

# Decision of the FIFA Disciplinary Committee

passed on 17 November 2023

## DECISION BY:

**Mark Anthony WADE (Bermuda and Great Britain), Member**

## ON THE CASE OF:

**Giovanny SEQUEA**

**(Decision FDD-16647)**

## REGARDING:

**Article 14 of the FIFA Disciplinary Code – *Misconduct of players and officials***

## I. FACTS OF THE CASE

1. The following summary of the facts does not purport to include every single contention put forth by the actors at these proceedings. However, the member of the FIFA Disciplinary Committee (**the Committee**) has thoroughly considered any and all evidence and arguments submitted, even if no specific or detailed reference has been made to those arguments in the following outline of its position and in the ensuing discussion on the merits.
2. On 15 November 2023, a match was played between the U-17 teams of Mexico and Venezuela in Bandung (Indonesia / Attendance 2,460 spectators / final score 2-2) in the context of the FIFA U-17 World Cup Indonesia 2023™ (**the Match**).
3. In this context, the Referee indicated in his report (**the Referee Report**) that one of the players of the representative team of Venezuela, Mr Giovanni SEQUERA (**the Player** or **the Respondent**), had been sent-off for an offense type "H" (*i.e.* Serious foul play).
4. Based on the above, on 15 November 2023, the Secretariat to the FIFA Disciplinary Committee (**the Secretariat**) *inter alia* informed the Respondent that the aforementioned incident would constitute a potential breach of art. 14.1.e) of the FIFA Disciplinary Code (**FDC**). In this respect, the Secretariat proposed the following sanction to the Respondent in accordance with art. 58 FDC as read in conjunction with Annexe 1 FDC:

*The Respondent, Mr. Giovanni SEQUERA, is suspended for two (2) matches, including the automatic match suspension which will be served during the match Germany v. Venezuela to be played on 18 November 2023. The remaining suspension will be served during the next matches of the representative team of the Venezuelan Football Association in the scope of the FIFA U-17 World Cup Indonesia™ and/or in accordance with art. 69 FDC.*

5. On 15 November 2023 (*i.e.*, within the 2 days deadline granted by art. 58 FDC as read in conjunction with Circular no. 2 of the FIFA U-17 World Cup Indonesia 2023™), the Respondent rejected the aforementioned proposed sanction and requested regular disciplinary proceedings to be conducted.

## II. RESPONDENT'S POSITION

6. The position submitted by the Respondent can be summarised as follows:
  - The suspension should be limited to a one match suspension;
  - According to the Laws of the Game, "*serious foul play*" endangers the safety of the opponent player. However, the Mexican player was able to keep playing the rest of the match.

- Further, the following facts should be taken into account to qualify the incident at stake as a *"serious foul play"*:
    - the Respondent's challenge was not dangerous or reckless;
    - there was no intention to deny an obvious goal scoring opportunity;
    - the foul did not have any impact on the match;
    - the clean record of the Respondent, at national and international level.
  - Lastly, based on the sequence of the relevant footage, the Respondent points out that:
    - he was already sliding towards his opponent before the latter received the ball;
    - at such moment, it was impossible to change the course of his body and with the inertia, he hit the leg of his opponent;
    - he always kept his eyes on the ball, proving that there was not intention to harm its opponent);
    - the offence should qualify under art. 14.1.b) FDC.
  - Based on the above, the Respondent requests the Disciplinary Committee to *"reduce the suspension from two (2) matches to one (1)"*.
7. In support of his submission, the Respondent provided a copy of the Referee Report, as well as the *"sequence of images from the incident"*.

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

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

#### **A. Jurisdiction of the FIFA Disciplinary Committee**

9. 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.

10. Notwithstanding the above and for the sake of good order, the Committee found it worthwhile to emphasize that, on the basis of art. 2.1 FDC read together with arts. 56 and 57 FDC, it was competent to decide on the present matter.
11. In addition, the Committee recalled that, in line with art. 58 FDC, where a party rejects the proposed sanction from the Secretariat (*as in casu*), the matter shall be referred to it for a formal decision to be rendered.
12. In view of the above, the Committee confirmed that it was competent to evaluate the present case and to (potentially) impose sanctions in case of corresponding violation(s).

## B. Applicable law

13. In order to duly assess the matter, the Committee first recalled the content and the scope of the relevant provisions of the FDC.
14. Having established the above, the Committee referred to art. 14 FDC, which reads as follows:

### **Art. 14 of the FDC – Misconduct of players and officials**

1. *Players and officials shall be suspended for misconduct as specified below and may be fined accordingly:*
  - (...)
  - b) *at least one match or an appropriate period of time for unsporting behaviour towards an opponent or a person other than a match official;*
  - (...)
  - e) *at least two matches for serious foul play;*
  - (...)
6. *Additional disciplinary measures may also be imposed in all cases.*

15. This being recounted, the Committee underlined that art. 14.1 FDC provides for the (minimum) disciplinary sanction(s) to be imposed on players or officials in case of misconduct during a match. Indeed, and in line with art. 14.6 FDC, the competent FIFA judicial body may decide to impose additional disciplinary measures on the player or official concerned (on top of the minimum (sporting) sanction(s) to be imposed for a specific offence as per art. 14.1 FDC).

## C. Standard of proof

16. The above being recounted, the Committee recalled that the burden of proof lies with FIFA, which is required to prove the infringement under art. 41.1 FDC.
17. Secondly, the Committee pointed out that, according to art. 39.3 FDC, the standard of proof to be applied in FIFA disciplinary proceedings is that of "*comfortable satisfaction*". In other words, 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(s).

18. Finally, the Committee referred to art. 40 FDC, according to which the facts contained in the match officials' reports and in any additional reports or correspondence submitted by them are presumed to be accurate, bearing in mind that proof of their inaccuracy may be provided.
19. Having clarified the foregoing, the Committee proceeded to consider the merits of the case.

## D. Merits of the dispute

### 1. Issue of review

20. The Committee started to analyse the evidence at its disposal, specifically the Referee Report and the images of the incident stake, to determine the potential violations of the FDC.
21. In this context, the Committee acknowledged from the Referee Report that the Respondent had been sent off in the 40<sup>th</sup> minute of the Match for an offence of type "H", which, according to the same report, corresponds to a *"serious foul play"*.
22. With this in mind, after looking at the images of the incident at its disposal, the Committee noted that the Respondent appears to attempt to recover the ball that was going in the direction of the opponent by making a tackle. However, the opposing player touched the ball first, so that the Respondent, in its tackling movement, laterally struck the opponent's right ankle with his foot.
23. Against such background, the Committee acknowledged that the Respondent challenged the qualification of the incident as made by the referee, explaining that i) the action was not dangerous or reckless, ii) there was no intention to deny an obvious goal scoring opportunity, and ii) there was no intention to harm its opponent, so that the foul at hand shall rather constitute an *"unsporting behaviour towards an opponent"* as per art. 14.1.b) FDC.
24. In these circumstances, after careful analysis of the images of the incident, the Committee saw no legitimate reason to depart from the assessment made by the referee and could not agree with the Respondent's submission that the incident at hand had to be seen as an unsporting behaviour.
25. Notwithstanding the above and for the sake of good order, the Committee wished to recall that, in accordance with art. 9.1 FDC, the decisions taken by the referee on the field of play are final and may not be reviewed by the FIFA Judicial Bodies.
26. Therefore, the Committee considered that, in any event and as a general rule, it was bound by the assessment made by the referee as transposed in his report. .
27. Consequently, the Committee was comfortably satisfied to conclude that the incident at stake fell within the scope of art. 14.1.e) FDC, and should be sanctioned accordingly.

## 2. The determination of the sanction

28. In this context, the Committee observed in the first place that the Respondent was a natural person, and as such was subject to the sanctions described under arts. 6.1 and 6.2 FDC.
29. As established above, the Respondent was sent off by the referee for a serious foul play, meaning that its misconduct should be sanctioned in accordance with art. 14.1.e) FDC, which provides for a minimum suspension of two matches for such an offence. Moreover, the Committee pointed out that it is bound by the minimum sanctions foreseen under this provision.
30. This being established, the Committee recalled that in line with art. 14.6 FDC, additional disciplinary measures may be imposed on top of said sporting sanction; such principle being also embed in art. 7.2 of the Regulations for the FIFA U-17 World Cup Indonesia 2023™.
31. Against such background, 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. 25.1 FDC).
32. This being said, the Committee acknowledged that the Respondent presented clean record with respect to the FIFA U-17 World Cup Indonesia 2023™, and that the latter stated that it had no intention to harm his opponent.
33. In view of this, and after a careful analysis of the video footage of the incident, the Committee considered the minimum sanction under the applicable provision, namely a suspension of two (2) matches, to be appropriate and proportionate to the offence committed. In particular, the Committee noted that the Respondent's primary intention appears to have been to recover the ball by means of a tackle and not to strike the ankle of its opponent, as a result of which, it decided that no further match suspension should be imposed on the Respondent.
34. Finally and for the sake of completeness, the Committee stressed that according to art. 14.6 FDC, in all cases of misconduct by players and officials, additional disciplinary measures may be imposed. In this respect, the Committee observed that point VII of the specific circular issued for the FIFA U-17 World Cup Indonesia 2023™<sup>1</sup> provides that red cards will result in a fine of at least CHF 1,500. However, the Committee acknowledged that such fines will be accumulated during the competition and the relevant participating member association will be informed accordingly after the final competition in Indonesia.

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<sup>1</sup> In line with art. 74 FDC, specific disciplinary rules may be introduced for the duration of a FIFA final competition, as *in casu*.

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

**The player Mr Giovanni SEQUERA is suspended for two (2) matches, including the automatic match suspension which will be served during the match *Germany v. Venezuela* to be played on 18 November 2023. The remaining suspension will be served in accordance with art. 69 of the FIFA Disciplinary Code.**

FÉDÉRATION INTERNATIONALE  
DE FOOTBALL ASSOCIATION



**Mark Anthony WADE**

Member of the FIFA Disciplinary Committee