

Disciplinary Committee

FIFA[®]

Date: 13 January 2022

Sent to:
Mr Mario Alberto Yepes
c/o Colombian Football Association

C.C
Colombian Football Association
CONMEBOL

Notification of the grounds of the Decision

Ref FDD-9340

Dear Sirs,

Please find attached the grounds of the decision passed in the aforementioned case by a member of the FIFA Disciplinary Committee on 28 October 2021.

The Colombian Football Association (in copy) is kindly requested to forward this decision to its official, Mr Mario Alberto Yepes.

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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Tel: +41 43/222 7777 - Email: Disciplinary@fifa.org

Decision of the FIFA Disciplinary Committee

passed on 28 October 2021

DECISION BY:

Ms Thi My Dung NGUYEN, Vietnam (Member)

ON THE CASE OF:

Official Mario Alberto Yepes, Colombia

(Decision FDD-9340)

REGARDING:

Art. 11 - FDC - Offensive behaviour and violations of the principles of fair play

I. FACTS

1. The following summary of the facts does not purport to include every single contention put forth by the actors at these proceedings. However, the member of the FIFA Disciplinary Committee (**the Committee**) has thoroughly considered in her 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 her position and in the ensuing discussion on the merits.
2. On 14 October 2021, a match was played between the representative teams of Colombia and Ecuador in Barranquilla (Colombia – Attendance 34,000 spectators – Final score 0-0) in the context of the Preliminary Competition of the FIFA World Cup Qatar 2022™, South American Zone (**the Match**).
3. In this context, the referee of the Match mentioned the following incident in his report (**the Referee Report**):

“El señor Mario Alberto Yepes, Director Deportivo de la Selección Colombia profirió palabras ofensivas contra el cuarteto arbitral en el acceso al vestuario de árbitros, utilizando palabras como “SINVERGUENZA, DESCARADO Y CARADURA, VIENES A HACERTE FAMOSO EN BARRANQUILLA”.”¹

4. In addition, the match commissioner reported the aforementioned incident in the following terms (**the MC Report**):

“Mario Yepes, Director Deportivo de la Selección Colombia ofendió al cuarteto arbitral en el acceso al vestuario de árbitros, utilizando palabras como “ SINVERGUENZA, DESCARADO Y CARADURA, VIENES A HACERTE FAMOSO EN BARRANQUILLA” .”²

5. In view of the foregoing, disciplinary proceedings were opened against the official Mario Alberto Yepes (**the Respondent**) on 19 October 2021 with respect to a potential breach of art. 11 of the FIFA Disciplinary Code (**FDC**). In particular, the latter was provided with the aforementioned reports and was granted a six-day deadline to provide the Secretariat to the FIFA Disciplinary Committee (**the Secretariat**) with its position.

¹ Free translation: Mr. Mario Alberto Yepes, Sporting Director of the Colombia National Team, uttered offensive words against the refereeing quartet at the entrance to their dressing room, using words such as “DISGRACEFUL, SHAMELESS AND BRAZEN, YOU’VE COME TO MAKE A NAME FOR YOURSELF IN BARRANQUILLA”.

² Free translation: Mario Yepes, Colombia's national team Sporting Director, offended the refereeing quartet at the access to the referees' dressing room, using words such as “DISGRACEFUL, SHAMELESS AND BRAZEN, YOU’VE COME TO MAKE A NAME FOR YOURSELF IN BARRANQUILLA”.

II. RESPONDENT'S POSITION

6. On 22 October 2021, the Colombian Football Association provided the following position on behalf of its official:
- The correspondence informs about the opening of disciplinary proceedings for the potential infringement of the rules contained in art. 11 FDC. However, this correspondence does not state which particular rule could potentially have been infringed.
 - The enclosures to the correspondence refer to the reports of the match officials in which, in light of the aforementioned art. 11 FDC, there is an alleged misconduct of Mr. Yepes.
 - In accordance with the above, it is relevant that the FIFA Disciplinary Committee is aware that Mr. Yepes has never been investigated or sanctioned for similar conduct, which reflects his good behaviour as an official of the Colombian Football Association from the moment he took up the position of Sporting Director of the Colombian National Team.
 - In addition, the language used by Mr. Yepes reported in the report shows that his statements were influenced by the tense atmosphere that prevailed during the match, particularly by a series of actions that occurred in the last minutes of the match that generated discussion and controversy.
 - In this sense, in accordance with what has been argued and by virtue of the good actions and behaviour that Mr. Yepes has always displayed, no sanction should be imposed. However, if it is considered that his conduct is worthy of a disciplinary sanction, it is requested that the consequences of the alleged misconduct of Mr Yepes be mitigated, and that a warning be imposed.
7. The Committee, once again, reiterated that it has considered all the facts, allegations, legal arguments and evidence provided by the Respondent, and in the present decision had only referred to those observations and evidence regarded as necessary to explain its reasoning.

III. CONSIDERATIONS OF THE COMMITTEE

8. In view of the circumstances of the present case, the Committee decided to first address the procedural aspects of the case, *i.e.* its 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 Committee noted that at no point during the present proceedings did the Respondent challenge its jurisdiction or the applicability of the FDC.

10. Notwithstanding the above and for the sake of good order, the Committee found it worthwhile to emphasise that, on the basis of art. 2 (1) FDC read together with art. 53 FDC, it 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 Committee firstly began by recalling the content and the scope of the relevant provisions of the 2019 edition of the FDC, which was, in its view, the edition applicable to the present issue. In particular, the Committee considered that both the merits and the procedural aspects of the present case should be covered by the 2019 edition of the FDC.
12. In view of the above, the Committee decided to recall the content of art. 11 FDC, which reads as follows:

“1.

Associations and clubs, as well as their players, officials and any other member and/or person carrying out a function on their behalf, must respect the Laws of the Game, as well as the FIFA Statutes and FIFA’s regulations, directives, guidelines, circulars and decisions, and comply with the principles of fair play, loyalty and integrity.

2.

For example, anyone who acts in any of the following ways may be subject to disciplinary measures:

a) violating the basic rules of decent conduct;

(...)”

13. This provision contains a general obligation for association and clubs, as well as their players and officials to comply with the various regulations and other directive as well as to behave properly, in particular by following the principles of fair play, loyalty and integrity, failing which disciplinary sanctions may be imposed on the person concerned.

C. Standard of proof

14. Firstly, the Committee recalled that the burden of proof lies with FIFA, which is required to prove the infringement under art. 36 (1) FDC.
15. Secondly, the Committee 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.
16. Finally, the Committee 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.

17. Having clarified the foregoing, the Committee proceeded to consider the merits of the case.

D. Merits of the case

1. Issue of review

18. The Committee started to analyse the evidence at its disposal, in particular the documentation and information provided in the scope of the present disciplinary proceedings to determine the potential violations of the FDC.
19. As a preliminary remark, the Committee wished to recall that, according to art. 40 FDC, the facts stated in the reports of the match officials are presumed to be correct. Parties may however provide proof in order to demonstrate the inaccuracy of those reports.
20. In this context, the Committee noted, based on the reports of the match officials, that the Respondent uttered offensive words to the quartet of referees at the entrance to the referees' dressing room. In particular, the Committee observed that the Respondent did not deny the above incident, nor did he apologize, but rather claimed i) that his action was influenced by the tense atmosphere during the match and ii) that he had never been investigated or sanctioned for similar behaviour in the past.
21. In view of the above, the Committee was comfortably satisfied that the abovementioned incident occurred, and that the Respondent by uttering offensive words toward the referees clearly did not respect the principle of fair play and violated the basic rules of decent conduct.
22. In particular, the Committee recalled that due to his position within the Colombian Football Association as Sports Director, an irreproachable and exemplary behaviour is to be expected from the Respondent, who could not in any way use the tense atmosphere of the Match as an excuse to somehow justify his inappropriate conduct.
23. As a result of the foregoing, the Committee had no doubt that the Respondent, by uttering offensive words to the referees, had behaved improperly in violation of art. 11 (2) (a) FDC and should be sanctioned accordingly.

2. Determination of the sanction

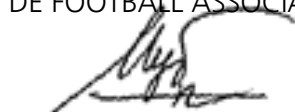
24. In this context, the Committee observed in the first place that the Respondent was a natural person, and as such was subject to the sanctions described under art. 6 (1) and (2) FDC.
25. For the sake of good order, the Committee underlined that it is responsible to determine the type and extent of the disciplinary measures to be imposed in accordance with the objective and subjective elements of the offence, taking into account both aggravating and mitigating circumstances (art. 24 (1) FDC).

26. As established above, the Respondent was found to have infringed art. 11 (2) (a) FDC as a result of his inappropriate conduct towards the referees, to whom he uttered offensive words.
27. Furthermore, the Committee noted that this provision does not provide for specific sanctions, so that the different disciplinary measures enumerated in art. 6 FDC could be imposed on the Respondent, keeping in mind that the sanction imposed must be proportionate to the offence committed and have a deterrent effect on the Respondent.
28. This being said, the Committee also acknowledged that the Respondent presented clean record with respect to the Preliminary Competition of the FIFA World Cup Qatar 2022™.
29. In these circumstances, and in the absence of specific sanctions directly provided for in art. 11 FDC, the Committee decided to refer to cases where officials had been sent-off by the referee for dissenting with words or gestures during a match, and were thus sanctioned by the Disciplinary Committee for breaching art. 12 (1) (c) FDC. In particular, the Committee noted that in two precedents that took place during the Preliminary Competition of the FIFA World Cup Qatar 2022™, the officials received a one-match suspension and a fine of CHF 5'000³.
30. Against this background, the Committee considered that the circumstances of the case did not require the imposition of a match suspension, especially since the Respondent had not been sent off by the referee. Nevertheless, such a conduct is unacceptable and cannot be tolerated, so that a fine amounting to CHF 5,000 should be imposed to sanction such incident. In particular, the Committee deemed that this fine was proportionate to the offence committed and should have the expected deterrent effect on the Respondent.

IV. DECISION OF THE DISCIPLINARY COMMITTEE

1. **The official Mario Alberto Yepes is ordered to pay a fine to the amount of CHF 5,000 for his offensive behaviour and violations of the principles of fair play (violating the basic rules of decent conduct) in connection with the match *Colombia v. Ecuador* played on 14 October 2021 in the scope of the Preliminary Competition for the FIFA World Cup Qatar 2022™, South American Zone.**
2. **The fine is to be paid within 30 days of notification of the present decision.**

FÉDÉRATION INTERNATIONALE
DE FOOTBALL ASSOCIATION



Ms Thi My Dung Nguyen

Member of the FIFA Disciplinary Committee

³ Decisions FDD-9259 and FDD-9238

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 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.