 150.000,00 (Euro hundred and fifty thousand//00), before 30 June 2019 (hereinafter, "Fixed payment for the loan"), except in the case of early termination of the loan, in which case this clause would be ineffective and without effects."

26. In this regard, the Committee shares the view of the Appealed Decision that the above clause is deemed to have an influence on Cádiz's freedom to decide what players to field in order to obtain the best sporting result in a match, given that the Spanish club will be induced to field a certain player due to the negative financial impact of not doing it. Therefore, the Committee

² CAS 2017/A/5463

concludes that Cádiz has not enjoyed total independence in relation to its policies or the performance of its team

27. Moreover, the Committee points out that in order to establish a breach of art. 18bis RSTP, it is irrelevant if any influence was actually carried out or not by Udinese, but the breach is materialized whenever a real possibility to affect Cádiz's decision-making process is agreed upon – as it is the case of the abovementioned clause – regardless of the influence being exercised or not
28. Finally, the Committee considers that it is irrelevant to establish a breach of art. 18bis RSTP the fact that the conditional fee is of a low amount in comparison with the Player's salary or the fee agreed by the parties for an eventual permanent transfer of the Player, given that the prohibition of the aforementioned article applies from the moment that a real possibility for Udinese to influence Cádiz is agreed upon, regardless of the extent of the said influence.
29. Consequently, for the reasons explained above, the Committee concurs with the Appealed Decision in the fact that Clause 3 of the Agreement contravenes art. 18bis of the RSTP.

iii. Does the Committee concur with the interpretation of Clause 3 made by the Appellant in its position?

30. The Committee notes that the Appellant alleges in its position, on the one hand, that in Clause 3 of the Agreement the parties agreed that the loan fee would be of EUR 150,000 but that Cádiz would be able to avoid paying it by fielding the Player for a certain number of matches, which gave Cádiz the freedom to decide whether to pay the conditional amount or compensate it with the sporting guarantee of fielding the Player.
31. In order to better interpret Clause 3, the Committee analysed the content of the Agreement in general and of the said Clause 3 in particular, paying special attention to the initial sentence of the clause, which reads as follows:

"The loan under this Agreement is free of charge.

However, in the event that the Player does not play with the first team of Cádiz at least 70% (seventy percent) of the Spanish Second Division 2018/19 championship matches (regular phase), for 45 minutes for each match, Cádiz shall pay Udinese, within 30 June 2019, a net amount of EUR 150.000,00 (Euro hundred and fifty thousand//00), before 30 June 2019 (hereinafter, "Fixed payment for the loan"), except in the case of early termination of the loan, in which case this clause would be ineffective and without effects." (emphasis added).

32. In this regard, the Committee does not agree with the Appellant's opinion that from the above wording it can be inferred that the loan fee agreed between the parties was of EUR 150,000 that Cádiz was irrevocably obliged to pay, but the latter having the freedom to opt between paying the loan fee at once or eventually benefitting from not paying that amount in case of fielding the Player for a certain amount of matches.
33. On the contrary, in the Committee's opinion it results from the wording of Clause 3, and in particular from its first sentence, that the loan is deemed to be free of charge, as a consequence of which Cádiz would be influenced in its decisions, given that in case of not

fielding the Player for a certain amount of matches it would be obliged to pay a penalty amount (i.e. EUR 150,000) in relation to a loan that was agreed to be free of charge.

34. On the other hand, the Committee notes that the Appellant alleges that the Appealed Decision erred by considering that the conditional fee to be paid in case that the Player is not fielded in a certain number of matches, as determined by Clause 3 of the Agreement, is different than the “appearance bonus” clauses included in many transfer contracts and which are commonly accepted not to be in breach of art. 18bis of the RSTP.
35. In this regard, the Committee points out that account must be taken in the case of “appearance bonus” clauses. In his clauses, the payment originates when a player is fielded for a certain number of matches and the amount increases the more matches that he is fielded, which obviously happens due to his good sporting performance. In that case, the club is free to decide whether to field the player or not, although not having to face a financial consequence in case that it decides not to field him, which is a different situation than the one determined in Clause 3 of the Agreement, whereby if the club decides not to field the player based on sporting reasons as it considers his performance not to be adequate, it would have to face a financial consequence by means of a penalty, which affects the club’s independence in sporting decision making.
36. As a consequence, the Committee does not agree with the Appellant’s opinion that Clause 3 should be interpreted in the same line as the “appearance bonus” clauses included in many transfer contracts, and which are commonly accepted not to be in breach of art. 18bis of the RSTP

iv. Did the Appellant fail to enter correct information in TMS and breach art. 4 par. 3 of Annexe 3 of the RSTP?

37. The Committee notes that the Disciplinary Committee found the Appellant in breach of art. 4 par. 3 of Annexe 3 of the RSTP, since it wrongly declared in TMS that there was no third-party influence in the scope of the loan of the Player.
38. In this context, the Committee first stresses that the objective of the creation of TMS is to enable a better safeguard of the FIFA values and improve the credibility and transparency of the entire transfer system.
39. In this regard, it is essential that clubs are aware of their responsibility and the importance of inserting correct information supported by the relevant documents in a responsible manner and at regular intervals in TMS.
40. In line with the above, clubs have the obligation to declare in TMS whether they have entered into any agreement enabling them to acquire the ability to influence the counter club’s independence in employment and transfer-related matters.
41. In this regard, even though the Appellant uploaded the relevant agreement in TMS and declared the conditional loan fee in the “Payments” section in TMS, it was a mandatory obligation to declare the influence on the counter club, even more so when the Disciplinary Committee considered that the said agreement breaches the provision of art. 18bis of the Regulations.

42. In light of the foregoing, and having concurred with the Appealed Decision in the fact that Clause 3 of the Agreement is in breach of art. 18bis of the RSTP, the Committee also adheres to the Appealed Decision's conclusion that the Appellant is in breach of art. 4 par. 3 of Annexe 3 of the RSTP, given that it failed to declare the third-party influence in TMS.

v. Is the sanction imposed by the FIFA Disciplinary Committee on the Appellant proportionate?

43. The Committee notes that the Appellant requests that the Appealed Decision is set aside, as it considers not to have committed any violation of the RSTP, and that the sanctions imposed therein be cancelled and the appeal fee of CHF 1,000 be reimbursed to the club.
44. In this regard, and having been established for the reasons explained above that the Appellant has breached the relevant provisions of the RSTP, the Committee subsequently wishes to analyse the sanction imposed on the Appellant in the Appealed Decision.
45. In this respect, the Committee notes that the Appellant was sanctioned with a fine of CHF 20,000. Additionally, the Appellant was warned as to its future conduct and has to bear the costs and expenses of the disciplinary proceedings amounting to CHF 1,000.
46. In this sense, the Committee recalls the jurisprudence of CAS according to which a decision-making body fixing the level of pecuniary sanctions should, amongst others, take into consideration the following elements: (a) the nature of the offence; (b) the seriousness of the loss or damage caused; (c) the level of culpability; (d) the offender's previous and subsequent conduct in terms of rectifying and/or preventing similar situations; (f) the applicable case law and (g) other relevant circumstances³.
47. In light of the foregoing, the Committee observes that the Appellant infringed art. 18bis of the RSTP, a provision aiming at protecting the clubs' freedom and independence in relation to recruitment and transfer-related matters as well as to ensure that the integrity of the game of football and its most essential values were safeguarded. In other words, this provision intends to protect one of the FIFA objectives which is to *"to promote integrity, ethics and fair play with a view to preventing all methods and practices, such as corruption, doping or match manipulation, which might jeopardise the integrity of matches, competitions, Players, Officials and members or give rise to abuse of Association Football"*⁴.
48. In this regard, the Committee wishes to endorse the developments of the Appealed Decision in the sense that any possible situation where a third-party acquired a possibility to directly influence a club in its employment and transfer-related matters should not be tolerated and is absolutely forbidden. In particular, the Committee reiterates that clubs are responsible to assure that the RSTP are duly respected and to ensure that no third-party acquires a possibility to directly influence them in such areas. In the same line, the Committee considers that the failure to enter correct information in TMS is also a serious violation of the Regulations, as it puts the transparency and credibility of the international transfer system at stake and prevents the football authorities from supervising it in an effective manner.

³ CAS 2014/A/3813

⁴ Cf. art. 2 lit g) of the FIFA Statutes

49. Against such background, and in view of the violations of the Regulations committed by the Appellant, the Committee has unanimously decided that the sanction imposed on Udinese is not disproportionate, keeping in mind the deterrent effect that the sanction must have on the reprehensible behaviour to avoid similar unacceptable conducts in the future.
50. In this sense, and with regard to the fine, the Committee notes that in accordance with art. 15 par. 1 a) and art. 6 par. 4 of the FDC, it may not be lower than CHF 100 and greater than CHF 1,000,000.
51. In addition, the Committee has taken into account the usual practice of the Disciplinary Committee, which for similar breaches has been imposing sanctions between CHF 10,000 and CHF 100,000, depending of the seriousness of the breach.
52. Furthermore, the Committee has also taken into account the fact that the influencer's behaviour is more reprehensible than the one of the influenced. In the matter at hand, the Committee notes that Udinese is the influencing club as it was only in Udinese's interest to impose such clause.
53. Taking into account all the circumstances of the case, the Committee concurs with the Appealed Decision, as it considers a fine of CHF 20,000 and a warning on its future conduct to be adequate and proportionate to the offence committed by the Appellant.

C. CONCLUSION

54. Bearing in mind all of the foregoing, the Committee concludes that the Appeal lodged by the Appellant had to be rejected and the decision taken by the FIFA Disciplinary Committee on 26 February 2020 confirmed in its entirety.

D. COSTS

55. The Committee decides, based on art. 45 par. 1 of the FDC, that the costs and expenses of these proceedings amounting to CHF 1,000 shall be borne by the Appellant.
56. In this sense, the Committee notes that the Appellant has already paid the appeal fee of CHF 1,000 and decides that the aforementioned costs and expenses of the proceedings are set off against this amount.

IV. DECISION OF THE APPEAL COMMITTEE

1. The FIFA Appeal Committee found the club Udinese Calcio responsible for the infringement of the relevant provisions of the Regulations on the Status and Transfer of Players related to third-party influence on clubs (art. 18bis) and to the obligations of clubs with respect to the TMS (art. 4 par. 3 of Annexe 3).
2. The appeal lodged by the club Udinese Calcio is rejected and the decision of the FIFA Disciplinary Committee passed on 26 February 2020 is confirmed in its entirety.
3. The costs and expenses of the proceedings amounting to CHF 1,000 are to be borne by the club Udinese Calcio. This amount is set off against the appeal fee of CHF 1,000 already paid by the club Udinese Calcio.

4. The above fine is to be paid within thirty (30) days of notification of the present decision.

FÉDÉRATION INTERNATIONALE
DE FOOTBALL ASSOCIATION



Thomas Bodström

Chairman of the Appeal Committee

LEGAL ACTION

According to art. 58 par. 1 of the FIFA Statutes, 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.

The full address and contact numbers of the CAS are the following:

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