

Disciplinary Committee

FIFA[®]

Date: 03 January 2022

Sent to:

Mr. VIDAL PARDO Arturo Erasmo
c/o Chilean Football Association

C.C:

- Chilean Football Association
- CONMEBOL

Notification of the grounds of the Decision

Ref FDD-9659

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.

The Chilean Football Association (in copy) is kindly requested to forward this decision to Mr. VIDAL PARDO Arturo Erasmo.

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:

Ms. Polly Louise HANDFORD (England) (Member)

RESPONDENT:

Mr. VIDAL PARDO Arturo Erasmo, Chile

(Decision FDD-9659)

REGARDING:

Art. 12 - FDC - Misconduct of players and officials

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 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 16 November 2021, a match was played between the representative teams of Chile and Ecuador in Santiago de Chile (Chile – Attendance 8,505 spectators - Final score 0-2) 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 indicated in his report (**Referee Report**) that the player Mr. VIDAL PARDO Arturo Erasmo (**the Player or the Respondent**) had been sent off (*Offence type “H” – Serious foul play*) in the 13th minute of the Match. In particular, the referee reported the following in relation to said indecent:

“Golpea con taponos en hombro seguido en el rostro del adversario. La victima de la falta continuo el partido sin inconvenientes”

(Free English translation) “Hit with shoulder taps and then hit the opponent in the face. The victim of the foul continued the match without inconvenience”.

4. On 17 November 2021, in view of the foregoing, disciplinary proceedings were opened against the Respondent with respect to a potential breach of art. 12 of the FIFA Disciplinary Code (**FDC**). In particular, the Respondent was informed that the case would be submitted to a member of the FIFA Disciplinary Committee for evaluation on 02 December 2021 and was granted a six (6) day deadline within which to provide the Secretariat to the FIFA Disciplinary Committee (**the Secretariat**) with his position.

II. RESPONDENT’S POSITION

5. On 23 November 2021, the Chilean Football Association (**the CFA**) provided the position of the Player, which can be summarized as follows (*free English translation*):
 - After a pass was made from the midfield by the player Mauricio Isla to the Respondent with the aim of enabling the play to approach the opponent's area, the Respondent tried to reach and control the ball with his head, but it came in too long, for which reason the Respondent decided to reach the ball with his right foot, without managing to visualize that the player Felix Torres was coming running on the left side. As a result, Respondent impacted Mr. Felix Torres with the sole of his shoe in the chest, with the Respondent’s foot then sliding to the player’s face.

The CFA, on behalf of the Respondent, provided a series of images demonstrating the sequence of the aforesaid incident, and stipulated the following:

- At all times the Respondent had his head and gaze directed towards the ball and tried to calculate from the beginning the distance to reach it.
- In the middle of the jump the Respondent kept looking at the ball and never detected the presence of the other player, and so kept jumping. The Respondent then saw the proximity to control the ball and decided to extend his leg.
- In the images, it is possible to visualize how the Respondent was still in the air, always with his eyes on the ball - being about to make contact with the opponent - and still does not notice the presence of the other player.
- It is possible to see that the Respondent's movement continues with the intention of concluding the technical gesture.
- At this moment it was impossible for the Respondent to modify his body; and with the inertia the Respondent hit the shoulder and face of the other player with his foot as a result of the search for the ball within the technical gesture, thereby producing the foul.

The Respondent's intention:

- By analysing the images provided, it is possible to determine that from the beginning of the play, which unfortunately culminated in the expulsion of the Respondent, the Respondent always had his eyes fixed on the ball, without ever noticing the proximity of the player of the opposing team.
- It is therefore clear that the Respondent's intention was to control the ball to complete the play, and not to inflict damage to Mr. Felix Torres – it was simply an accident that did not carry the Respondent's intention to cause injury to his opponent.

The Respondent's conduct:

- Once the Respondent had received the red card, it is possible to see that he was extremely affected by the events which took place, as demonstrated through his gestures and subsequent actions.
- The Respondent can be seen to have been concerned for the health of his opponent, whom was lying down and receiving medical attention, even though the Respondent had already been sent-off by the Referee.
- The Respondent tried to help his opponent, and can be seen to crouch to check on his condition in a show of genuine concern.

- In no case does the Respondent complain about the decision of the Referee, on the contrary, he "*assumes in silence and embraces it, in a submissive and repentant reaction*".
- The Committee should take into account the enclosed letter which has been written and signed by the Respondent, which expressly states his lack of intention to cause any injury to his opponent.
- The Committee is required to take into account the objective and subjective elements of the offence when determining the disciplinary measures to be imposed (art. 24 FDC).
- As the CFA has demonstrated, the Respondent had no intention to collide with his opponent nor to cause any damage to the latter. The penalty must be determined based on these elements as outlined above.

The effects of the Respondent's conduct:

- The affected opponent player, after receiving first aid, was able to get up and continue playing normally.
- The chest of the opponent player cushioned the blow to his face, but he did not bleed or get injured by the studs of the Respondent's shoes. If there had been an intention to cause damage, it would certainly have happened.

Case comparison – Expulsion Gabriel Jesus, *Brazil vs. Chile*, 02 July 2021:

- The CFA compared the present case to another, with an additional sequence of photographs, which demonstrate a "*totally similar move to the one made by [the Respondent]*".
- In the referenced case, the "*Brazilian player makes a dangerous move in front of his rival Marcelo Mena of the Chilean national team in the final of Copa America 2021, measuring or should measure the risk of impact, being finally sanctioned the player Gabriel Jesus, not to play 2 matches plus a fine of \$ 5,000.*"

In conclusion:

- The CFA, on behalf of the Respondent, requests the Committee to consider the foregoing submissions, and to issue a decision by virtue of which it is resolved not to sanction the Respondent.
- In the event that the Committee considers that the Respondent is to be charged for the facts as described above, the foregoing submissions of the CFA should be taken into account for the purposes of calculating the number of matches for which the Respondent is to be sanctioned.

6. The CFA additionally provided a statement from the Respondent which can be summarized as follows (*free English translation*):
- The Respondent was sanctioned as a result of an unfortunate event which was not done intentionally.
 - When the Respondent noticed the ball was coming in too high, he first tried to control it with his head, but saw that it was long, and then raised his right foot as much as he could without realizing that he was very closely surrounded by other players, and by which point, it was already too late to avoid the blow which hit the player Felix Torres from Ecuador.
 - It was accidental, and the Respondent never wanted to harm Felix or anyone.
 - The Respondent just didn't see Felix, and so was unable to calculate the distance which separated them.
 - The Respondent only realized what had happened when he felt his foot collide with Felix's chest and then brush against his face.
 - Fortunately, Felix was able to continue playing, and the Respondent was very sad and thought of his young children who were watching the game in the stadium.
 - The Respondent apologizes to Felix and wishes to emphasize that he is very sorry for his children, the rest of the team and the spectators, and reiterates that and no time was this movement made with any intention - even less to cause harm to another player.
 - The Respondent humbly requests the Disciplinary Committee to take into account that it was an unfortunate accident and hopes that he will not be deprived of playing in the next matches, therefore being unable to represent his country in the next important phase of the qualifiers.

III. CONSIDERATIONS OF THE DISCIPLINARY COMMITTEE

7. In view of the circumstances of the present matter, the Committee decided to first address the procedural aspects, namely, its jurisdiction and the applicable law, before entering into the substance of the matter and assessing the possible breaches committed, as well as the potential sanctions, if applicable, resulting therefrom.

A. Jurisdiction of the FIFA Disciplinary Committee

8. 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.
9. Notwithstanding the above and for the sake of good order, the Committee found it worthwhile to emphasize that, on the basis of art. 2 (1) FDC read together with arts. 53 and 54 FDC, it was

competent to evaluate the present case and to impose sanctions in case of corresponding violations.

B. Applicable law

10. 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.
11. Having established the above, the Committee wished to recall the content and scope of art. 12 FDC in order to duly assess the case at hand:

Art. 12 of the FDC – Misconduct of players and officials

1. Players and officials shall be suspended for misconduct as specified below and may be fined accordingly:

(...)

e) at least two matches for serious foul play;

(...)

6. Additional disciplinary measures may also be imposed in all cases.

12. This being recounted, the Committee underlined that the abovementioned provision provides for the minimum disciplinary sanction(s) to be imposed on players or officials in cases of misconduct during a match. On top of the minimum sanction(s) to be imposed for a specific offence, the FIFA Judicial Bodies may impose additional disciplinary measures on the player or official concerned (cf. art. 12(6) FDC in conjunction with art. 24 FDC).

C. Standard of proof

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

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

D. Merits of the dispute

1. Issue of review

17. The relevant provisions having been recalled, and the above having been established, the Committee proceeded to analyse the evidence at its 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.
18. As a preliminary remark, and as outlined above, 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 to the contrary.
19. In this context, the Committee acknowledged from the Referee Report that the Player had been sent off in the 13th minute of the Match for the offence type 'H', that is to say for a '*serious foul play*'. More specifically, the Committee acknowledged from the words of the referee that the Respondent "*hit with shoulder taps and then hit the opponent in the face*".
20. Given the above, the Committee subsequently went on to examine the footage of the pertinent incident. In particular, the Committee observed that the Player attempted to gain control over the ball which was travelling forward in his direction of travel overhead, by jumping - with his gaze directed upwards towards the ball - and extending his right leg forward and upwards. However, with the momentum of the movement carrying him forward, the Respondent struck the opposing player Felix Torres - whom had also jumped in order to header the forward travelling ball back in the opposite direction – with his right extended foot, first in Mr. Torres' right shoulder / side of chest, with the Respondent's right foot then sliding forward in a continuous motion across Mr. Torres' upper torso and striking Mr. Torres' face in a 'high kick' action.
21. The Committee also acknowledged, taking into account both the CFA's and the Respondent's submissions that:
- i. the Player had allegedly no intention of causing harm or inflicting damage to Mr. Torres as the incident was accidental,
 - ii. the Player was regretful over his actions and apologises,
 - iii. the Player can be seen to display concern for the well-being of Mr. Torres following the incident, even though the Player had already been sent-off by the Referee,
 - iv. the Player accepted the decision of the Referee without complaint, and
 - v. Mr. Torres, after receiving first-aid, was able to get up and continue playing the Match normally, without wound or injury.

22. This being said, the Committee wished to recall that the decisions taken by the referee on the field of play are final and may not be reviewed by the FIFA Judicial Bodies in accordance with art. 9 (1) FDC and art. 14 (6) Regulations for the FIFA World Cup 2022™ Preliminary Competition.
23. Therefore, the Committee considered itself bound by the assessment made by the referee as transcribed within his report, especially when considering that the Respondent did not provide any evidence demonstrating the inaccuracy of the Referee's Report.
24. Given the arguments brought forward by the Respondent and the CFA, the Committee wished to emphasise that the fact that the incident may have been accidental and/or that the Player may have had no intention of causing any harm or damage was irrelevant when assessing the misconduct itself.
25. Consequently, after a careful analysis of the footage of said incident, but also considering that the referee of the Match had characterized the incident at hand as an incident of serious foul play, the Committee was satisfied that it fell within the scope of art. 12 (1) (e) FDC, and therefore should be sanctioned accordingly.

2. The determination of the sanction

26. 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.
27. 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).
28. As established above, the Respondent was sent off by the referee for a serious foul play, meaning that his misconduct should be sanctioned in accordance with art. 12 (1) (e) FDC.
29. Given the above, the Committee pointed out that it is bound by the minimum sanctions foreseen under art. 12 (1) (e) FDC (which provides for a suspension of "*at least two matches*" for such an offence – "*at least*" warranting that the imposed match suspension(s) may extend beyond that of two matches), whilst also recounting that additional disciplinary sanctions may be imposed in accordance with art. 12 (6) FDC.
30. In this context, with respect to art. 12 (1) FDC, the Committee found it worthwhile to call to mind, that in accordance with the pertinent jurisprudence, that is to say, in similar cases decided by the Committee whereby infringement(s) of art. 12 (1) FDC had occurred, such infringement(s) can be seen to have incurred a fine of at least CHF 5,000¹.

¹ https://digitalhub.fifa.com/m/1380cb79426a8218/original/FIFA_Disciplinary-Overview_2022-FWC-qualifiers_01-Nov-2021_Full.pdf

31. In this regard, for the sake of completeness, the Committee underlined that, in accordance with art. 6 (4) FDC, any imposed fine may however not be greater than CHF 1,000,000.
32. The above being established as a point of reference, the Committee subsequently turned its attention to the circumstances of the present case, and held that it must take into account (i) the reckless/careless action(s) of the Respondent with respect to the incident, (ii) the risk posed to Mr. Torres (whom had the potential to have been seriously injured as a result of the incident) and, (iii) the particularly violent impact of the Respondent's action upon the opposing player (Mr. Torres), whom was struck not only upon the shoulder/chest by the Respondent's foot, but also in the face.
33. This being said, the Committee held that it also needed to consider that the Respondent presented a clean record with respect to the Preliminary Competition of the FIFA World Cup Qatar 2022™, and that the latter immediately expressed regret over his action(s), offered his apologies and appeared to have had no intention of causing harm or injury to the opposing player.
34. With such considerations in mind, after a careful analysis of the video footage of the incident and in view of all the circumstances of the case, the Committee considered a suspension of three (3) matches and a fine of CHF 5,000 to be appropriate and proportionate to the offence committed, and in line with the jurisprudence and the provisions of the FDC.
35. In particular, the Committee impressed that although the Player's primary intention may have been to gain control over the ball and not to cause injury and/or strike his opponent, it could not disregard the particularly serious/violent impact upon the opposing player as a result of the incident, nor the Respondent's irresponsible/thoughtless action(s) in the case at hand. As a result, the Committee considered that an additional match beyond the minimum provided for under art. 12 (1) (e) FDC, that is to say a three (3) match suspension, was justified in the present circumstances.

IV. DECISION OF THE DISCIPLINARY COMMITTEE

- 1. The player VIDAL PARDO Arturo Erasmo is suspended for three (3) matches, including the automatic match suspension which will be served during the next official match of the representative team of the Chilean Football Association in the scope of the Preliminary Competition for the FIFA World Cup Qatar 2022™, South American Zone (i.e. *Chile v. Argentina* to be played on 27 January 2021). The remaining suspension will be served during the next official matches of the representative team of the Chilean Football Association in the scope of the Preliminary Competition for the FIFA World Cup Qatar 2022™, South American Zone (i.e. *Bolivia v. Chile* to be played on 1 February 2022 and *Brazil v. Chile* to be played on 24 March 2022).**
- 2. The player VIDAL PARDO Arturo Erasmo is ordered to pay a fine to the amount of CHF 5,000.**
- 3. The fine is to be paid within 30 days of notification of the present decision.**

FÉDÉRATION INTERNATIONALE
DE FOOTBALL ASSOCIATION



Polly Louise HANDFORD

Member of the Disciplinary Committee

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.

NOTE RELATING TO THE LEGAL ACTION:

This decision can be contested before the FIFA Appeal Committee (art. 57 FDC). Any party intending to appeal must announce its intention to do so in writing within three (3) days of notification of the grounds of the decision. Reasons for the appeal must then be given in writing within a further time limit of five (5) days, commencing upon expiry of the first time limit of three (3) days (art. 56 (4) FDC). The appeal fee of CHF 1,000 shall be transferred to the aforementioned bank account on the date of the expiry of the time limit of five days for submitting the reasons for appeal at the latest (art. 56 (6) FDC).