

Decision of the FIFA Disciplinary Committee

passed on 06 July 2023

DECISION BY:

Anin YEBOAH (Ghana), Deputy Chairperson

ON THE CASE OF:

Amiens Sporting Club Football

(Decision FDD-10561)

REGARDING:

Art. 21 of the FIFA Disciplinary Code - *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 Deputy Chairperson 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. Facts leading to the in-depth investigation

2. On 18 August 2021, the FIFA general secretariat issued a decision in accordance with art. 13 of the Rules Governing the Procedures of the Players' Status Committee and the Dispute Resolution Chamber (**the FIFA Decision**) by means of which it ordered the club Amiens SC (**the Respondent**) to pay the club AIK Fotboll (**the Claimant**) the amount of EUR 21,780.82 plus 5% interest per annum as from 26 August 2019 until the date of effective payment.

3. In particular, the FIFA Decision specified the following:

"[f]ull payment (including all applicable interest) shall be made to the bank account set out in the enclosed Bank Account Registration Form.

In the event that full payment (including all applicable interest) is not made by the Respondent within the stated time limit, the matter shall be submitted upon request of the Claimant, to the FIFA Disciplinary Committee".

4. In this respect, the Bank Account Registration Form (**the BARF**) enclosed to the FIFA Decision indicated, *inter alia*, the following details:

Beneficiary name	[blank]
Beneficiary address	PO Box 3090, S 169 03 Solna Sweden
Bank name	Swedbank
Bank SWIFT Code	SWEDSESS
Bank account	8327-9,944911061-9
Bank IBAN	SE75 8000 0832 7994 4911 0619
Signature of the party:	
Name of the party in print:	HENRIK JURELIUS
Date:	31.07.2021

5. On 9 March 2022, since the amounts due to the Claimant were not paid, disciplinary proceedings were opened against the Respondent for a potential infringement of art. 15 of the FIFA Disciplinary Code (**FDC**), 2019 ed.

6. On 17 and 25 March 2022, the Respondent provided its position, claiming *inter alia*, that it had paid the amounts due to the Claimant on 20 December 2021.¹
7. On 31 March and 6 April 2022, the Claimant submitted that it had not received any payment from the Respondent, clarifying that “*the [latter] failed to make a payment to the account stipulated in the FIFA BARF that was notified by FIFA along with the decision*”².
8. On 13 April 2022, in accordance with art. 32 (5) FDC, 2019 ed., the Secretariat to the FIFA Disciplinary Committee (**the Secretariat**) informed the parties that further investigations were necessary in the present case and that additional information would be provided in due course.

B. The Investigatory Report

9. Following on the above, and given the position submitted by the Respondent, investigations were conducted by the Secretariat. In particular, the Secretariat gathered the comments/position of the Claimant prior to conducting an external Forensic analysis.
10. The results of the above investigations were set out in a report (**the Investigatory Report**) which can be summarized as follows:

I. Position of the Respondent

11. On 17 March 2022, the Respondent provided its position which can be summarised as follows:

a) Factual timeline

- On 2 December 2021, it received an email from the Mr. Peter Lukasek (peter.lukasek@sportslaw.sk), requesting on behalf of the Claimant (the **Claimant’s Legal Representative**) the execution of the FIFA Decision. The latter attached to his email a power of attorney signed by the Claimant, the FIFA Decision and the BARF. Said email was addressed to administration@amiensfootball.com and valerie.desfosses@amiensfootball.com.
- On 3 December 2021, an employee from the Respondent, forwarded the abovementioned email to a representative of the Respondent, Mr Elliot Branier (**the Respondent’s Legal Representative**) (elliot.branier@amiensfootball.com).
- On the same date, the Respondent replied favourably to the request via its Legal Representative (elliot.branier@amiensfootball.com), requesting the Claimant’s Legal Representative (peter.lukasek@sportslaw.sk) that an invoice be issued for the interest due in order to settle the two sums at the same time.
- On 6 December 2021, the Claimant’s Legal Representative (peter.lukasek@sportslaw.sk) requested the Respondent’s Legal Representative (elliot.branier@amiensfootball.com) the VAT information of the Respondent in order to issue an invoice.

¹ The Respondent's position is summarised in more detail in section I.B *The Investigatory Report*.

² The Claimant's position is summarised in more detail in section I.B *The Investigatory Report*.

- On 8 December 2021, the Claimant's Legal Representative (peter.lukasek@sportslaw.sk), once again, requested the Respondent's Legal Representative (elliott.branier@amiensfootball.com) the details for invoicing, i.e., VAT of the Respondent.
- On 8 December 2021, the Respondent's Legal Representative (elliott.branier@amiensfootball.com) provided the VAT information to the Claimant's Legal Representative (peter.lukasek@sportslaw.sk).
- On 15 December 2021, the Claimant's Legal Representative sent the invoice from the email (peter.lukasek@sportslaw.sk) to the Respondent's Legal Representative's email (elliott.branier@amiensfootball.com) and indicated that the bank details of the Claimant had changed. He enclosed the FIFA Decision and a new version of the FIFA BARF:

Beneficiary name	AIK Fotboll
Beneficiary address	PO Box 3090, S 169 03 Solna Sweden
Bank name	REVOLUT
Bank SWIFT Code	REVOGB21
Bank account number / Bank IBAN	GB16 REVO 0099 7039 9872 62

By signing this document, I confirm the veracity and accuracy of the indicated details.

Name of the claimant in print: HENRIK JURELIUS

Signature of the claimant: 

Date: 30.11.2021

- On 15 December 2021, the Respondent's Legal Representative (elliott.branier@amiensfootball.com) informed the Claimant's Legal Representative (peter.lukasek@sportslaw.sk) that everything had been forwarded to the Respondent's accounting department in order to proceed with the payment.
- On 16 December 2021, the Claimant's Legal Representative (peter.lukasek@sportslaw.sk) replied to the Respondent's Legal Representative (elliott.branier@amiensfootball.com) email dated 15 December 2021 and stated, "hope to get the payment confirmation copy today".
- On 17 December 2021, the Respondent's Legal Representative (elliott.branier@amiensfootball.com) sent to the Claimant's Legal Representative (peter.lukasek@sportslaw.sk) the draft transfer orders and asked the latter to confirm the enclosed bank details in order to proceed with the validation of the transfers as soon as possible. Both transfer orders indicated the bank IBAN "GB16 REVO 0099 7039 9872 62".
- On 17 December 2021, the Claimant's Legal Representative (peter.lukasek@sportslaw.sk) confirmed the abovementioned bank details and requested validation of the payment.
- Therefore, the Respondent transferred the amounts of EUR 21,780.82 (in principal) and EUR 2,479.43 (in interest) on 20 December 2021.
- On 22, 23 and 24 December 2021, the Claimant's Legal Representative (peter.lukasek@sportslaw.sk) enquired the Respondent's Legal Representative

(elliott.branier@amiensfootball.com) whether the payment had been transferred since no amount had been received by the Claimant.

- On 27 December 2021, the Claimant's Legal Representative (peter.lukasek@sportslaw.sk) informed the Respondent's Legal Representative (elliott.branier@amiensfootball.com) that "[t]he bank just informed [them] that the payment of 21,780 was received and they need the transfer slip copy for bank verification use. Kindly send this document as soon as you can, also the second payment has not yet been received kindly check if it was sent as well".
- On 29 December 2021, the Claimant's Legal Representative enquired about the execution of the transfer via WhatsApp.
- On 3 January 2022, the Respondent's Legal Representative confirmed the payments via WhatsApp.
- On 25 January 2022, the Claimant's Legal Representative via WhatsApp repeated his request to the Respondent's Legal Representative, stating that the Claimant had not received the payments.
- On 25 March 2022, the Respondent provided the original version of the exchange of emails between the Claimant's Legal Representative and the Respondent's Legal Representative, a copy of the transfer orders, a bank statement and a copy of the bank payment confirmations.

b) Amounts have been paid

12. The Respondent stated that it did pay the amounts arising from the FIFA Decision to the BARF provided by the Claimant's Legal Representative as abovementioned.
13. In the present case, the Respondent does not dispute the execution of the FIFA Decision by paying the sums of 21,780.82 euros (in principal) and 2,479.43 euros (in interest), as confirmed by the debits appearing on its bank statement.
14. Furthermore, the Respondent mentioned that, although the Claimant's Legal Representative claims that he is not the sender of the abovementioned emails, the disputed emails received by the Respondent came from the email address (peter.lukasek@sportslaw.sk) with which the Claimant's Legal Representative had taken the initiative to contact the Respondent.
15. Moreover, it is undeniable that this is his real and authentic email address, as it is the one that was used to contact the FIFA Disciplinary Committee on 9 March 2022.

II. Position of the Claimant

16. On 6 April 2022, the Claimant provided its position that can be summarised as follows:
 - The FIFA Decision was notified to the parties on 18 August 2021 along with the FIFA BARF, which serves as an official document bearing details of the Claimant's bank account number. Although the Respondent was obliged to make a payment within 30 days as of the FIFA Decision's notification (i.e. 17 September 2021), it failed to do so.

- In this regard, it is clear that before even getting in contact with the Claimant and its legal representative (Mr Peter Lukasek), the Respondent was already in breach of its obligations.
- On 2 December 2021, the Claimant's Legal Representative sent an email from (peter.lukasek@sportslaw.sk) to the email address of the club (administration@amiensfootball.com and valerie.desfosses@amiensfootball.com) enclosing the FIFA Decision along with the power of attorney, and requested the Respondent to make immediate payment before filing the claim before the FIFA Disciplinary Committee.
- Yet again, the Respondent failed to make payment to the designated bank account identified in the pertinent decision and related BARF, and instead engaged in further communication which allowed for the third-party fraud.
- On 3 December 2021, and via "reply" to the email of 2 December 2021, the Respondent's Legal Representative using the email (elliott.branier@amiensfootball.com), replied to the Claimant's Legal Representative (peter.lukasek@sportslaw.sk), requesting the Claimant to issue an invoice for "interest" and, at the same time, informing the Claimant's Legal Representative that the "principle amount" ordered in the pertinent decision was forwarded to the accounting department for quick payment.
- On 6 December 2021, the Claimant's Legal Representative (peter.lukasek@sportslaw.sk) received another email from the Respondent's Legal Representative (elliott.branier@amiensfootball.com) informing that he is looking forward to receiving the invoice.
- On 6 December 2021, the Claimant's Legal Representative contacted the Respondent's Legal Representative via WhatsApp because he was getting undelivered messages for his emails requesting VAT number of the Respondent. The Respondent's Legal Representative quickly replied via WhatsApp the VAT registration number of the Respondent.
- On 8 December 2021, the Claimant's Legal Representative (peter.lukasek@sportslaw.sk) received another email from the Respondent's Legal Representative (elliott.branier@amiensfootball.com) informing him of the VAT number of the Respondent.
- On 10 December 2021, the Claimant's Legal Representative (peter.lukasek@sportslaw.sk) received another email from the Respondent's Legal Representative (elliott.branier@amiensfootball.com) requesting the Claimant's invoice for the "interest" as soon as possible.
- On 15 December 2021, the Claimant's Legal Representative (peter.lukasek@sportslaw.sk) replied to the Respondent's Legal Representative (elliott.branier@amiensfootball.com) and forwarded the invoice for "interest" with specified designated bank account, IBAN number "SE79 8000 0832 7999 4119 2420". At the same time, via WhatsApp conversation, the Claimant's Legal Representative forwarded the invoice directly to the Respondent's Legal Representative's phone.
- On 16 December 2021, the Claimant's Legal Representative (peter.lukasek@sportslaw.sk) received another email from the Respondent's Legal Representative (elliott.branier@amiensfootball.com) thanking for the invoice and informing that it has been forwarded to the accounting department which would proceed the payment.
- On 22 December 2021, the Claimant's Legal Representative contacted the Respondent's Legal Representative via WhatsApp to inquire whether the payment has been made or not.

There was no reply. On 23 December 2021, the Claimant's Legal Representative inquired again without any reply from the Respondent nor the Respondent's Legal Representative.

- On 27 December 2021, the Claimant's Legal Representative (peter.lukasek@sportslaw.sk) received an email from the Respondent's Legal Representative (elliott.branier@amiensfootball.com) informing him that the payment has been approved by the accounting department and are scheduled for payment on 29 December 2021. In the attachment of the email, there were two pdf documents - confirmations of payments of "interest" and "principle" being scheduled for 29 December 2021 and with IBAN number corresponding to the one identified in the BARF and invoice (SE79 8000 0832 7999 4119 2420).
- The Claimant alleged that it did not at any time identify or send any message or email with any different IBAN bank account than the one identified in the BARF that was notified by FIFA and has never requested payment to any other bank account.
- Moreover, it indicated that from the WhatsApp conversations between the Claimant's Legal Representative and the Respondent's Legal Representative, that has followed after 25 January 2022, when the Claimant did not receive any money, it is clear that the Respondent's Legal Representative himself confirmed that there must have been a fraud, because he stated that he never sent some of the emails.
- The Claimant argued that from the outset of the case and evidence it is clear that the Claimant's Legal Representative has never sent any different bank account than the one identified in the official communication from FIFA in the FIFA Decision.
- Even if there is a fraud, it is clear that the fraud was done by a third party that deceived both the Claimant and the Respondent and clearly set up some fishing accounts that intercepted communication of both parties and fraudulently changed content of both emails and documents in the annex.
- Even if that is the case, the Claimant or its Legal Representative have never received the money, because the fraudulent (Revolut) bank account was not registered in the name of the Claimant nor or the Claimant's Legal Representative.
- If the fraud occurred before the money was received by the Claimant, the resulting damages are the damages of the Respondent that were caused by fraudulent actions of a third party and shall be resolved via insurance of the Respondent or other legal actions against the perpetrator.
- That being said, the Respondent has in fact not paid the ordered sum of overdue training compensation and therefore is still in default and in violation of the FIFA Decision, regardless of whether or not the Respondent already transferred the money to a third party due to fraudulent actions of such party.

17. In sum, it is clear that the Respondent has not complied with the FIFA Decision, and therefore disciplinary sanction shall be applied.

III. The Forensic Report

18. On 28 September 2022, a forensic investigation report was issued by *Verizon Threat Research Advisory Center (Verizon)*. In particular, the Forensic Report, *inter alia*, included the following elements;

“3.1. Incident Timeline

[...]

Date/Time	Event	Recipient Email Address(es)
2021-12-02	Amiens Football Club receives an email from Peter Lukasek’s email address (representing AIK Fotboll Club) requesting payment. Attached to this email are files named “FIFA Jack decision	<administration@amiensfootball[.]co Valérie Desfosses valerie.desfosses@amiensfootball[.]com)
2021-12-03	Valérie Desfosses forwards the email received from Peter Lukasek’s email address to Elliot Branier.	Elliot.branier@amiensfootball[.]com
2021-12-03	An email is sent from Elliot Branier’s email address to Peter Lukasek’s email address surrounding the requested payment.	peter.lukasek@sportslaw[.]sk
2021-12-06	A threat actor impersonates Elliot Branier requesting an invoice to be made available so that payment can be made. This email marks the first malicious correspondence identified.	peter.lukasek@sportslaw[.]sk
2021-12-10	A threat actor impersonates Elliot Branier informing Peter Lukasek that an invoice has not been received.	peter.lukasek@sportslaw[.]sk
2021-12-15	A responding email is sent from Peter Lukasek’s email address to the threat actor. The email sent consists of an invoice attached to email named “AIK Fotboll Invoice 10964.pdf”	elliot.brainer@amiensfootball[.]com
2021-12-15	An email is sent from Peter Lukasek’s email address to Elliot Branier with two (2) files named “AIK Fotboll Invoice 10964.pdf(1).pdf and “FIFA Jack decision(1).pdf”. Fraudulent bank account information in the FIFA Jack decision(1).pdf document refers to a fraudulent “Reolut” bank account details.	elliot.branier@amiensfootball[.]com
2021-12-15	A responding email is sent from Elliot Branier’s email address to Peter Lukasek informing that the payment will be processed.	peter.lukasek@sportslaw[.]sk
2021-12-17	An email is sent from Elliot Branier’s email address consisting of two (2) attachments named “LAHNE Jack – proof of payment – FIFA decision – AIK football.pdf” and “LAHNE Jack –	peter.lukasek@sportslaw[.]sk

	<i>proof of payment - outstanding interest - AIK Football.pdf” Elliot Branier’s email asks Peter Lukasek to confirm the bank account details as per the information captured in these 2 aforementioned attached documents.</i>	
2021-12-17	<i>A responding email is sent from Peter Lukasek’s email address to Elliot Branier confirming the Fraudulent bank account details.</i>	<i>elliott.branier@amiensfootball[.]com</i>
2021-12-27	<i>An email is sent from Peter Lukasek’s email address to Elliot Branier and informs that a payment of “21,780” was made. A transfer slip copy was requested also asks Elliot Branier to check the ‘second payment’ as it was not yet received (at time of writing).</i>	<i>elliott.branier@amiensfootball[.]com</i>
2021-12-27	<i>A threat actor impersonating Elliot Branier informs Peter Lukasek that the payment was “scheduled for Wednesday 29th”.</i>	<i>peter.lukasek@sportslaw[.]sk</i>

3.2.2. Malicious Email Correspondence – 6th December 2021

Based on the evidence made available, Verizon identified that on 2021-12-06 11:51:31 a threat actor sent an email to Peter Lukasek impersonating Elliot Branier. The threat actor sent an email to Peter Lukasek requesting for two (2) invoices to be made available. [...]

Verizon performed email header analysis and identified indicators-of-compromise (IOCs) which confirmed that a threat actor was impersonating Elliot Branier. A summary of identified IOCs can be further referenced in [the following table:]

Email Header Field	Indicator-Of-Compromise (IOC)
<i>Return-Path:</i>	<i>erika@sslosvikingos[.]com</i>
<i>X-SECURESERVER-ACCT:</i>	<i>erika@sslosvikingos[.]com</i>
<i>X-Originating-IP:</i>	<i>161.97.97.173</i>
<i>User-Agent:</i>	<i>Workspace Webmail 6.12.10</i>
<i>Message-Id:</i>	<i>20211206045131.56ef8976d5d9750b58f913335d32 354d.dc9e7e1249.wbe@email15.godaddy.com</i>
<i>X-Sender:</i>	<i>erika@sslosvikingos[.]com</i>

Reply-To	elliott.brainer@amiensfootball[.]com
Received(1):	p3plwbeout15-01.prod.phx3.secureserver.net (p3plsmtp15-01-2.prod.phx3.secureserver.net [173.201.193.34])
Received(2):	from p3plgemwbe15-06.prod.phx3.secureserver.net ([173.201.193.12])

Email Header 'From' & 'X-Sender' Fields

As depicted in Appendix A Screenshots of email evidence provided ("Exhibit 3.msg") although the email appeared to have been sent from 'Elliot Branier's email address (based on the 'From' email header field, which is shown to a user), instead this email was sent by a threat actor using the email address erika@sslosvikingos[.]com. This can be confirmed when reviewing the email header 'X-Sender' field.

This email header field (erika@sslosvikingos[.]com) would not have been visibly shown to a user, unless efforts were made to manually review the email header contents.

Email Header 'Reply-To' Field

This email (specifically the email headers) was configured in a way that if Peter Lukasek were to respond back to this email, then instead of the response being sent to the legitimate email address of 'elliott.brainer@amiensfootball[.]com' (seen in the email header 'From' field), it would be sent to the email address elliott.brainer@amiensfootball[.]com. This was confirmed when reviewing the 'Reply-To' email header field.

When using the 'Reply' functionality, the 'Reply-To' email header field (elliott.brainer@amiensfootball[.]com) would have been visibly shown to a user.

[...]

3.2.3 Malicious Email Correspondence – 10th December 2021

Based on the evidence made available, Verizon identified that on 2021-12-10 11:07:53 a threat actor sent an email to Peter Lukasek impersonating Elliot Branier again. The threat actor sent an email to Peter Lukasek's email address requesting again for two (2) invoices to be made available

[...]

This email (specifically the email headers) was configured in a way that if Peter Lukasek were to respond back to this email, then instead of the response being sent to the legitimate email address of 'elliott.brainer@amiensfootball[.]com' (seen in the email header 'From' field), it would be instead be sent to the email address elliott.brainer@amiensfootball[.]com. This was confirmed when reviewing the 'Reply-To' email header field. This in line with the same findings identified in Section 3.2.2.

3.2.4 Malicious Email Correspondence – 15th December 2021

Based on the evidence made available, Verizon identified that on 2021-12-15 08:49:19, an email was sent from Peter Lukasek's email addresses (as a reply to an email previously sent by the threat actor on 2021-12-10 (as reported upon in Section 3.2.3). [...]

[...]

The reply sent from Peter Lukasek's email address to the threat actor was confirmed when reviewing the email header 'In-Reply-To' and 'References' fields; the aforementioned email header fields matched that of a Message ID pertaining to the threat actor's email [...]

3.2.5 Amended Invoice Sent – 15th December 2021 (“6 - mail 15-12-2021”)

Based on the evidence made available, Verizon identified that on 2021-12-15 13:23:03 an email was sent from Peter Lukasek's email address to Elliot Branier's email address. [...]

The email sent from Peter Lukasek's email address to Elliot Branier consisted of two (2) attached files; “AIK Fotboll Invoice 10964 (1).pdf”, which appeared to be visually representative of an invoice and “FIFA Jack decision[1].pdf”, which appeared to contain bank account information. [...]

Based on these aforementioned findings, this evidence shows that bank account information had been changed and that this was sent from Peter Lukasek's email address. This evidence suggests signs of wider compromise, specifically surrounding Peter Lukasek's email access, however, owing to the limitations that this investigation experienced [...], Verizon was unable to confirm this. [...]

3.2.6 Malicious Email Correspondence – 16th December 2021

Based on the evidence made available, Verizon identified that on 2021-12-16 06:54:06 a threat actor sent an email to Peter Lukasek impersonating Elliot Branier. [...]

Verizon performed email header analysis and identified indicators-of-compromise (IOCs) confirming that a threat actor had impersonated Elliot Branier. The threat actor's email thanked Peter Lukasek for providing the invoice and informed that the accounting department would proceed with the payment. [...]

3.2.10 Payment Receipt Confirmation Email Correspondence – 27th December 2021

Verizon identified that on 2021-12-27 12:50:58 an email was sent from Peter Lukasek's email address to Elliot Branier. [...]

This email sent from Peter Lukasek's email address informs that a sum of “21,780” was received. The emails also made a request for a transfer slip for “bank verification use”, as well as requesting information surrounding the second (interest) payment to be made available. [...]

4. Conclusion

[...]

On 2021-12-15 13:23:03 an unknown threat actor sent an email from Peter Lukasek's email address to Elliot Branier. Attached to this email were two (2) invoices consisting of different (fraudulent) bank account information in comparison to what was previously sent from Peter Lukasek's email address. On 2021-12-15 15:30:30 an email was sent from Elliot Branier's email address confirmed that these amended invoices were being processed by Amiens for payment.

On 2021-12-27 09:38:23 a threat actor impersonating Elliot Branier (Amiens) sent an email to Peter Lukasek informing that payment by Amiens would be made on 2021-12-29. Meanwhile on 2021-12-27 12:50:58 an unknown threat actor sent an email from Peter Lukasek's email address to Elliot Branier informing that payment was already received.

Verizon performed anti-virus scans on Elliot Branier's mailbox, which resulted in the positive identification of malicious emails. These findings indicate a gap in Amiens' email gateway security.

Verizon requested further evidence to be made available, however, FIFA informed Verizon that the investigation would only entail the evidentiary items that were initially made available to the investigation. The investigation undertaken by Verizon was therefore limited to the evidence made available.

Based on the evidence made available, the evidence suggests signs of wider compromise, potentially surrounding either Elliot Branier and Peter Lukasek's email access or workstations, however, owing to the lack of further evidence made available, Verizon was unable to further determine this.

In conclusion, Verizon determined evidence that a threat actor impersonated Elliot Branier. Verizon also determined evidence of fraudulent bank account details sent from Peter Lukasek's email address to Elliot Branier, which triggered this security incident. Verizon has made recommendations within this report that would potentially assist in mitigating similar attacks and the risks posed, improving overall IT security posture, as well as mitigating any limitations incurred during the course of this engagement."

IV. Conclusion of the Investigatory Report

19. In view of the above, the Investigatory Report contained the following conclusions:

- *"an unknown threat actor sent fraudulent bank account details from the Claimant's Legal Representative's email (peter.lukasek@sportslaw.sk) to the Respondent's Legal Representative (elliott.branier@amiensfootball.com);*
- *the Claimant's Attorney replied on 15 December 2021 to an email address that does not belong to the Respondent's Attorney (i.e., elliott.brainer@amiensfootball.com) which it was viewable in the 'Reply-To' field.*

In this context, it is to be noted that, in a case revolving around a similar issue, CAS considered the following:

"However small the difference between these two email addresses (one "r" versus two), it cannot be denied that the Appellant was mistaken and corresponded to an email address that did not belong to the Second Respondent (...)"

The Second Respondent should have been aware of the differences between the two email addresses (...). The Second Respondent also made a clear error in his communication and, as such, must also be held accountable for this".⁴

Referring to the matter at hand in light of such considerations, it appears that the Claimant's Legal Representative should have acted with more diligence, in so far that he could have noticed the difference of "brainer" instead of "branier" in the 'Reply-To' field, thus enabling him to warn the Respondent so that the latter would not have made the wrong payments".

³ As a consequence of these emails, the Respondent appears to have executed the payments on 20 and 21 December 2021 to the Fake Bank Account.

⁴ CAS 2020/A/6784.

C. Disciplinary proceedings

20. On 9 June 2023, the Investigatory Report was shared with the Respondent and the Claimant, who had the opportunity to provide their comments, if any.
21. Following the notification of the Investigatory Report, only the Claimant's legal representative submitted his position on 27 June 2023, which can be summarized as follows:
 - The factual assertion in the Investigatory Report is inaccurate because the Claimant's attorney has never provided or sent any correspondence with fake bank account. Pertinent emails were never sent by Claimant's attorney or from his account and these pertinent emails were sent by the fraudulent party.
 - The investigative analysis of Verizon clearly shows that pertinent emails were fraudulently sent by the perpetrator party, therefore there was no lack of diligence on part of the Claimant's attorney.
 - Quite the opposite, as confirmed by the report, the Claimant's attorney has notified the Respondent of the correct bank account several times to no avail, because the Respondent was not diligent enough and did not make a corresponding payment within the timeframe provided by FIFA in first place.
 - FIFA's investigative assertion that the Claimant's attorney was not diligent enough because he could have seen incorrect email address when replying to an email is utterly irrelevant to the issue, because reply to the fake email address has never reached the Respondent.
 - Moreover, the Claimant's attorney was very diligent in his communication with the Respondent's attorney and took extra precaution because he sent a WhatsApp message on 15 December 2021 containing the pdf document with invoice with correct bank account to the Respondent's attorney.
 - The Respondent was notified by FIFA of the decision and the correct bank details, but failed to make a payment. It was notified again of the correct bank account by the Claimant's attorney on 2 December 2021, but failed again to make a payment. It was again notified of the correct bank account via WhatsApp on 15 December 2021, but again failed to make a payment.
 - It has been established that the Claimant has never confirmed any fake bank account details and the fake bank account was reported to the Respondent only because of actions of fraudulent party.

II. CONSIDERATIONS OF THE DISCIPLINARY COMMITTEE

22. In view of the circumstances of the present matter, the Committee decided first to address the procedural aspects of the present matter, namely, its jurisdiction as well as the applicable law, before entering into the substance of the matter and assessing the possible failure of the Respondent to comply with the FIFA Decision as well as the potential sanctions resulting therefrom.

A. Jurisdiction of the FIFA Disciplinary Committee

23. First of all, the Committee noted that at no point during the present proceedings did the Respondent or the Claimant challenge its jurisdiction or the applicability of the FIFA Disciplinary Code.
24. Notwithstanding the above and for the sake of good order, the Committee found it worthwhile to emphasize that, on the basis of art. 53 (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

25. With regard to the matter at hand, the Committee recalled that the disciplinary offense, i.e., the potential failure to comply with the FIFA Decision, was committed before the 2023 edition of the FDC (FDC 2023) entered into force.
26. Nevertheless, the Committee considered that, in application of art. 4 (2) FDC 2023, both the merits and the procedural aspects of the present case should fall under the FDC 2023.
27. Having established the above, the Committee wished to recall the content and scope of art. 21 FDC in order to duly assess the case at hand.
28. According to this provision:

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, a subsidiary 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, a subsidiary or an instance of FIFA, or by CAS:*

a) will be fined for failing to comply with a decision and receive any pertinent additional disciplinary measure; and, if necessary:

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;

(...)

d) in the case of clubs, 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 registering new players will be issued until the complete amount due is paid or the non-financial decision is complied with. A deduction of points or relegation to a lower division may also be ordered in addition to a ban on registering new players in the event of persistent failure (i.e. the ban on registering new players has been served for more than three entire and consecutive registration periods following the notification of the decision), repeated offences or serious infringements or if no full registration ban could be imposed or served for any reason.

29. Finally, the Committee emphasized that it cannot review or modify as to the substance a previous decision, which is final and binding, but that its only task is to verify as to whether the Respondent had complied with the FIFA Decision by settling its debt towards the Claimant⁵.
30. Its jurisdiction being established and the applicable law determined, the Committee subsequently turned its attention to the FIFA Decision.

C. Merits of the dispute

I. Analysis of the facts in light of art. 21 FDC

31. To begin with, the Committee observed that the present disciplinary proceedings referred to a potential failure by the Respondent to comply with a FIFA Decision dated 18 August 2021 by means of which the Respondent was ordered to pay to the Claimant as outlined above.
32. In view of what has been explained *supra*, the Committee recalled that it is not allowed to analyse the case as to the substance, in other words, to check the correctness of the amounts ordered to be paid, but has as a sole task to analyse if the Respondent complied with the relevant final and binding decision⁶.
33. In these circumstances, and according to the case file, the Committee observed that the Respondent claimed to have paid the amounts owed to the Claimant, whereas the latter emphasised that he had never received the amounts to which he was entitled and disputed that he had ever shared different bank accounts with the Respondent.
34. In this context and as a preliminary matter, the Committee deemed that there was no doubt that the Respondent paid EUR 21,780.82 (principal amount) and EUR 2,479.43 (interest) on 20 December 2021 into the bank account "GB16 REVO 0099 7039 9872 62" (**Revolut Bank Account**). Indeed, the Respondent submitted various bank documents, including (i) proofs of payment, (ii) confirmation from its bank that the aforementioned amounts had been transferred to the Revolut Bank Account on 20 and 21 December 2021 and (iii) a bank account extract from which it can be seen that the amounts in question were deducted, thus demonstrating that the aforementioned sums were indeed paid into the above account.

⁵ See for instance CAS 2016/A/4595; CAS 2013/A/3323

⁶ See for instance CAS 2016/A/4595; CAS 2013/A/3323.

35. However, as mentioned *supra*, it appears that the aforementioned payments were made into a bank account that did not belong to the Claimant. In particular, the latter explained that it notified the Respondent of the “correct” bank accounts on various occasions, but never provided it the Revolut Bank Account details on which the payment had been made.
36. In this regard, and after a careful reading of the Investigatory Report, the Committee noted that the Respondent’s and the Claimant’s legal representatives were probably victims of a spoofing attack⁷, as a result of which the relevant amounts due to the Claimant were paid by the Respondent into a bank account belonging to a third-party. In this respect, the Committee understood that:
- the email address of the Claimant’s legal representative was peter.lukasek@sportslaw.sk;
 - the email address of the correct representative of the Respondent was elliott.branier@amiensfootball.com (emphasis added);
 - fraudulent emails were sent from an email address, elliott.branier@amiensfootball.com, seemingly impersonating the representative of the Respondent (emphasis added).
37. In particular, the Committee noted the following sequence of events, and observed that on various occasions the Claimant’s legal representative exchanged correspondence with the fraudulent email address:

Date	Summary from the Forensic Report	Sender	Recipient
2021-12-06	A threat actor impersonates Elliot Branier requesting an invoice to be made available so that payment can be made. This email marks the first malicious correspondence identified.	elliott.branier@amiensfootball.com	peter.lukasek@sportslaw.sk
2021-12-10	A threat actor impersonates Elliot Branier informing Peter Lukasek that an invoice has not been received.	elliott.branier@amiensfootball.com	peter.lukasek@sportslaw.sk
2021-12-15	A responding email is sent from Peter Lukasek’s email address to the threat actor. The email sent consists of an invoice attached to email named “AIK Fotboll Invoice 10964.pdf”	peter.lukasek@sportslaw.sk	elliott.branier@amiensfootball.com
2021-12-15	An email is sent from Peter Lukasek’s email address to Elliot Branier with two (2) files named “AIK Fotboll Invoice 10964.pdf(1).pdf” and “FIFA Jack decision(1).pdf”. Fraudulent bank account information in the FIFA Jack decision(1).pdf document refers to a fraudulent “Revolut” bank account details.	peter.lukasek@sportslaw.sk	elliott.branier@amiensfootball.com

⁷ Broad term for the type of behaviour that involves a cybercriminal masquerading as a trusted entity or device to get someone to do something beneficial to the hacker.

2021-12-15	<i>A responding email is sent from Elliot Branier's email address to Peter Lukasek informing that the payment will be processed.</i>	elliott.branier@amiensfootball[.]com	peter.lukasek@sportslaw[.]sk
2021-12-17	<i>An email is sent from Elliot Branier's email address consisting of two (2) attachments named "LAHNE Jack – proof of payment – FIFA decision – AIK football.pdf" and "LAHNE Jack – proof of payment – outstanding interest – AIK Football.pdf" Elliot Branier's email asks Peter Lukasek to confirm the bank account details as per the information captured in these 2 aforementioned attached documents.</i>	elliott.branier@amiensfootball[.]com	peter.lukasek@sportslaw[.]sk
2021-12-17	<i>A responding email is sent from Peter Lukasek's email address to Elliot Branier confirming the Fraudulent bank account details.</i>	peter.lukasek@sportslaw[.]sk	elliott.branier@amiensfootball[.]com

38. Especially, the Committee noted that:

- on 6 December 2021, an individual impersonated the legal representative of the Respondent and requested the Claimant to provide an invoice, including the bank account details into which payment had to be made.
- on 15 December 2021, the legal representative of the Claimant provided the "correct" bank account details, but to the "wrong/fake" email address ([elliott.brainer@\(...\)](mailto:elliott.brainer@(...))).
- on the same day, another email was sent from the Claimant's legal representative's account to the "correct" email address of the Respondent, but with the Revolut Bank Account details enclosed thereto.
- then, two days later, the Respondent's legal representative requested the Claimant to confirm the Revolut Bank Account (fake bank account) into which the payment had to be made. In this respect, the Committee noted that an email confirming the (fake) bank account was sent to the Respondent from the Claimant's legal representative email address, following which the Respondent proceeded to make payment of the amounts into the Revolut Bank Account on 20 December 2021.

39. In this context, the Committee was of the view that little can be held against the Respondent. Indeed, although it is clear that – as alleged by the Claimant – it did not pay the amounts due within the time limit set by the FIFA Decision, the Respondent appears to have exercised the required due diligence when it received the Revolut Bank Account by asking the Claimant to confirm that it was the correct account, a confirmation which was received via the Claimant's legal representative's email address.

40. In this respect, the Committee considered relevant to refer to a similar case that was recently decided by CAS, in which it was stated that "*However small the difference between these two email addresses (one "r" versus two), it cannot be denied that the Appellant was mistaken and corresponded*

to an email address that did not belong to the Second Respondent (...)". The Second Respondent should have been aware of the differences between the two email addresses (...). The Second Respondent also made a clear error in his communication and, as such, must also be held accountable for this".⁸

41. As such, the Committee found that the Claimant's legal representative, by replying to the wrong email address on 15 December 2021 although being in a position to notice such issue (see analysis made in the Forensic Report), showed some negligence, a negligence that the latter seems to admit in a message sent to the Respondent via WhatsApp on 27 January 2022, in which the latter stated "I was not particularly checking the address once the email came from "you".
42. Moreover, the Committee also noted that the forged emails impersonating the Respondent's legal representative (elliott.brainer(...) instead of elliot.branier(...)) contained Mr Branier's signature with the logo of Amiens Sporting Club, but this logo appeared somewhat blurred, whereas the one included in the "correct" email sent from Mr Branier's email address, was sharp. In the Committee's opinion, this is another element that could have been noticed by the Claimant and would have possibly prevented the present situation.
43. All in all, the file as a whole suggests that the Claimant's legal representative's email account was hacked and that "fake" emails were sent from this account, in particular those containing the Revolut Bank Account. In fact, all of the Claimant's emails were sent from his email address, including the confirmation sent on 17 December 2021 that confirmed the false bank details.
44. Accordingly, the Committee concluded that the Respondent had paid the amounts due in accordance with the FIFA Decision to the Claimant into the bank account provided by the latter, namely that of Revolut, and is therefore deemed to have complied with the FIFA Decision, although it subsequently emerged that this bank account did not belong to the claimant.
45. In essence, and while the Committee expressed some sympathy for the Claimant and the unfortunate situation in which it ended, it could not be ignored that (i) the Claimant was negligent in not noticing that he was sending emails to a third party (and not to the Respondent) and (ii) the confirmation that the Revolut Bank Account was the correct one came from his email account, so the Respondent could not legitimately believe that it was someone else who had sent it on his behalf.
46. As such, despite the fact that the Respondent was late in paying the amounts concerned - on which the Claimant was awarded interest which has continued to accrue - the Committee held that, on the basis of the elements presented before it, the Respondent could not be held liable for the Claimant's negligence as demonstrated above.
47. By way of consequence, in view of all the circumstances of the present case, the Committee decided to close the disciplinary proceedings against the Respondent.

⁸ CAS 2020/A/6784

III. DECISION OF THE DISCIPLINARY COMMITTEE

To close the disciplinary proceedings opened against Amiens Sporting Club Football.

FÉDÉRATION INTERNATIONALE
DE FOOTBALL ASSOCIATION



Anin YEBOAH (Ghana)

Deputy Chairperson of the FIFA Disciplinary Committee

NOTE RELATING TO THE LEGAL ACTION:

According to art. 58 (1) of the FIFA Statutes reads together with arts. 52 and 61 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.