

Decision of the FIFA Disciplinary Committee

passed on 24 March 2023

DECISION BY:

Jorge Ivan Palacio (Colombia), Chairperson

ON THE CASE OF:

Mr Paolo Garimberti (Italy)

(Decision FDD-14444)

Regarding the decision of *the Federal Court of Appeal* issued on 20 January 2023

Art. 70 of the FIFA Disciplinary Code (ed. 2023)

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 Chairperson of the FIFA Disciplinary Committee (**the Committee**) has thoroughly considered any and all evidence submitted, even if no specific or detailed reference is made to particular elements of the former.
2. On 27 May 2022, the Federal Court of Appeal of the Italian Football Association dismissed a complaint brought by the Federal Public Prosecutor's Office against various individuals and football clubs, including against the official Mr Paolo Garimberti (**the Official**).
3. On 20 January 2023, following an appeal lodged by the Federal Prosecutor's Office against the aforementioned decision, the Federal Court of Appeal of the Italian Football Association rendered a decision (**the FIGC Decision**) by means of which it *inter alia* imposed a temporary ban on various individuals. In particular, a temporary ban of eight (8) months was imposed on the Official, in the following terms: "*Paolo Garimberti: a temporary 8-month ban within FIGC, with a request for similar bans within UEFA and FIFA*" (free translation – original text in Italian: "*Paolo Garimberti: inibizione temporanea di mesi 8 a svolgere attività in ambito FIGC, con richiesta di estensione in ambito UEFA e FIFA*").
4. On 15 February 2023, the Italian Football Association (**FIGC**) informed FIFA about the FIGC Decision and "*respectfully requested [FIFA] to extend the aforementioned sanctions to have worldwide effect*". In particular, the FIGC indicated the following in its correspondence:
 - (i) the FIGC decision "*can still be subject to appeal at the CONI Sports Guarantee College but the sanctions are all already effective and enforceable*";
 - (ii) "*all disciplinary proceedings were conducted in accordance with the FIGC Disciplinary Code and in full compliance with the FIFA Statutes and the general principle of due process for each party involved*";
 - (iii) "*the sanctions include the ban on practicing any sporting activity, pursuant to Art. 6 of FDC: in fact, the persons involved in the aforementioned disciplinary proceedings, during this suspension, will not be able to participate in any activity within FIGC and, in any case, will not even be able to enter the dressing rooms or areas immediately surrounding the field of play during football matches*"; and
 - (iv) "*all the parties involved in the a/m proceeding have been correctly sued and have had the opportunity to explain their reasons and defend themselves*".
5. In support of its request, the FIGC provided several documents, including copies "*of the appeal for revocation and related notifications (...), of the communication of the hearing of the appeal for revocation and related notifications (...) and of the judgement operative part of the decision on the appeal for revocation and related notifications [i.e. the FIGC Decision] (...)*".
6. On 17 February 2023, the Secretariat to the FIFA Disciplinary Committee (**the Secretariat**) requested the FIGC to provide additional documentation "*in order to enable the Chairperson of*

the FIFA Disciplinary Committee to decide on a possible extension of the relevant decisions imposed by the competent judicial body of the FIGC".

7. On 23 February 2023, the FIGC *inter alia* provided the Secretariat with an English translation of the findings of the FIGC Decision, as well as with (i) a copy of a letter sent, amongst others, to the Official on 23 December 2022 (along with the relevant proof of notification), and (ii) the original version in Italian of the findings of the FIGC Decision (along with the relevant proof of notification).
8. On the same day, the Secretariat requested the FIGC to provide a translated version of the grounds of the FIGC Decision.
9. On 2 March 2023, the FIGC requested an extension of the deadline to provide the aforementioned document, such request having been granted on the same day.
10. On 10 March 2023, the FIGC provided "*the translation in English of the ground[s]*" of the FIGC Decision¹.

II. CONSIDERATIONS OF THE DISCIPLINARY COMMITTEE

11. 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 whether the request submitted by the FIGC for the worldwide extension of the sanction imposed on the Official may be granted.

A. Jurisdiction and applicable law

12. First of all, the Committee recalled that, in accordance with art. 51 (2) of the FIFA Statutes, it may pronounce the sanctions described in the Statutes as well as in the FIFA Disciplinary Code (**FDC**) on members associations, clubs, officials, players, intermediaries and licensed match agents.
13. In this context, and consistently with art. 57 (1) FDC, the Chairperson of the FIFA Disciplinary Committee can rule alone, as a single judge, and may take a decision on extending a sanction so as to have worldwide effect, as *in casu*.
14. In view of the above, the Committee stressed that the specific procedure related to the extension of sanctions to have worldwide effect (so-called *worldwide extension*) is foreseen under art. 70 FDC.

¹ For the sake of good order, the Committee wishes to point out that any further reference or quote to the FIGC Decision will be based on said document.

15. More specifically, for serious infringements (in particular but not limited to discrimination, manipulation of football matches and competitions, misconduct against match officials or forgery and falsification, as well as sexual abuse or harassment), the associations, confederations, and other organising sports bodies shall request the FIFA Disciplinary Committee to extend the sanction they have imposed so as to have worldwide effect (art. 70 (1) FDC). Put differently, the worldwide extension is applicable to any serious infringement, keeping in mind that the list of infringements referred to as “*serious*” under said provision is not exhaustive as shown by the clear and unequivocal wording used (“*in particular but not limited to*”).
16. In particular, the (worldwide extension) request shall be submitted in writing and enclose a true copy of the decision. It shall include the name and address of the person who has been sanctioned and that of the club and the association concerned as well as evidence that the person concerned has been informed that the sanction will be submitted for a worldwide extension (art. 70 (3) FDC).
17. On that basis, the Committee pointed out that it takes decisions on worldwide extensions, in principle, without deliberations or orally hearing any of the parties, and using only the file (art. 70 (6) FDC), keeping in mind that it shall either grant or refuse to grant the relevant request to have the sanction extended (art. 70 (9) FDC).
18. Against such background, the Committee subsequently underlined that, upon deciding on a worldwide extension, it may not review the substance of the decision (to be extended) – *in casu* the FIGC Decision –, but is restricted to ascertain that the conditions of art. 70 FDC have been fulfilled (art. 70 (8) FDC).
19. Consistently with the above, the Committee was mindful that, pursuant to art. 70 (5) FDC, the worldwide extension will be approved if the following conditions are cumulatively met:
 - (i) the person sanctioned has been cited properly (lit. a);
 - (ii) the person has had the opportunity to state their case – with the exception of provisional measures – (lit. b);
 - (iii) the decision (imposing the sanction to be extended) has been communicated properly (lit. c);
 - (iv) the decision is compatible with the regulations of FIFA (lit. d);
 - (v) extending the sanction does not conflict with public order or with accepted standards of behaviour (lit. e).
20. With this established, the Committee went on to analyse as to whether the FIGC Decision complied with the aforementioned requirements.

B. Analysis of the request submitted by the FIGC in light of art. 70 FDC

21. As a starting point, and upon reading the FIGC Decision, the Committee *inter alia* acknowledged that:

- (i) it related to accusations brought against the Official for "*breaching federation rules and regulations and violating duties of fair play, honesty and integrity pursuant to art. 4, paragraph 1 and art. 31 paragraph 1 of the Sports Justice Code and art. 19 of the FIGC Statute, having: a) approved, together with fellow directors, the club's quarterly reports as at 31.03.2019, 31.03.2020, 31.03.2021, half-yearly reports as at 31.12.2019 and 31.12.2020 and financial statements as at 30.06.2019 and 30.06.2020 featuring spurious capital gains totalling € 60,376,449 and intangible fixed assets exceeding the amount permitted for joint-stock companies and totalling € 59,398,800, which business conduct sought to misrepresent the club's profits or losses (i.e. higher profits or lower losses) and its equity (i.e. higher equity) at close of each financial year, semester and quarter; b) failed to, despite a duty to both procure an understanding of said documents and to disavow such serious accounting irregularities as those described in point a), act so as to identify such manipulations of the accounting statements and to secure the necessary corrections*";
- (ii) "[the] Court (...) upholds the indictments presented against (...) Mr. Paolo Garimberti (...). Specifically, said parties have violated art. 4, paragraph 1 of the Sports Justice Code".

22. With the above in mind, the Committee was comfortably satisfied that the infringement at stake was serious and thus undoubtedly fell within the scope of art. 70 FDC.

23. In continuation and upon analysing the documentation submitted by the FIGC in light of art. 70 (5) FDC, the Committee was eager to emphasise that:

- (i) the Official has been cited properly, given that, on 23 December 2022, the latter was informed of the hearing that would take place on 20 January 2023 (and was represented during said hearing – cf. *infra*), as well as of the opportunity to file his position and/or to produce and submit any pertinent documents in the context of the proceedings before the Federal Court of Appeal of the FIGC.
- (ii) the Official had the opportunity to state his case, in so far that:
 - he had the opportunity to file a cross-appeal²;
 - he was invited to a hearing (as denoted *supra*);
 - he was represented during said hearing³;
 - he could present his position and arguments during the proceedings before the Federal Court of Appeal of the FIGC⁴, including during the hearing⁵;

² Cf. FIGC Decision (page 5): "*The cross-appeals were filed by: (i) FC Juventus S.p.A. football club and Messrs and Mses (...) Paolo Garimberti (...)*"

³ Cf. FIGC Decision (page 1): "*(...) the case for the defendants was presented by: Lawyers Maurizio Bellacosa, Nicola Apa and Davide Sangiorgio and party-appointed expert Mr. Lorenzo Pozza on behalf of FC Juventus S.p.A. (and its directors and/or managers) (...)*"

⁴ Cf. FIGC Decision: "*The defendants' foremost argument against the appeal being granted (...)*" (page 9); "*The defendants' objections to a grant of appeal on grounds of prospective violations of the ne bis in idem principle are also unfounded.*" (page 9), "*The defendants' objections in respect of the documents submitted as evidence before this Federal Court are, therefore, devoid of any merit.*" (page 16)

⁵ Cf. FIGC Decision (page 8): "*(...) it is worth providing a summary account of the lengthy debate which took place during said hearing so as to also convey the arguments put forward by the defendants.*"

- he had the opportunity to appoint experts⁶;
- (iii) the FIGC Decision was communicated properly to the Official, as demonstrated by the copy of the email containing the findings of the decision that was sent to the Official on 20 January 2023 at 21:10:04, and the related proof of receipt that was submitted by the FIGC;
- (iv) the FIGC Decision is compatible with the regulations of FIFA in so far that it “*can coexist with these regulations [of FIFA] and does not result in regulatory conflicts*”⁷. In particular, the Committee pointed out that the conduct sanctioned in the FIGC Decision may be considered as falling under art. 14 of the FIFA Code of Ethics (ed. 2023 - **FCE**)⁸, and could be sanctioned accordingly with a fine and a ban on taking part in any football-related activity;
- (v) the FIGC Decision does not conflict with public order or with accepted standards of behaviour, keeping in mind that said assessment shall be limited to the question as to whether said decision is consistent with public order, *i.e.* whether it violates fundamental principles of law⁹, including but not limited to the principles of legality and typicality, the principles of proportionality, liability and culpability, the principles of independence, impartiality and good faith or the basic rules of conduct or morality¹⁰. In fact, upon analysing the FIGC Decision, the Committee was settled in its opinion that none of those fundamental principles or basic rules had been breached.

24. In view of the foregoing, the Committee was comfortably satisfied that the (cumulative) conditions for a worldwide extension, as stipulated under art. 70 (5) FDC, have been met.

25. Notwithstanding the above, and for the sake of good order, the Committee also wished to stress that, consistently with art. 70 (3) FDC, the Official was informed that the FIGC Decision would be submitted to FIFA for a worldwide extension¹¹.

⁶ CF. FIGC Decision (page 13); “*That is why all endeavours (more on which later) by the defendants' counsels and their appointed experts to explain (...)*”

⁷ CAS 2021/A/7650 Club Atlético de Madrid S.A.D. v. FIFA - free translation from Spanish

⁸ Art. 14 FCE:

1. Persons bound by this Code shall be aware of the importance of their duties and concomitant obligations and responsibilities. In particular, persons bound by this Code shall fulfil and exercise their duties and responsibilities diligently, especially with regard to finance-related matters.

2. Persons bound by this Code shall respect FIFA's regulatory framework to the extent applicable to them.

3. Persons bound by this Code shall appreciate the impact their conduct may have on FIFA's reputation, and shall therefore behave in a dignified and ethical manner and act with complete credibility and integrity at all times.

4. Persons bound by this Code must refrain from any activity or behaviour or any attempted activity or behaviour that might give rise to the appearance or suspicion of improper conduct as described in the sections that follow.

⁹ CAS 2015/A/4184 Jobson Leandro Pereira de Oliveira v. FIFA and SFT 4A_18/2008

¹⁰ CAS 2021/A/7650 *op. cit.* - free translation from Spanish

¹¹ Cf. findings of the FIGC Decision: “*Paolo Garimberti: a temporary 8-month ban within FIGC, with a request for similar bans within UEFA and FIFA,*” (free translation)

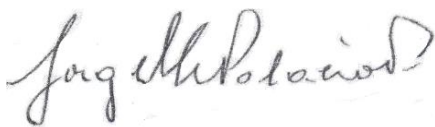
C. Conclusion

26. Summarising its above considerations, the Committee considered that all conditions foreseen under art. 70 FDC for a worldwide extension of the sanction imposed by the FIGC Decision on the Official had been fulfilled.
27. By way of consequence, the Committee decided to grant the request of the FIGC and to extend the sanction imposed on the Official by the Federal Court of Appeal on 20 January 2023 so as to have worldwide effect. More specifically, the Official is sanctioned with an eight (8) month suspension from all football-related activity in accordance with the FIGC Decision.
28. Finally, and for the sake of completeness, the Committee recalled that, pursuant to art. 70 (11) FDC, should the FIGC Decision not yet be final in a legal sense, the present decision shall follow the (final) outcome of the FIGC Decision.

III. DECISION OF THE DISCIPLINARY COMMITTEE

1. **The request of the Italian Football Association to extend the decision passed by *the Federal Court of Appeal* issued on 20 January 2023 to have worldwide effect is granted.**
2. **The official Paolo Garimberti is suspended worldwide with an eight (8) month suspension from all football-related activities as from 20 January 2023.**

FÉDÉRATION INTERNATIONALE
DE FOOTBALL ASSOCIATION



Jorge Ivan Palacio

Chairperson of the FIFA Disciplinary Committee

NOTE RELATING TO THE WORLDWIDE EXTENSION OF THE DECISION:

A sanction imposed by an association or a confederation has the same effect in each association of FIFA, in each confederation and in FIFA itself as if the sanction had been imposed by any one of them (art. 70 (10) FDC). If a decision that is not yet final in a legal sense is extended to have worldwide effect, any decision regarding extension shall follow the outcome of the association's or confederation's current decision (art. 70 (11) FDC).

NOTE RELATING TO THE LEGAL ACTION:

This decision can be contested before the FIFA Appeal Committee (art. 61 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. The appeal brief 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. 60 par. 4 FDC). The appeal fee of CHF 1,000 shall be transferred to the bank account no. 0230-325519.70J, UBS AG, Bahnhofstrasse 45, 8098 Zurich, SWIFT: UBSWCHZH80A, IBAN: CH85 0023 0230 3255 1970 J on the submission of the appeal brief at the latest (art. 60 par. 6 FDC), with reference to case number above mentioned.