

Decision of the FIFA Disciplinary Committee

passed on 18 July 2022

DECISION BY:

Thomas HOLLERER, Austria (Member)

ON THE CASE OF:

Mr. Roman Rubilio Castillo Alvarez

(Decision FDD-11403)

REGARDING:

FIFA Disciplinary Code, art. 15 (Failure to respect decisions)

I. FACTS OF THE CASE

1. The following summary of the facts does not purport to include every single contention put forth by the actors at these proceedings. However, the member of the FIFA Disciplinary Committee (**the Committee**) has thoroughly considered 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.

A. Factual background

2. On 25 February 2021, the FIFA Dispute Resolution Chamber rendered a decision (under ref. 20-00828/FPSD-31– **the DRC Decision**) regarding an employment-related dispute concerning the player Mr. Roman Rubilio Castillo Alvarez, a Honduran national (**the Respondent or the Player**). In particular, the Player was ordered to pay compensation for breach of contract without just cause to the club Nantong Zhiyun FC (**the Creditor**), the intervening party, CD Saprissa (**Saprissa**), being held jointly and severally liable for the payment of the aforementioned compensation. In this respect, the Player was *inter alia* notified that:-

“7. In the event that the amount due as compensation, as established above is not paid by the player, Roman Rubilio Castillo Alvarez, to Nantong Zhiyun FC, within 45 days, as from the notification by the club of the relevant bank details to the aforementioned player, the following consequences shall arise:

1. *A restriction will be imposed on the player on playing in official matches up until the due amounts are paid. The overall maximum duration of the restriction, including possible sporting sanctions, shall be of six months on playing in official matches. (cf. art. 24bis of the Regulations on the Status and Transfer of Players)*
2. *CD Saprissa shall be banned from registering any new players, either nationally or internationally, up until the due amount is paid and for the maximum duration of three entire and consecutive registration periods. The aforementioned ban will be lifted immediately and prior to its complete serving, once the due amount is paid. (cf. art. 24bis of the Regulations on the Status and Transfer of Players).*
3. *In the event that the aforementioned amount payable as per in this decision is still not paid by the end of the aforementioned ban and restrictions, the present matter shall be submitted, upon request, to the FIFA Disciplinary Committee.”*

3. The grounds of the DRC Decision were duly communicated to the parties on 25 February 2021.
4. On 15 March 2021, Saprissa filed an appeal before the Court of Arbitration for Sport (**CAS**) against the Respondent, the Creditor and FIFA with respect to the DRC Decision (CAS 2021/A/7784).
5. On 17 March 2021, the Respondent filed an appeal before the CAS against the Creditor and FIFA with respect to the DRC Decision (CAS 2021/A/7792).

6. On 25 May 2021, the CAS pronounced a Termination Order with regards to the appeal of the Respondent (CAS 2021/A/7792), thereby terminating and removing the appeal procedure from the CAS roll.
7. On 31 May 2021, in light of the aforementioned Termination Order and as the amount(s) due by the Respondent to the Creditor in accordance with the DRC Decision had not been paid, the Creditor *inter alia* requested FIFA to implement a restriction from playing in official matches upon the Respondent for six (6) months in accordance with point 7. of the DRC Decision (**the Restriction**).
8. On 22 June 2021, in accordance with the DRC Decision and following the aforementioned request of the Creditor, the FIFA Secretariat informed the parties that the above-mentioned restriction on playing in official matches had been imposed upon the Respondent. In particular, the notification of the imposition of the restriction against the Respondent was communicated to the Respondent's then legal representatives, the Honduran Football Association, the Bolivian Football Association, the Portuguese Football Federation, Sapriisa, the Creditor and the Creditor's Member Association (the Chinese Football Association).
9. On the same date (22 June 2021), following a request for clarification received from the Respondent, the FIFA Secretariat confirmed¹, the imposition of the aforementioned restriction against the Respondent. The communication was notified, *inter alia*, to the Respondent's then legal representatives, the Honduran Football Association, the Bolivian Football Association and to the Creditor.
10. On 18 January 2022, the Creditor *inter alia* reported to the FIFA Secretariat that the Respondent had not complied with the imposed restriction from playing in official matches in accordance with the DRC Decision, as it seemed that he had been "*playing in official matches*" for "*his national team*" and "*on the Division Profesional (Bolivia first league) on behalf of Royal Pari Fútbol Club has from 10.07.2021 up 11.12.2021 (...)*". In addition, the Creditor stipulated that the Respondent had "*not paid any amount until the present day*".
11. On the same date (18 January 2022), the Honduran Football Association (**FENAFUTH**) provided the Secretariat with further information which may be summarized as follows (*free English translation*):
 - The Player was "*active in his club in Bolivia*" and it had wrongly assumed that he had already paid all his outstanding obligations as it received the notification of his sanction in June, more than eight (8) months prior, and unfortunately did not "*follow up on his situation*".
 - The FENAFUTH had wrongly believed, in good faith, that the Player had "*already overcome his problem*" as he "*continued to play abroad*".
 - The Respondent will not be called up again under any circumstances to its national team until he "*resolves his situation with the Claimants and completes his sanction*".

¹ In light of the CAS Termination Order (cf. par. I. 6).

- The FENAFUTH deeply regrets “the situation” and apologised for “the mistake” having “acted in good faith at all times”.

B. Procedural background

- Based on the information received from the Creditor (cf. par. I.10 *supra*) and FENAFUTH (cf. par. I.11 *supra*), the Secretariat to the FIFA Disciplinary Committee (**the Secretariat**) conducted investigations with respect to the present matter.
- The case file constituted by the Secretariat as well as the related findings contained in its report (**the Investigatory Report**) can be summarised as follows:
 - Position of the Bolivian Football Association (**FBF**):

“The Player was transferred (on loan) from the club CD Tondela (Portugal) to the club Royal Pari (Bolivia) on 26 January 2021 until 31 December 2022.

- Due to an internal oversight, the FBF did not implement the FIFA DRC Decision.

- The FBF enclosed a report issued by the FBF’s Competitions Department on 8 March 2022, according to which the Player was duly registered for the club Royal Pari FC on 26 January 2021 and participated in the following 22 matches as from 22 June 2021 until 22 December 2021:

Number of Matches	Date	Competition	Match
1	10 July 2021	División Profesional	Bolivar vs Royal Pari
2	17 July 2021	División Profesional	Royal Pari vs Blooming
3	21 July 2021	División Profesional	Guabira vs Royal Pari
4	25 July 2021	División Profesional	Royal Pari vs Real Potosi
5	30 July 2021	División Profesional	Royal Pari vs Independiente
6	5 August 2021	División Profesional	Royal Pari vs CA MCEPAL VINTO PALMA FLOR
7	9 August 2021	División Profesional	Wilstermann vs Royal Pari
8	15 August 2021	División Profesional	Royal Pari vs The Strongest
9	19 August 2021	División Profesional	Oriente Petrolero vs Royal Pari
10	22 August 2021	División Profesional	Royal Pari vs CA Nacional Potosi
11	11 September 2021	División Profesional	Real Santa Cruz vs Royal Pari
12	18 September 2021	División Profesional	Royal Pari vs San Jose
13	23 September 2021	División Profesional	Real Tomayapo vs Royal Pari

14	27 September 2021	División Profesional	Royal Pari vs Aurora
15	19 October 2021	División Profesional	Royal Pari vs Bolivar
16	23 October 2021	División Profesional	Bloomings vs Royal Paru
17	28 October 2021	División Profesional	Royal Pari vs Guabira
18	20 November 2021	División Profesional	Real Potosi vs Royal Pari
19	28 November 2021	División Profesional	Independiente vs Royal Pari
20	2 December 2021	División Profesional	Royal Pari vs Always Ready
21	5 December 2021	División Profesional	CA Mcepal Vinto Palma Flor vs Royal Pari
22	10 December 2021	División Profesional	Royal Pari vs Wistermann

ii. Position of the club Royal Pari FC (Bolivia):

"The Player was transferred from the Portuguese club CD Tondela to the club Royal Pari FC on 26 January 2021.

- The club Royal Pari FC did not know about the Player's suspension dated 22 June 2021.

- The transfer system that the FBF's uses (COMET) did not show any suspension for the Player within the season 2021, thus the club Royal Pari FC acted in good faith and fielded the Player. Moreover, the latter did not inform the club Royal Pari FC with regard to his suspension at any time."

iii. Position of the Respondent:

"The FENAFUTH called the Player to play for the representative team of Honduras (...) while he had a suspension.

- FIFA approved the FENAFUTH's call. In fact, the Transfer Matching System (TMS) did not contain any restriction imposed on the Player nor in the International Transfer Certificate (ITC).

- The FBF registered the Player for the club Royal Pari without any restriction nor the FBF and said club were notified of any disciplinary sanction on the Player.

- FIFA has not complied with Article 32 (4) of the FDC, Art 12 (2) of the Regulations on the Status and Transfer of Players (RSTP), and the Art 6 (6) of Annexe 3 of the RSTP.

- The Player declared to have acted all times in good faith and not being dully counselled by his former legal representatives. In particular, Mr Astor Shermón Henríquez Cooper, who did not communicate him the disciplinary sanction imposed on him by FIFA.

- *The Player stated to have complied with the club Royal Pari's orders and highlighted that, as a player, he is attached to the club's directives which, in case of non-compliance, could lead to disciplinary sanctions.*

- *In light of the aforementioned, the Player indicated to not have any responsibility since he was induced to an error with respect to the interpretation of the abovementioned facts."*

iv. Recommendation:

- *"(...) this Investigatory Report for the FIFA Disciplinary Department concludes that disciplinary proceedings should be opened against: - The Player for potential violation of Article 15 of the FDC (...)"*

C. Disciplinary proceedings

14. On 24 June 2022, based on the above, disciplinary proceedings were opened against the Respondent with respect to a potential breach of art. 15 of the FIFA Disciplinary Code (**FDC**). In particular, the latter was provided with the Investigatory Report and was granted a six-day deadline to provide the Secretariat with its position.
15. On 30 June 2022, the Respondent submitted his position² and requested *inter alia* clarification as to whether (*free English translation*) "*the file Ref. FDD- 11403 is the same as Ref. FDD-10056, or if they are different files*".
16. On 01 July 2022, the Secretariat clarified to the Respondent that the "*relevant investigations conducted in accordance with art. 32 (5) of the FIFA Disciplinary Code (FDC) under the ref. no. FDD-10056 resulted in the pertinent Investigatory Report, the former conforming the basis of the present disciplinary proceedings subsequently opened under the ref. no. FDD-11403*".

II. RESPONDENT'S POSITION

17. The position received from the Respondent can be summarised as follows (*free English translation*):

Lis Pendens

- The processes under the case ref. nos. FDD-11403 and FDD-10056 investigate the same facts, namely the alleged non-compliance with the sanction imposed on the Respondent between 22 June 2021 and 22 December 2021.
- As the process FDD-10056 is pending resolution, the file FDD-11403 should not continue, otherwise the principle of *lis pendens* would be violated.

² Please see section II. Infra for the position of the Respondent in full.

Fundamentals

- The Respondent acted in good faith at all times and always respected the orders and decisions of the contracting clubs, the "*qualifying federation and the convening federation*".
- The Respondent could not have acted otherwise than he did. The club Royal Pari FC (Bolivia) contracted him before the sanction in question was imposed, and when the sanction was imposed, the Respondent (totally uninformed) continued to be called up to participate in the Bolivian professional tournament.
- These circumstances added further confusion for the Respondent, as it is clear that he could not refuse to be fielded without the risk of being sanctioned for non-compliance.
- The same happened with the FENAFUTH, as the Respondent was called up to join his national team.
- The Respondent could neither have refused these summons without the risk of being sanctioned, even though the Respondent was totally unaware that there was a sanction against him.
- It is indispensable to take into account that the "*other parties involved in this case agree that they were not informed of any sanction against the [Respondent]*"
- It is proven that there were never any restrictions against the Respondent in any of the player registration systems and that there were irregularities in "*the access to the information*" and "*the communication of the alleged sanction*".
- The Respondent was the first to suffer for these facts - the Respondent paying with the most precious thing in his possession - his unrepeatable sporting career.
- The Respondent as an "*economically and technically subordinate worker*" has always complied with the orders given by his superiors - the "*Club and the Federation*".
- It is not possible to punish a player whom has merely complied with the orders given to him by those whom were empowered to do so.

Requests

- In the event of *lis pendens*, the present proceedings are discontinued.
- The Respondent is declared not guilty of the offence under investigation in the present proceedings.

III. CONSIDERATIONS OF THE COMMITTEE

18. In view of the circumstances of the present case, the Committee decided to first address the procedural aspects of the case, namely, its jurisdiction and the applicable regulatory framework,

before proceeding to the merits of the case and determining the possible infringements as well as the potential sanctions resulting therefrom.

A. Jurisdiction of the FIFA Disciplinary Committee

19. 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.
20. Notwithstanding the above and for the sake of good order, the Committee found it worthwhile to emphasise that, on the basis of with arts. 53 and 54 FDC, it was competent to evaluate the present case and to impose sanctions in case of corresponding violations.
21. In addition, and on the basis of art. 51 (2) of the FIFA Statutes, the Committee may pronounce the sanctions described in the Statutes and the FDC on member associations, clubs, officials, players, intermediaries and licensed match agents.

B. Applicable legal framework

22. With regard to the matter at hand, the Committee pointed out that the disciplinary offense, *i.e.* the potential failure to respect a decision, was committed after the 2019 FDC entered into force. As a result, the merits as well as the procedural aspects of the present case should fall under the 2019 edition of the FDC.
23. Against such background, the Committee referred to art. 15 FDC which reads as follows:

Art. 15 of the FDC – Failure to respect decisions

1. *Anyone who fails to pay another person (such as a player, a coach or a club) or FIFA a sum of money in full or part, even though instructed to do so by a body, a committee or an instance of FIFA or a CAS decision (financial decision), or anyone who fails to comply with another final decision (non-financial decision) passed by a body, a committee or an instance of FIFA, or by CAS:*

a) will be fined for failing to comply with a decision; in addition:

b) will be granted a final deadline of 30 days in which to pay the amount due or to comply with the non-financial decision;

(...)

e) in the case of natural persons, upon expiry of the aforementioned final deadline and in the event of persistent default or failure to comply in full with the decision within the period stipulated, a ban on any football-related activity for a specific period may be imposed. Other disciplinary measures may also be imposed.

(...)

24. The wording of this provision is clear and unequivocal in so far that its main purpose is to ensure that (financial or non-financial) decisions passed by a body, a committee or an instance of FIFA or CAS are duly complied with. Any such breach shall result in the imposition of the measures listed under said provision.
25. Moreover, for the sake of good order, it is worth emphasizing that in line with art. 54 (1) (h) FDC, cases involving matters under art. 15 of the aforementioned code may be decided by one member of the Disciplinary Committee alone, acting as a single judge, as in the present case.

C. Standard of proof

26. Firstly, the Committee recalled that the burden of proof lies with FIFA, which is required to prove the infringement under art. 36 (1) FDC.
27. 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.
28. Having clarified the foregoing, the Committee proceeded to consider the merits of the case.

D. Merits of the case

1. Issue(s) of review

29. 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.
30. In this context, as a preliminary remark, the Committee wished to emphasise that the DRC Decision – which was communicated *inter alia* to the Respondent *via* his then legal representatives on 25 February 2021 – specifically provided that if the amount(s) due as compensation as denoted therein by the Respondent to the Creditor were not paid within the specified period of time, a "*restriction [would] be imposed on the [Player] on playing in official matches up until the due amounts are paid. The overall maximum duration of the restriction, including possible sporting sanctions, shall be of six months on playing in official matches. (cf. art. 24bis of the Regulations on the Status and Transfer of Players)*".
31. With the above in mind, the Committee subsequently turned its attention to FIFA's communications addressed *inter alia* to the Respondent *via* his then legal representatives on 22 June 2021. In particular, the Committee was eager to underline that the aforementioned communications were clear and left no room for interpretation, in so far that the Respondent was informed that the Restriction had been imposed against him in accordance with the DRC Decision - the imposition of the Restriction being expressly confirmed by the FIFA Secretariat in its latter communication of 22 June 2021, following a request for clarification from the Respondent.

32. As such, the Committee was satisfied that the instructions provided to the Respondent first through the DRC Decision, and subsequently, *via* the abovementioned communications from FIFA were unequivocal: the Respondent was restricted (and as such prevented) from playing in official matches as from 22 June 2021 "*up until the due amounts are paid*", the overall maximum duration of the Restriction being of "*six months on playing in official matches*".
33. Put differently, starting from 22 June 2021, the Player was not permitted to play in any official matches³. The foregoing being up until, and unless, the amount(s) due to the Creditor in accordance with the DRC Decision would be paid or up until the said restriction had been served by the Respondent for the maximum duration of six months.
34. Against such background, the Committee subsequently observed from the information and/or documentation at its disposal that to date, no payment of the amount(s) due by the Respondent to the Creditor in accordance with the DRC Decision had been executed.
35. Therefore, summarising the above information, the Committee concluded that the Respondent was restricted from playing in official matches as from 22 June 2021 up until 22 December 2021 in accordance with the Restriction. In other words, and from the Respondent's perspective, the Respondent could not play in official matches during the aforementioned period of time.
36. With those elements in mind, the Committee however remarked from the case file before it that it appeared that, between 10 July 2021 and 10 December 2021, *i.e.* during a period in which the Respondent was still serving the restriction from playing in official matches, the Respondent had proceeded to participate in two (2) matches for the Honduran National Team; and twenty-two (22) matches for the Bolivian club Royal Pari FC.
37. In this context, the Committee acknowledged that the Respondent did not contest having played those two (2) matches for the FENAFUTH and twenty-two (22) matches for Royal Pari FC, but rather emphasised that (i) the present proceedings should not continue otherwise the principle of *lis pendens* would be violated; (ii) the Respondent acted in good faith at all times and respected the orders and decisions of the contracting clubs, the "*qualifying federation and the convening federation*"; (iii) the Respondent was "*totally unaware*" that there was a sanction against him as the sanction was not communicated to him; (iv) the Respondent could not refuse the summons to participate "*in the Bolivian professional tournament*" and for the FENAFUTH national team without the risk of being sanctioned for non-compliance (even though he was totally uninformed of the sanction); (v) there were never any restrictions against the Respondent in any of the "*player registration systems*" and were irregularities in "*the access to the information*" and "*the communication of the alleged sanction*"; and (vi) it is not possible to punish the Respondent as he merely complied with the orders given to him by those whom were empowered to do so.
38. Given the arguments put forward by the Respondent, the Committee first pointed out – in line with the abovementioned clarification communicated by the Secretariat to the Respondent on 01 July 2022 – that the proceedings under the ref. no. FDD-10056 concerned the investigations conducted in

³ RSTP June 2020 edn. Definition no. 5. – "*Official matches: matches played within the framework of organised football, such as national league championships, national cups and international championships for clubs, but not including friendly and trial matches.*"

accordance with art. 32 (5) FDC and which resulted in the Investigatory Report, whilst the present proceedings (ref. no. FDD-11403) concern the disciplinary proceedings opened on the basis of the conclusion(s) of the aforesaid investigations, as summarised within the Report.

39. As such, the Committee was secure in its conclusion that the submission(s) of the Respondent in connection with the doctrine of *lis pendens* may be disregarded, the present proceedings (FDD-11403) and the investigations conducted under FDD-10056 being 'separate processes' as explicated *supra*.
40. The above being established, the Committee next remarked from the case file that both the DRC Decision and FIFA's communications of 22 June 2021 were communicated to the Respondent's then legal representatives⁴ email, the Respondent having signed and granted the relevant power of attorney for such person(s) in relation to the applicable DRC Decision proceedings and the aforesaid email address having been provided by the same legal representatives in such context for communication with FIFA.
41. With the foregoing in mind, the Committee deemed it necessary to emphasise that in accordance with art. 9bis (3) of the Rules Governing the Procedures of the Players' Status Committee and the Dispute Resolution Chamber (January 2021 edn. – **the Procedural Rules**) – which were in force at the time of (i) the DRC Decision and (ii) FIFA's communications dated 22 June 2021 – communications from FIFA shall be sent to the email address provided by the parties, the latter being responsible for ensuring that their contact details, such as their email address, "*are valid and kept up to date at all times*". In addition, pursuant to art. 9bis (4) of the Procedural Rules, the relevant parties are "*obliged to comply with the instructions provided in the communications sent by FIFA to the email address provided by the parties or as provided in TMS*".
42. As such, the Committee was settled in its opinion that the allegations of the Respondent pertaining to i) the lack of notification(s) being made by FIFA to the Respondent of the Restriction imposed in accordance with the DRC Decision, and; ii) any irregularities in "*the access to the information*" and "*the communication of the alleged sanction*" to the Respondent; may be disregarded, the email address utilized for the notification/communication of the DRC Decision and the aforementioned FIFA correspondences having been the contact email address provided by the Respondent's (authorised) legal representatives at the pertinent time, and therefore being considered as a valid and binding means of communication to the Player. The Respondent having been responsible for updating, and ensuring the validity of, its contact details "*at all times*" (cf. art. 9bis (3) of the Procedural Rules).
43. Therefore, on account of the foregoing, the Committee concluded that the Respondent should have reasonably been aware of its duty to comply with the restriction from playing in official matches, the DRC Decision and the pertinent FIFA communication(s) having been notified to the Respondent's (authorised) legal representatives' at the email address that was communicated by them; which in accordance with the Procedural Rules, was to be considered as a valid and binding address for communication to the Respondent – the Player likewise being obligated to comply with the instructions sent by FIFA to such address. The fact that the Respondent may have been "*unaware*" of the Restriction despite its valid and binding communication to him not exonerating the Respondent

⁴ Mr. Federico Angel Marotta and Mr. Astor Shermon Henriquez Cooper.

from his responsibility to comply with the Restriction and to not play in official matches as from 22 June 2021 onwards.

44. Lastly, with regards to the Respondent's stipulation(s) that he could not have refused the summons to participate in the matches played "*in the Bolivian professional tournament*" and for the FENAFUTH national team without the risk of being sanctioned for non-compliance, the Committee called attention to the fact that the FIFA Statutes impose a statutory obligation upon the (in)direct members of FIFA – such as the Respondent, but also the FENAFUTH, the FBF and the club Royal Pari FC - to comply in full with the decisions passed by FIFA bodies⁵, such as the DRC Decision, as well as the decisions passed by the CAS as recognised by FIFA⁶.
45. As such, the Committee therefore considered that the foregoing argument(s) of the Respondent could not lead to the conclusion that his participation(s) in the above-mentioned official matches despite the Restriction imposed by way of the DRC Decision were justified, the Respondent bearing an individual responsibility to comply in full with decisions passed by the FIFA's bodies as prescribed by the FIFA Statutes – the foregoing being independent of any alleged instruction(s) received from the FENAFUTH, the FBF the club Royal Pari FC or otherwise.
46. Therefore, in view of the foregoing, the Committee had no other alternative but to conclude that, by proceeding to play in two (2) matches for the FENAFUTH and twenty-two (22) matches for the club Royal Pari FC whilst the Respondent was still serving the Restriction imposed by FIFA, the Respondent had failed to respect the DRC Decision and the subsequent order from FIFA, and, as such, had to be held liable for a breach of art. 15 FDC.
47. Having determined the foregoing, the Committee held that the Respondent had to be sanctioned accordingly.

2. Determination of the sanction

48. As preliminary consideration, the Committee recalled that art. 15 FDC is one of the pillars of the FDC in so far that it aims to ensure that stakeholders respect and comply with the FIFA regulations, as well as with the directives and decisions adopted by the FIFA bodies.
49. As a result, any failure to respect a FIFA rule, directive or decision is considered to be a very serious infringement as it jeopardizes the football game and the trust of all stakeholders in the system.
50. Such stance had been confirmed by the CAS, which has deemed that a violation of art. 15 FDC is a "*serious violation that warrants a serious sanction*"⁷. In particular, the Panel "*concur[red] with FIFA that by flagrantly and intentionally, or at least utterly negligently, disrespecting the decisions and directive given by FIFA (...), the [Appellant] has put at risk the viability and effectiveness of the overall system put in place by FIFA to ensure that FIFA's and CAS' decisions are duly and timely respected by all football stakeholders*".
51. The above being clarified, the Committee subsequently recalled that the Respondent is a natural person, and as such subject to the sanctions described under art. 6 (1) and (2) FDC.

⁵ Arts. 14, and 59 (1) FIFA Statutes, May 2021 edn.

⁶ Arts. 56 and 57 FIFA Statutes, May 2021 edn.

⁷ CAS 2020/A/7251

52. 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).
53. As established above, the Respondent was found liable for failure to respect/comply with (a) decision(s) passed by FIFA (art. 15 FDC).
54. In this respect the Committee took into account that, according to the Respondent, it had at all times acted in good faith and that the Player had expressed his respect for the decisions of the contracting clubs, the "*qualifying federation and the convening federation*". This said, the Committee however held that it could not be disregarded that the Respondent had played in two (2) official matches for the FENAFUTH national team and twenty-two (22) official matches for the club Royal Pari FC in contravention of the Restriction, and that such a violation – even if committed by negligence – is considered to be very serious in light of FIFA's principles and mechanisms, and that it needed to be sanctioned accordingly.
55. Given the above, the Committee recalled that anyone found in breach of art. 15 FDC – as is the case of the Respondent – shall in principle "*be fined for failing to comply with a decision*". In the case of natural persons, a "*ban on any football-related activity for a specific period may be imposed*". Other disciplinary measures may also be imposed.
56. This being said, the Committee considered that although specifically foreseen under art. 15 FDC, no fine shall be imposed on the Respondent. In particular, considering the specificities of the case at hand, the Committee held that a fine would not serve the necessary deterrent effect on the Respondent.
57. In fact, in application of art. 15 (1) (e) FDC, the Committee considered that a ban on any football-related activity should be imposed on the Respondent for a specific period. In this respect, the Committee deemed that a ban on any football-related activity for three (3) months was proportionate to the offence committed by the Respondent and took into account the circumstances of the case.
58. Further, in addition to the foregoing, the Committee considered it necessary in view of the particularly serious nature of the infringement(s) committed by the Respondent in the present case, and as permitted under art. 15 (1) (e) FDC ("*Other disciplinary measures may also be imposed*"), to pronounce an additional measure upon the Respondent.
59. In fact, the Committee was of the opinion that a further measure specifically counterbalancing the one that was actually breached by the Respondent should be considered as efficient and proportionate. As such, and given the fact that the Respondent proceeded to play in official matches whilst he was restricted from doing so and taking into account the stipulations of the DRC Decision, the Committee deemed that the appropriate further sanction would be a restriction from playing in any official matches for a maximum duration of up to six (6) months or up until the amount(s) due to the Creditor, Nantong Zhiyun FC, in accordance with the DRC Decision are paid. In particular, in order to ensure the maximum effectiveness of the sanction(s) to be imposed upon the Respondent as outlined above, the Committee clarified that the restriction from playing in any official matches shall

be implemented following the expiry of (*i.e.* subsequent to) the abovementioned ban from taking part in any football-related activity to be imposed upon the Respondent.

60. In particular, the Committee was satisfied that such measures were justified in view of the contextual elements of the present proceedings and would serve the necessary deterrent effect on the Respondent in order to prevent him from not respecting decisions rendered by FIFA or by the CAS.

IV. DECISION OF THE DISCIPLINARY COMMITTEE

- 1. Mr. Roman Rubilio Castillo Alvarez is found responsible for failing to comply in full with a FIFA decision (ref. 20-00828/FPSD-31).**
- 2. Mr. Roman Rubilio Castillo Alvarez is banned from taking part in any football-related activity for a period of three (3) months as from the date of notification of the present decision.**
- 3. Following the expiry of the ban from taking part in any football-related activity in accordance with point 2. above, a restriction from playing in any official matches will be imposed on Mr. Roman Rubilio Castillo Alvarez for a maximum duration of up to six (6) months or up until the amount(s) due to Nantong Zhiyun FC in accordance with the FIFA decision (ref. 20-00828/FPSD-31) are paid.**

FÉDÉRATION INTERNATIONALE
DE FOOTBALL ASSOCIATION



Thomas HOLLERER

Member of the FIFA Disciplinary Committee

NOTE RELATING TO THE LEGAL ACTION:

According to art. 58 (1) of the FIFA Statutes reads together with arts. 49 and 57 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 BAN ON ANY FOOTBALL-RELATED ACTIVITY:

The ban covers the participation, in any capacity, in a competition or activity authorised or organised by FIFA or any association, club or other member organisation of an association, or in competitions authorised or organised by any professional league or any international or national-level competition organisation or any elite or national-level sporting activity funded by a governmental agency.