

# Decision of the FIFA Disciplinary Committee

passed on 1 September 2023

## DECISION BY:

**Anin Yeboah (Ghana), Deputy Chairperson**

## ON THE CASE OF:

**Mr André Luiz Guimarães Siqueira Junior (Brazil)**

(Decision FDD-15652)

Regarding the decision of the *Superior Court of Sports Justice in Football* on 13 July 2023

Art. 70 of the FIFA Disciplinary Code (ed. 2023) - *Extending sanctions to have worldwide effect*

## 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 submitted, even if no specific or detailed reference is made to particular elements of the former.
2. On 6 June 2023, the *Fifth Disciplinary Commission of this Superior Court of Sports Justice of Football* sanctioned the player André Luiz Guimarães Siqueira Junior (**the Player** or **the Respondent**) with a monetary fine. In particular, the Player was found to have infringed art. 191, III of the *Código Brasileiro de Justiça Desportiva (CBJD)*.
3. The Public Prosecution of the *Superior Tribunal de Justiça Deportiva de Futebol (the Public Prosecution)* appealed this decision to the *Superior Court of Sports Justice in Football*, requesting that the sanction be increased by a period of suspension.
4. On 13 July 2023, the *Superior Court of Sports Justice in Football* rendered a decision in which it decided “*by unanimous vote*” to grant the appeal of the Public Prosecution and decided to sanction the Player with a 600-day suspension. (**the Decision**).
5. On 11 August 2023, the Brazilian Football Association lodged a request in the FIFA Legal Portal, asking the FIFA Disciplinary Committee to extend the Decision to have worldwide effect. Along with the grounds of the Decision, the Brazilian Football Association submitted further documents, including an English translation of the Decision, along with an email dated 14 July 2023, by which the Decision was notified to the legal representative of the Player. Moreover, the Brazilian Football Association also clarified that the 600-day suspension shall start as from 26 May 2023.
6. For the sake of good order, the Committee wishes to point out that any further reference or quote to the Decision will be based on the English version of the Decision.

## II. CONSIDERATIONS OF THE DISCIPLINARY COMMITTEE

7. In view of the circumstances of the present matter, the Committee decided to first address the procedural aspects, namely, its jurisdiction and the applicable law, before entering into the substance of the matter and assessing whether the request submitted by the Brazilian Football Association for the worldwide extension of the sanction imposed on the Player may be granted.

## A. Jurisdiction and applicable law

8. First of all, the Committee recalled that, in accordance with art. 51 (2) of the FIFA Statutes, it may pronounce the sanctions described in these Statutes and the FIFA Disciplinary Code (**FDC**) on members associations, clubs, players, players, intermediaries and licensed match agents.
9. 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 delegate their function to another member of the Committee, *in casu* the Deputy Chairperson. Moreover, the latter may, in accordance with art. 57 (1) (e) FDC, take a decision on extending a sanction so as to have worldwide effect, as *in casu*.
10. 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.
11. More specifically, for serious infringements (in particular but not limited to discrimination, manipulation of football matches and competitions, misconduct against match players 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*").
12. 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/or the association concerned.
13. 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).
14. 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 Decision of the *Superior Court of Sports Justice in Football* – but is restricted to ascertain that the conditions of art. 70 FDC have been fulfilled (art. 70 (8) FDC).
15. 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 his case – with the exception of provisional measures – (lit. b);

- iii. the decision has been communicated properly (lit. c);
- iv. the decision complies 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).

## **B. Analysis of the request submitted by the Brazilian Football Association in light of art. 70 FDC**

16. As a starting point, and upon reading the Decision, the Committee *inter alia* noted that the Player had been sanctioned for manipulating the results of matches, an offense that is sanctionable under the provisions of art. 20 FDC.
17. 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.
18. In continuation and upon analysing the documentation submitted by the Brazilian Football Association in light of art. 70 (5) FDC, the Committee was eager to emphasise that:
  - i. the Player has been cited properly, as proven by the fact that the latter was provided an opportunity to provide both written and oral statements via his legal representative.<sup>1</sup> Secondly, the Player, through his legal representative, was notified of the hearing and invited to join it. The Committee further saw evidence that the decision referred to the reasonings of the Player.<sup>2</sup> Lastly, the Committee noted there were no elements that could in any way or manner indicate that the Player was not cited properly.
  - ii. the Player had the opportunity to state his case, in so far that:
    - he had the opportunity to file both written and oral statements before the *Superior Court of Sports Justice in Football* (as denoted *supra*);
    - he had the possibility to be present at the hearing, together with his legal representative, as demonstrated with the email being sent to the Player, its legal Representative and the club, informing the Player of the time and date of the hearing and giving the latter the possibility to join in-person or remotely;
  - iii. the Decision was communicated properly to the Player, as demonstrated by the copy of the email sent to his legal representative and former club Ituano FC, containing the Decision dated 14 July 2023.
  - iv. the 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*"<sup>3</sup>.

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<sup>1</sup> Cf. par. 2 of the Decision: "*offering counterarguments -pgs 293/299.*" As well as the aforementioned document itself, which was submitted by the CBF, containing the reasonings of the Player via his Legal Representative, as well as the request for relief.

<sup>2</sup> Cf. par. 9 of the Decision: "*Although in his personal testimony*"

<sup>3</sup> CAS 2021/A/7650 Club Atlético de Madrid S.A.D. v. FIFA - free translation from Spanish

- v. the 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 law<sup>4</sup>, 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 morality<sup>5</sup>. In fact, upon analysing the Decision, the Committee was settled in its opinion that none of those fundamental principles or basic rules had been breached.
19. 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.

### C. Conclusion

20. 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 Decision on the Player had been fulfilled.
21. Consequently, the Committee decided to extend the sanction imposed on the Player by the *Superior Court of Sports Justice in Football* on 13 July 2023 so as to have worldwide effect. More specifically, the Player is sanctioned with a 600-day suspension from all football-related activities as from 26 May 2023.
22. Finally, and for the sake of completeness, the Committee recalled that, pursuant to art. 70 (11) FDC, should the Decision not yet be final in a legal sense, the present decision shall follow the (final) outcome of the Decision.

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<sup>4</sup> CAS 2015/A/4184 Jobson Leandro Pereira de Oliveira v. FIFA and SFT 4A\_18/2008.

<sup>5</sup> CAS 2021/A/7650 *op. cit.* – free translation from Spanish.

### **III. DECISION OF THE DISCIPLINARY COMMITTEE**

- 1. The request of the Brazilian Football Association to extend the decision passed by the *Superior Court of Sports Justice in Football* on 13 July 2023 to have worldwide effect is granted.**
- 2. In accordance with the aforementioned decision, the Player Mr. André Luiz Guimarães Siqueira Junior is suspended worldwide with a 600-day suspension from all football-related activities as from 26 May 2023.**

FÉDÉRATION INTERNATIONALE  
DE FOOTBALL ASSOCIATION



**Anin Yeboah**

Deputy Chairperson of the FIFA Disciplinary Committee

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### **NOTE RELATING TO THE LEGAL ACTION:**

This decision can be contested before the FIFA Appeal Committee (art. 61 FDC, edition 2023). Any party intending to appeal must announce its intention to do so in writing via the FIFA Legal Portal within three (3) days of notification of the grounds of the decision. The appeal brief must then be given in writing via the FIFA Legal Portal within a further time limit of five (5) days, commencing upon expiry of the first-time limit of three (3) days (art. 60 (4) FDC). The appeal fee of CHF 1,000 is payable on the submission of the appeal brief at the latest (art. 60 (6) FDC).

The appeal fee of CHF 1,000 is payable on the submission of the appeal brief at the latest (art. 60 (6) FDC) either in Swiss francs (CHF) (to account no. 0230-325519.70J, UBS AG, Bahnhofstrasse 45, 8098 Zurich, SWIFT: UBSWCHZH80A, IBAN: CH85 0023 0230 3255 1970 J) or in US dollars (USD) (to account no. 0230-325519.71U, UBS AG, Bahnhofstrasse 45, 8098 Zurich, SWIFT: UBSWCHZH80A, IBAN: CH95 0023 0230 3255 1971 U), with reference to case number above mentioned.

### **NOTE RELATING TO THE EXTENSION WORLDWIDE 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 ANY OUTCOME OF THE EXTENDED DECISION:**

A worldwide-extended decision shall follow the outcome of any possible appeal lodged against the decision passed by the association or confederation (Art. 70 (11) FDC).