

# Disciplinary Committee

**FIFA**<sup>®</sup>

Date: 17 January 2022

Sent to:  
Football Association of Montenegro  
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C.C:  
UEFA

## Notification of the grounds of the Decision

Ref FDD-9647

Dear Sirs,

Please find attached the grounds of the decision passed in the aforementioned case by a member of the FIFA Disciplinary Committee on 02 December 2021.

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 December 2021

**DECISION BY:**

**Mr. Jorge Ivan PALACIO, Colombia (Chairperson)**

**ON THE CASE OF:**

**Football Association of Montenegro**

**(Decision FDD-9647)**

**REGARDING:**

Art. 16 - FDC - Order and security at matches

## 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 Chairperson of the FIFA Disciplinary Committee (**the Single Judge**) 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 his position and in the ensuing discussion on the merits.
2. On 16 November 2021, a match was played between the representative teams of Montenegro and Turkey in Podgorica (Montenegro – Attendance 2,885 spectators – Final score 1-2) in the context of the Preliminary Competition of the FIFA World Cup Qatar 2022™, European Zone (**the Match**).
3. In this context, the Match Commissioner of the Match mentioned the following in their report (**the MC Report**):

### **Use of pyrotechnics (home team):**

*4' - one flare, South stand, B, home supporters. The flare as not thrown but was ignited and it took up to 2 minutes the smoke away.*

### **Security incidents affecting the match (home team):**

*3' after the final whistle a boy invaded the field of play from the East stand to take a shirt from a player of Montenegro and after receiving it jumped back to the stand. This action didn't affect the match, which was over, The referees and the Turkey team were already in the tunnel and respective dressing rooms.*

4. In addition, the Security Officer mentioned the following incidents in his 'FIFA EQ SO MD-1 to Final Whistle' report and 'FIFA EQ SO Post-Match Phase (Full-Time)' report (**the Security reports**):

### **FIFA EQ SO MD-1 to Final Whistle:**

Were there any incidents during the match phase? *Yes / Banner*

Who: *The fans of Montenegro*

When: *At 21h08 during a short time (1:30 minute). At 21h15, the banner was hung up at the fences of the balcony of the north tribune till the end of the first half.*

Where: *Sector B (North tribune)*

What: *The text on the banner was in the local language. A person told me that it was a political banner, but finally, they informed me that you need to know some history to understand the text on the banner. Following the match against the Netherlands, there was an incident between the director of national TV and the ultra group from the north stand. This director used to be a member of this group of supporters in the north stand, but his movement to national TV was not appreciated. At the match against the Netherlands, he was denied access to the north stand by*

*the ultras. Due to this incident, some of the ultras were arrested by the police. This was apparently now their way of reacting.*

Were there any incidents during the match phase? *Yes / Pyrotechnics*

Who: *The fans of Montenegro*

When: *The 4<sup>th</sup> minute*

Where: *Sector B – upper tier of the South tribune*

What: *1 white Bengal light*

#### **FIFA EQ SO Post-Match Phase (Full-Time):**

Were there any incidents during the match phase? *Yes*

*After the final whistle (and when the referees and the Turkish team were in the dressing room) a child jumped over the fences and LED-boarding of the east tribune. He ran to the players of Montenegro to ask for their shirts. Finally, he received a shirt. No reaction of stewards in this case. This was not a violent act, but you must be careful that you don't have copycats in the future of other children.*

5. On 17 November 2021, the Security Officer further provided the Secretariat with *inter alia* supporting photographic evidence in the form of a 'Presentation' in relation to the above-mentioned incidents (**the Security presentation**).
6. On the same date (17 November 2021), in view of the foregoing, disciplinary proceedings were opened against the Football Association of Montenegro (**the Respondent**) with respect to the potential breach of art. 16 of the FIFA Disciplinary Code (**FDC**). In particular, the latter was provided with the aforementioned reports, the Security presentation, and a series of pictures which were provided to the Secretariat in connection with the abovementioned incidents. Further, the Respondent was granted a six (6) day deadline to provide the Secretariat to the FIFA Disciplinary Committee (**the Secretariat**) with its position.
7. Following the opening of the disciplinary proceedings, no position was provided by the Respondent.

## **II. CONSIDERATIONS OF THE DISCIPLINARY COMMITTEE**

8. In view of the circumstances of the present case, the Single Judge decided to first address the procedural aspects of the case, *i.e.* his jurisdiction and the applicable regulatory framework, before proceeding to the merits of the case and determining the possible infringements as well as the possible resulting sanctions.

## A. Jurisdiction of the FIFA Disciplinary Committee

9. First of all, the Single Judge noted that at no point during the present proceedings did the Respondent challenge his jurisdiction or the applicability of the FDC.
10. Notwithstanding the above and for the sake of good order, the Single Judge found it worthwhile to emphasise that, on the basis of art. 2 (1) FDC read together with art. 53 FDC, he was competent to evaluate the present case and to impose sanctions in case of corresponding violations.

## B. Applicable law

11. In order to duly assess the matter, the Single Judge firstly began by recalling the content and the scope of the relevant provisions of the 2019 edition of the FDC, which was, in his view, the edition applicable to the present issue. In particular, the Single Judge considered that both the merits and the procedural aspects of the present case should be covered by the 2019 edition of the FDC.
12. With respect to the applicable regulations, the Single Judge referred to art. 16 FDC which reads as follows:

### **Art. 16 of the FDC – Order and security at matches**

(...)

2. *All associations and clubs are liable for inappropriate behaviour on the part of one or more of their supporters as stated below and may be subject to disciplinary measures and directives even if they can prove the absence of any negligence in relation to the organisation of the match:*

- a) the invasion or attempted invasion of the field of play;*
- b) the throwing of objects;*
- c) the lighting of fireworks or any other objects;*
- d) the use of laser pointers or similar electronic devices;*
- e) the use of gestures, words, objects or any other means to transmit a message that is not appropriate for a sports event, particularly messages that are of a political, ideological, religious or offensive nature;*
- f) acts of damage;*
- g) causing a disturbance during national anthems;*
- h) any other lack of order or discipline observed in or around the stadium.*

13. It is clear from the wording of this provision that its main purpose is to ensure that matches are properly organised so that no incident can occur and disrupt any football match.
14. In particular, art. 16 (2) FDC contains a strict liability rule according to which an association, whether home or visiting, is responsible for the behaviour of its own spectators. In this regard, the Single Judge recalled that according to CAS jurisprudence, the term “supporter” is an open concept, which

must be assessed from the perspective of a reasonable and objective observer<sup>1</sup>. This means that the behaviour of the person may lead a reasonable and objective observer to conclude that the latter is a supporter of that particular club/association. Moreover, CAS specified that the behaviour of individuals and their location in and around the stadium are important criteria in determining the team they support<sup>2</sup>.

15. In light of the above, the Single Judge concluded that whilst an association/club may be held responsible for the behaviour of its supporters as per art. 16 (2) FDC, it is incumbent on the adjudicating body to consider whether the Respondent should be subject to the imposition of a sanction.

### **C. Standard of proof**

16. Firstly, the Single Judge recalled that the burden of proof lies with FIFA, which is required to prove the infringement under art. 36 (1) FDC.
17. Secondly, the Single Judge pointed out that, according to art. 35 (3) FDC, the standard of "*comfortable satisfaction*" is applicable in disciplinary proceedings. According to this standard of proof, 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.
18. Finally, the Single Judge referred to art. 40 FDC, according to which the facts contained in the match officials' reports, as well as in the supplementary reports or correspondence submitted by the match officials, are presumed to be accurate, bearing in mind that proof of their inaccuracy may be provided.
19. Having clarified the foregoing, the Single Judge proceeded to consider the merits of the case.

### **D. Merits of the case**

#### **1. Issue of review**

20. The relevant provisions having been recalled, and the above having been established, the Single Judge proceeded to analyse the evidence at his disposal, in particular the documentation and information provided in the scope of the present disciplinary proceedings, in order to determine the potential violations of the FDC.
21. As a preliminary remark, and as outlined above, the Single Judge wished to recall that in accordance with art. 40 FDC, the facts stated in the reports or records of the match officials are presumed to be correct, although it is possible to prove the contrary.
22. In this context, the Single Judge acknowledged the following elements from the MC Report and the Security reports (whilst also considering the photographic evidence included in the Security presentation and provided to the Secretariat):

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<sup>1</sup> CAS 2015/A/3874.

<sup>2</sup> CAS 2007/A/1217.

- i. At minute 4' of the Match, home supporters (*i.e.* Montenegrin supporters) in the South stand ignited a flare, specifically one (1) white Bengal light (**Incident 1**).
  - ii. Three (3) minutes after the final whistle of the Match, a boy - indicated by the MC Report to be a Montenegrin supporter - invaded the field of play from the East stand to take a shirt from a player of Montenegro. After receiving the shirt, the boy returned to the stand - this action didn't affect the Match as it was already over (**Incident 2**).
  - iii. At 21:08h for 1 minute and 30 seconds, and from 21:15h until the end of the first half of the Match on the fences of the balcony of the north tribune, a banner was displayed by the Montenegrin supporters, with text in the local language. The text on the banner pertained to an incident which occurred between the "*director of national TV and the ultra group from the north stand*" in a separate/previous match, the banner being displayed as a reaction to such incident (**Incident 3**).
23. The Single Judge also acknowledged that the Respondent failed to provide any position in respect to those incidents, and as such, did not contest them.
24. Against such background, the Single Judge subsequently remarked that the Match Commissioner and/or the Security Officer as applicable, indicated the perpetrators of the above incidents and the location in which said incidents took place.
25. More specifically, according to the MC Report and/or the Security reports, the perpetrators of Incidents 1 and 3 were clearly identified as Montenegrin supporters, the incidents having taken place in the South tribune sector B and the North tribune sector B respectively.
26. With regards to Incident 2, which originated in the East tribune, according to the MC Report, the pitch invasion was indicated to have been committed by a Montenegrin supporter as it was denoted within the section of the MC Report pertaining to '*Security incidents affecting the match (home team)*' – besides, and given that the MC Report stipulated that the boy invading the pitch approached a player of the Montenegrin representative team to ask for their shirt (which was received), any (reasonable and objective) observer could only conclude that the perpetrator of said incident (*i.e.* the boy) was a supporter of the Montenegrin team.
27. As such, the Single Judge was comfortably satisfied that the above incidents were all committed by home supporters, *i.e.* supporters of the Montenegrin team.
28. Having clarified the above, the Single Judge decided to analyse the abovementioned incidents in order to assess whether any provisions of the FDC had been breached.

## 2. **Infringements committed by the supporters of the Football Association of Montenegro**

29. To begin with, the Single Judge had no doubt that that Incident 1, Incident 2 and Incident 3, involving Montenegrin supporters, had occurred during the Match.

30. As previously mentioned, such incidents – caused by Montenegrin supporters - were reported within the MC Report and/or the Security reports and were not contested by the Respondent.
31. In consideration of the foregoing, the Single Judge recounted that art. 16 (2) (e) FDC establishes that the supporters of a representative team are prohibited from the use of gestures, words, objects or any means to transmit a message which is not appropriate for a sports event. In this respect, the Single Judge wished to emphasise that the banner displayed as a reaction to an incident which took place in a previous match in the context of Incident 3 is clearly inappropriate for a sports event and does not belong within the environment of a football match, the former therefore being prohibited from display in a stadium. The Single Judge likewise further emphasised that invasions of the pitch and the lighting of fireworks (*i.e.* lighting a flare) are completely unacceptable in the context of a football match, such conducts being prohibited pursuant to art. 16 (2) (a) and (c) FDC respectively.
32. In this regard, the Single Judge pointed out that art. 16 (2) FDC, as outlined *supra*, establishes a strict liability on associations in so far that they are liable for the inappropriate behaviour on the part of one or more of their supporters and may be subject to disciplinary measures, even if they can prove the absence of any negligence in relation to the organisation of the match.
33. In light of the foregoing, taking into account all of the above, the Single Judge was satisfied to hold the Respondent responsible for the inappropriate behaviour of its supporters in accordance with art. 16 (2) FDC. Indeed, this provision clearly provides that associations are liable for the inappropriate behaviour of its supporters, especially with regard to *the invasion or attempted invasion of the field of play* (lit. a) – Incident 2; *the lighting of fireworks or any other objects* (lit. c) – Incident 1, and; *the use of gestures, words, objects or any other means to transmit a message that is not appropriate for a sports event* (lit. e) – Incident 3. In particular, the Single Judge had no doubt that the three incidents in question fell within the scope of the aforementioned sub-paragraphs.
34. As a result, the Single Judge held that the Respondent should be held liable for the breach of art. 16 (2) FDC, and had to be sanctioned accordingly.

### 3. The determination of the sanction

35. With regard to the applicable sanctions, the Single Judge observed in the first place that the Respondent was a legal person, and as such was subject to the sanctions described under art. 6 (1) and (3) FDC.
36. For the sake of good order, the Single Judge 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. 24 (1) FDC).
37. As established above, the Respondent was found liable for the inappropriate behaviour of its supporters (art. 16 (2) FDC).



38. In determining the sanction to be applied, the Single Judge held that he needed to be take into account (i) the number of incidents involving Montenegrin supporters which occurred during the Match, and (ii) that the banner exhibited in the context of Incident 3 was displayed multiple times and remained in place for a significant period (being shown for 1 minute and 30 seconds at 21h 08 of the Match and displayed again at 21h 15 until the end of the first-half), thus gaining significant exposure.
39. This being said, the Single Judge held that he also needed to consider that the Respondent had not been sanctioned for any similar incidents during the present Preliminary Competition.
40. With such considerations in mind, the Single Judge underlined that the aggravating factors of the case undoubtedly outweigh the existing mitigating factors, such elements having to be taken into account when deciding on the sanction.
41. Given the above, the Single Judge deemed that amongst the range of sanctions available under art. 6 FDC, a fine was an appropriate measure to sanction the Respondent for the incidents which had occurred in the match at stake.
42. As such, the Single Judge recalled that with regards to the fine to be imposed, in accordance with art. 6 (4) FDC, it may not be lower than CHF 100 and greater than CHF 1,000,000.
43. As a result, taking into account the applicable circumstances of the present case, the Single Judge held that a fine amounting to CHF 8,000 is to be considered appropriate and proportionate given the incidents which occurred during the Match. In particular, the Single Judge was satisfied that such amount would serve the necessary deterrent effect, whilst encouraging the Respondent to implement the necessary measures to prevent such incidents from happening again.

### III. DECISION OF THE DISCIPLINARY COMMITTEE

1. The Football Association of Montenegro is ordered to pay a fine to the amount of CHF 8,000 for the inappropriate behaviour of its supporters (invasion of the field of play, lighting of fireworks, use of objects – *banner* – to transmit a message that is not appropriate for a sports events) in connection with the match *Montenegro vs. Turkey* played on 16 November 2021 in the scope of the Preliminary Competition for the FIFA World Cup Qatar 2022™, European Zone.
2. The fine is to be paid within 30 days of notification of the present decision.

FÉDÉRATION INTERNATIONALE  
DE FOOTBALL ASSOCIATION



**Jorge Ivan PALACIO**

Chairperson of the FIFA Disciplinary Committee

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**NOTE RELATING TO THE TERMS OF THE DECISION:**

According to art. 64 par. 5 of the FDC and 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.

**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.