

# Decision of the FIFA Disciplinary Committee

passed on 04 April 2024

## DECISION BY:

**Lord VEEHALA (Tonga), Member**

## ON THE CASE OF:

**Club Sport Emelec (Ecuador)**

**(Decision FDD-17982)**

## 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 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 17 June 2021, the FIFA Dispute Resolution Chamber (**DRC**) rendered a decision (**the DRC Decision**), in the context of an employment-related dispute, by means of which it ordered the club Club Sport Emelec (**the Respondent**) to pay to the player Mr. Nicolas Queiroz Martinez (**the Player**) the amount of USD 62,225.80 as outstanding remuneration plus interest as well as USD 808,334 as compensation for breach of contract without just cause plus interest.
3. On 13 July 2021, the Respondent appealed the DRC Decision before the Court of Arbitration for Sport (**CAS**).
4. On 08 April 2022, CAS issued a consent award by means of which the parties settled their dispute, with the Respondent agreeing, among others, to pay the Player the amount of USD 400,000 (**the CAS Award**).
5. On 20 July 2023, the Player informed FIFA that the Respondent had not paid in full the aforementioned amount and therefore requested the FIFA Disciplinary Committee to impose appropriate sanctions on the Respondent pursuant to art. 21 of the FIFA Disciplinary Code (**FDC**).
6. On 31 July 2023, the Secretariat to the FIFA Disciplinary Committee (**the Secretariat**) opened disciplinary proceedings (FDD-15430) via the FIFA Legal Portal and proposed the following sanction to the Respondent in accordance with art. 58 FDC as read in conjunction with Annexe 1 FDC (**the Proposal**):
  1. *The Respondent [...] shall pay to [the Player] as follows:*
    - *USD 175,000 as outstanding amount.*
  2. *The Respondent is granted a final deadline of 30 days as from the present proposal becoming final and binding in which to pay the amount(s) due. 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.*
  3. *The Respondent shall pay a fine to the amount of CHF 15,000.*
7. In particular, the FIFA Legal Portal generated an automatic email titled "FIFA – LEGAL PORTAL – CASE FDD-15460 OPENED AGAINST YOU" that was sent to the Respondent's email address.

8. On 07 August 2023, the Secretariat informed the parties via the FIFA Legal Portal that the Proposal and sanctions contained therein had become final and binding (**the FIFA Decision**). In particular, the FIFA Legal Portal generated different automatic emails titled "*FIFA – LEGAL PORTAL – NEW NOTIFICATION FOR CASE FDD-15430*" that were sent to the Respondent's email address.
9. On 14 September 2023, and in accordance with point 2 of the Proposal, the parties were informed that the ban from registering any new player, either nationally or internationally, until the complete amount due is paid to the Player had been implemented on the Respondent (**the Registration Ban** / FDD-16001). In particular, the FIFA Legal Portal generated an automatic email titled "*CASO FDD-16001 EN ESTADO "Prohibición de transferencia active"*" (Registration ban active) that was sent to the Respondent's email address.
10. On 08 January 2024 and 19 February 2024, the Player informed FIFA that the Respondent was not respecting the Registration Ban. In particular, the Player stated that the following players have "*joined*" the Respondent:
  1. *Andres Ricaurte.*
  2. *Maicon Solis.*
  3. *Marcelo Meli.*
  4. *Washington Cardozo.*
  5. *Rodrigo Rivero.*
  6. *Gustavo Cortez.*
  7. *Cristian Erbes.*
  8. *Facundo Castelli.*
  9. *Juan Pablo Ruiz Gómez.*
  10. *Joao Quiñonez.*
  11. *Cristhian Noboa.*
11. On 27 February 2024, the Registration Ban was provisionally lifted in line with art. 21 (3) FDC.
12. On 07 March 2024, the Registration Ban was permanently lifted, and the related disciplinary proceedings were declared closed.

## **B. Investigation proceedings**

13. Based on the information received from the Player (cf. para. 10 *supra*), the Secretariat conducted investigations with respect to the present matter.
14. 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:
  - i. Comments of the Ecuadorian Football Federation (**FEF**):
    - *[A]ccording to the player passports of the players registered with the Respondent, there are no new "contracts of players with CS Emelec", since 14 September 2023, and therefore the Registration Ban has been complied with.*

- In this context, according to the list of players registered with the [Respondent], submitted by the FEF it would appear that the following players have been registered with the Respondent as from 14 September 2023:

<b>Player</b>	<b>Date</b>	<b>Status</b>	<b>Note</b>
<i>Pedro Martin Quiñonez Cedeño</i>	<i>17 September 2023</i>	<i>Amateur</i>	<i>Minor player (11-year-old) No matches played</i>
<b>Adrian Patricio Cortez Caicedo</b>	<b>29 September 2023</b>	<b>Amateur</b>	<b>Minor player (16-year-old) Participated in one match played in Campeonato Nacional Sub 17</b>
<i>Mathias Fernando Hurtado Blandon</i>	<i>28 September 2023</i>	<i>Amateur</i>	<i>Minor player (11-year-old) No matches played</i>
<i>Jermy Leonardo Ortiz Medina</i>	<i>02 October 2023</i>	<i>Amateur</i>	<i>Minor player (15-year-old) Participated in three matches played in Campeonato Nacional Sub 15</i>
<b>Adriano Francisco Gonzalez Gomez</b>	<b>16 October 2023</b>	<b>Amateur</b>	<b>Minor player (16-year-old) No matches played</b>
<i>Daniel Ezequiel Viteri Gomez</i>	<i>18 October 2023</i>	<i>Amateur</i>	<i>Minor player (13-year-old) No matches played</i>
<i>Mauro David Quintero Caicedo</i>	<i>22 October 2023</i>	<i>Amateur</i>	<i>Minor player (15-year-old) No matches played</i>
<i>Elkin Snyder Estupiñan Caicedo</i>	<i>01 November 2023</i>	<i>Amateur</i>	<i>Minor player (14-year-old) No matches played</i>
<i>Oliver Jesus Merlin Mina</i>	<i>08 November 2023</i>	<i>Amateur</i>	<i>Minor player (14-year-old) No matches played</i>
<i>Maylor Diddyler Carcelen Carabal</i>	<i>13 November 2023</i>	<i>Amateur</i>	<i>Minor player (14-year-old) No matches played</i>
<i>Jaime Yefry Benavidez Lara</i>	<i>14 November 2023</i>	<i>Amateur</i>	<i>Minor player (14-year-old) No matches played</i>
<i>Bryan Steven Wittle Caicedo</i>	<i>16 November 2023</i>	<i>Professional</i>	<i>23-year-old, return from loan</i>
<i>Alexander Jory Gonzalez Casierra</i>	<i>17 November 2023</i>	<i>Amateur</i>	<i>Minor player (13-year-old) No matches played</i>
<i>Aron Hecner Bone Cabeza</i>	<i>17 November 2023</i>	<i>Amateur</i>	<i>Minor player (14-year-old) No matches played</i>
<i>Jostyn Samir Panezo Barre</i>	<i>22 November 2023</i>	<i>Amateur</i>	<i>Minor player (14-year-old) No matches played</i>
<b>Jefferson Jorge Micolta Quiñonez</b>	<b>25 November 2023</b>	<b>Amateur</b>	<b>18-year-old No matches played</b>
<i>Jeremy Juriel Preciado Padilla</i>	<i>22 November 2023</i>	<i>Amateur</i>	<i>Minor player (13-year-old) No matches played</i>
<i>Mauricio Edison Castillo Peredo</i>	<i>25 November 2023</i>	<i>Professional</i>	<i>22-year-old, return from loan</i>
<i>Joel Miguel Villamar Guistan</i>	<i>28 November 2023</i>	<i>Amateur</i>	<i>Minor player (14-year-old) No matches played</i>
<i>Jared Manuel Bone Zapata</i>	<i>10 December 2023</i>	<i>Amateur</i>	<i>Minor player (14-year-old) No matches played</i>

<i>Byron Efrain Palacios Velez</i>	<i>30 December 2023</i>	<i>Professional</i>	<i>28-year-old, return from loan</i>
<i>Kevin Aldahir Rivera Reyes</i>	<i>31 December 2023</i>	<i>Professional</i>	<i>23-year-old, return from loan</i>
<i>Roberto Daniel Garces Salazar</i>	<i>31 December 2023</i>	<i>Professional</i>	<i>30-year-old, return from loan</i>
<i>Ernesto Sebastian Tarira Alvarez</i>	<i>01 January 2024</i>	<i>Professional</i>	<i>19-year-old, return from loan</i>

ii. Considerations:

*"[...] For the sake of good order, the Secretariat first wished to emphasise that, pursuant to the FIFA circular no. 1843, in principle, the following situations do not contravene registration bans imposed on the basis of art. [25] (formerly art. 24bis) RSTP:*

- the return from loan of a player in circumstances where the loan came to its natural expiry (and was not early terminated by either party);*
- the extension of the loan of a player;*
- the permanent registration of a player who has been registered on a loan basis for the relevant Respondent at the association before the ban from registering any new players has come into force; – the renewal of employment contracts of players;*
- the change of the status (from amateur to professional) of a player already registered with the Respondent prior to the registration ban being imposed.*

*Additionally, and according to the aforementioned FIFA Circular, in order not to hinder the development of young football players, "a Respondent subject to a registration ban may register players for its youth teams, such possibility being, however, limited to players until the age of 15."*

iii. Conclusion:

*"Based on the above, it appears that both [the Respondent] and the FEF have failed to comply with the Registration Ban since 3 players (in bold) have been registered for the Club while the latter was serving the aforementioned ban. This, although the players concerned did not appear to fall under any of the abovementioned exceptions.*

*[...] the Secretariat concluded that disciplinary proceedings should be opened against the [Respondent] and the FEF for potential violation of art. 21 [of the FIFA Disciplinary Code - FDC]".*

### C. Disciplinary proceedings

15. On 15 March 2024, based on the above, the Secretariat *inter alia* informed the Respondent that the aforementioned conduct(s) would constitute a potential breach of art. 21 FDC. In particular, the latter was provided with the Investigatory Report along with its enclosures. In this respect,

the Secretariat proposed the following sanction to the Respondent in accordance with art. 58 FDC (FDD-17982):

1. *The Respondent shall pay a fine to the amount of CHF 10,000.*
2. *The Respondent is banned from registering new players, both nationally and internationally, for two (2) entire and consecutive registration periods as from the present proposal becoming final and binding."*

16. On 20 March 2024 (i.e. within the 5 days deadline granted by art. 58 FDC), the Respondent rejected the aforementioned proposed sanction and requested regular disciplinary proceedings to be conducted.<sup>1</sup>

## **II. RESPONDENT'S POSITION**

17. The position received from the Respondent can be summarised as follows:

- The Respondent was not notified by the FEF regarding the implementation of the Registration Ban at national level.
- The Respondent was notified on 14 September 2023 about the Registration Ban at international level.
- Furthermore, it appears from the case file that the FEF was not aware of the order issued by FIFA therefore it could not apply the Registration Ban at national level.
- In this respect, according with the FIFA Circular No. 1843, it is the FEF's responsibility to implement registration bans at national level and to guarantee that no new players could be registered whilst a club is serving a registration ban.
- The Respondent acted in good faith without knowledge of the implementation of the Registration Ban at national level and initiated the procedure to register the players at stake.
- In this respect, the Respondent is not the authority which validates the relevant new registrations.
- Therefore, in line with the principle of estoppel, the FEF generated the following legitim expectations:
  - any registration ban at national level is implemented when the FEF notifies it; and,
  - the relevant new player registrations are legitim and did not imply any breach since they were approved by the FEF.

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<sup>1</sup> The position of the Respondent is summarized in the following section.

- Based on the above, the Respondent concluded that it cannot be sanctioned for the registration of the players at stake.
- Notwithstanding the above, in case the FIFA Disciplinary Committee finds that the Respondent should be sanctioned, the latter should consider the following:
  - The three new players are amateurs, two of them minors,
  - Two of them did not play any match and the remaining player played one match whilst the Respondent was serving the Registration Ban.
  - The Respondent did not register any professional player whilst was serving the Registration Ban; and,
  - The Respondent paid the Player in accordance with the Proposal and the Registration Ban was lifted.
- As such, the Respondent considered that a fine would be a sufficient measure.
- In sum, the Respondent requested:
  - Not to impose a sanction on it; subsidiary,
  - To be sanctioned just with a fine.

### **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 arts. 56 and 57 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, football agents and 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 2023 FDC entered into force.

As a result, the merits as well as the procedural aspects of the present case should fall under the 2023 edition of the FDC.

23. Against such background, the Committee referred to art. 21 FDC which reads as follows:

**Art. 21 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, 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;*

[...]

7. *Any financial decision issued by the Football Tribunal or FIFA imposing disciplinary measures, such as a ban from registering any new players – either nationally or international – or a restriction on playing in official matches, will be automatically enforced by FIFA and the relevant member association [...].*

24. The wording of art. 21 (1) FDC 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, a subsidiary 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, art. 21 (7) FDC emphasises that any financial decision issued by FIFA (imposing disciplinary measures) will be automatically enforced by FIFA and the relevant member association.

## 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. 41 (1) FDC.
27. Next, the Committee pointed out that, in accordance with art. 39 (3) FDC, the standard of proof to be applied in FIFA disciplinary proceedings is that of "*comfortable satisfaction*". According to this standard, the onus is on the competent judicial body to establish the disciplinary violation to its comfortable satisfaction, while taking into account the seriousness of the allegation(s).
28. In this respect, the Committee recalled that the CAS which also applies this standard in disciplinary proceedings, has defined it as a higher standard than the civil one of "*balance of probability*" but lower than the criminal "*proof beyond a reasonable doubt*"<sup>2</sup>.
29. Having clarified the foregoing, the Committee subsequently proceeded to consider the merits of the case at hand.

## D. Merits of the case

### 1. The Registration Ban

30. 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 violation(s) of the FDC.
31. In this context, as a preliminary remark, the Committee wished to emphasise that the FIFA Decision – which was communicated *inter alia* to the Respondent on 07 August 2023 – specifically provided that if the amount(s) due by the Respondent to the Player were not paid within the specified period of time, "*a ban on registering new players [would] be issued until the complete amount due is paid*".
32. With the above in mind, the Committee subsequently turned its attention to FIFA's communication addressed *inter alia* to the Respondent on 14 September 2023 *via* the FIFA Legal Portal. In particular, the Committee found that the aforementioned communication was clear and left no room for interpretation, in so far that the Respondent was:
  - i. on the one hand, informed that the Registration Ban had been implemented against the Respondent in accordance with the FIFA Decision, and;
  - ii. on the other hand, the FEF was "*requested to immediately implement on [the Respondent] a ban from registering new players at national level*".

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<sup>2</sup> See amongst others CAS 2009/A/1920; CAS 2010/A/2172; CAS 2013/A/3323; CAS 2017/A/5006.

33. As such, the Committee was satisfied that the instructions provided to the Respondent first through the FIFA Decision, and subsequently, *via* the abovementioned communication were unequivocal. In other words, the Respondent was banned (and as such prevented) from registering any new players either nationally or internationally as from 14 September 2023 “*up until the due amount is paid*”.
34. Against such background, the Committee subsequently observed from the information and documentation at its disposal that the Registration Ban was provisionally lifted by the Secretariat on 27 February 2024 and eventually permanently lifted on 07 March 2024.
35. Therefore, the Committee concluded that the Respondent was prevented from registering new players – both nationally and internationally – as from 14 September 2023 up until 27 February 2024 in accordance with the Registration Ban.

## 2. Players registered for the Respondent during the Registration Ban

36. With those elements in mind, the Committee however remarked from the case file that the FEF had proceeded to register 24 players for the Respondent during the period in which the Respondent was serving the said Registration Ban, *i.e.*, between 14 September 2023 and 27 February 2024.<sup>3</sup>
37. In this context, the Committee first noted that out of these 24 players, 6 appeared to fall under one of the exceptions provided for in the [FIFA Circular no. 1843](#), *i.e.*, a return from loan upon the natural expiry of the said loan.<sup>4</sup>
38. Furthermore, and according to said FIFA Circular, the Committee found important to highlight that in order not to hinder the development of young football players, clubs subject to a registration ban may register players for its youth teams, such possibility being limited to players until the age of 15.
39. In this context, the Committee noted that from the 18 players registered for the “*youth team*” of the Respondent, 3 of them exceeded the age of 15. As such, the Committee considered that these three players, namely Adrian Patricio Cortez Caicedo (16 years old), Adriano Francisco Gonzalez Gomez (16 years old), and Jefferson Jorge Micolta Quiñonez (18 years old), did not fall under the abovementioned exception, appear to have been registered for the Respondent in violation of the Registration Ban.

## 3. Violation of the Registration Ban

40. Against this background, the Committee observed that following the initiation of the present disciplinary proceedings, the Respondent put forward the arguments below:

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<sup>3</sup> The mentioned 24 players all having been subject to a domestic/national registration.

<sup>4</sup> Bryan Steven Wittle Caicedo (23 years old), Mauricio Edison Castillo Peredo (22 years old), Byron Efrain Palacios Velez (28 years old), Kevin Aldahir Rivera Reyes (23 years old), Roberto Daniel Garces Salazar (30 years old), Ernesto Sebastian Tarira Alvarez (19 years old).

- i. The Respondent was not duly notified about the Registration Ban and therefore was not aware of the implementation of the Registration Ban at national level;
- ii. The Respondent is not the authority which validates the relevant new registrations.

41. With respect to the first argument, the Committee noted from the case file that the Proposal, the FIFA Decision and the Registration Ban letter had all been duly notified to the Respondent via the FIFA Legal Portal on 31 July 2023, 7 August 2023 and 14 September 2023 respectively. Moreover, for all three letters, an automatic email containing the relevant information was sent to the Respondent's email address by the FIFA Legal Portal.
42. Consequently, the Committee decided to reject the Respondent's first argument as all three letters had been duly uploaded to the FIFA Legal Portal, which had furthermore generated the relevant emails informing and warning the Respondent that the correspondences directed to him were available on the FIFA Legal Portal.
43. Finally, the Committee pointed out that although the "formal registration" is carried out by the member association concerned, *in casu* the FEF, this registration is carried out at the request of the club wishing to register the players concerned, *in casu* the Respondent. As a result of the Registration Prohibition's letter, which was duly delivered to the Respondent on 14 September 2023, the Respondent was informed that it could no longer register new players. Nevertheless, the Respondent applied for and obtained the registration of 24 players, 21 of whom fell within the registration exceptions foreseen in FIFA Circular No. 1843, while the situation of 3 players, namely Adrian Patricio Cortez Caicedo (16 years old), Adriano Francisco Gonzalez Gomez (16 years old), and Jefferson Jorge Micolta Quiñonez (18 years old), did not fulfil any of the exceptions to the registration ban foreseen in the said circular.
44. All in all, the Committee found that the Respondent's arguments could in no way lead to the justification of the registration of the abovementioned 3 players for the Respondent whilst the Registration Ban was imposed. As a result, the Committee had no other alternative but to conclude that, by having registered those 3 players, the Respondent had failed to respect the FIFA Decision and the subsequent order from FIFA, and, as such, had to be held liable for a breach of art. 21 FDC.
45. Having determined the foregoing, in particular that the Respondent should be held liable for having breached art. 21 FDC, the Committee held that the latter had to be sanctioned accordingly.

#### **4. Determination of the sanction**

46. As a preliminary consideration, the Committee recalled that art. 21 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.
47. 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.

48. Such stance had been confirmed by CAS which deemed that a violation of art. 15 FDC, 2019 edition (current art. 21 FDC, 2023 edition) by a member association is a *“serious violation that warrants a serious sanction”*<sup>5</sup>. 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”,* further emphasizing that *“[m]ember associations play an essential role in ensuring FIFA’s mechanism is strictly applied and that sanctions are respected”*.
49. The above being clarified, the Committee subsequently recalled that the Respondent is a legal person, and as such subject to the sanctions described under art. 6 (1) and 6 (3) FDC.
50. 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. 25 (1) FDC).
51. As established above, the Respondent was found liable for the failure to respect/comply with a decision passed by FIFA (art. 21 FDC).
52. In this respect, the Committee took into account that the Respondent had expressed its lack of intention to breach the FIFA rules, regulations or directives. This said, the Committee however held that it could not be disregarded that 3 players were registered with the Respondent in contravention of the registration ban, 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.
53. Given the above, the Committee recalled that anyone found in breach of art. 21 FDC – as is the case of the Respondent – shall in principle *“be fined for failing to comply with a decision”*. In the case of clubs, a transfer ban will be pronounced *“until the complete amount due is paid or the non-financial decision is complied with”*. Additional measures such as a deduction of points or relegation to a lower division may also be ordered.
54. With this established, the Committee considered that a fine was an appropriate sanction in response to the breach committed by the Respondent.
55. Consistently with the above, the Committee recalled that such fine, in accordance with art. 6 (4) FDC, may not be lower than CHF 100 and greater than CHF 1,000,000.
56. As a result, keeping in mind that the Respondent had not been previously sanctioned for similar breaches, the Committee regarded a fine amounting to CHF 10,000 to be considered appropriate and proportionate to the offence. In particular, the Committee was satisfied that such amount would serve the necessary deterrent effect.

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<sup>5</sup> CAS 2020/A/7251.

57. Additionally, given the fact that the Respondent proceeded to register players while it was prevented from doing so, the Committee was of the opinion that an appropriate sanction would also be the one foreseen under art. 21 (1) (d) FDC, namely a transfer ban.
58. This being said, the Committee emphasised that pronouncing such a ban "*until the complete amount is paid or the non-financial decision is complied with*" would be quite ambiguous in so far that (i) the amount(s) due to the Creditor under the FIFA Decision had now been paid and (ii) the related registration ban had already been lifted as a result of such payment. As such, the Committee decided that the ban to be imposed on the Respondent in the present proceedings shall be limited in time.
59. Having examined FIFA's case law,<sup>6</sup> the Committee concluded that a ban on the registration of new players (both at national and international level) for two full and consecutive registration periods is considered to be an appropriate and proportionate sanction in the present case and is in line with the above-mentioned case law. In particular, the Committee was satisfied that such sanction was justified in view of the contextual elements of the present proceedings and would serve the necessary deterrent effect on the Respondent.

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<sup>6</sup> Decision issued on 8 November 2021 in FDD-9139; Decision issued on 20 November 2021 in FDD-9521; Decision issued on 1 February 2022 in FDD-9477; Decision issued on 19 May 2022 in FDD-11066.

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

- 1. Club Sport Emelec is found responsible for failing to comply with final FIFA decision(s) (Ref. FDD-15430).**
- 2. Club Sport Emelec is banned from registering new players for two entire and consecutive registration periods as from the date of notification of the present decision.**
- 3. Club Sport Emelec is ordered to pay a fine to the amount of CHF 10,000.**
- 4. The fine is to be paid within 30 days of notification of the present decision.**

FÉDÉRATION INTERNATIONALE  
DE FOOTBALL ASSOCIATION



**Lord VEEHALA**

Member of the FIFA Disciplinary Committee

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### **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.

### **NOTE RELATING TO THE REGISTRATION BAN:**

The registration ban shall cover all men eleven-a-side teams of the Respondent – first team and youth categories –. The Respondent shall only be able to register new players, either nationally or internationally, only as of the first registration period following the full serving of the ban. In particular, the Respondent may not make use of the exception and the provisional measures stipulated in art. 6 of the Regulations on the Status and Transfer of Players in order to register players at an earlier stage.

The registration ban shall apply **immediately** upon the notification of the terms of the decision by FIFA, including, for the avoidance of doubt, in cases where the registration period defined by the Respondent's association is open at the time of the notification of the present decision. In such cases, the remainder of that registration period would be the first "entire" registration period for the purposes of the sanction.

### **NOTE RELATING TO THE PAYMENT OF THE FINE:**

Payment can be made 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.