Decision

of the

adjudicatory chamber

of the

FIFA Ethics Committee

Mr Vassilios Skouris [GRE], Chairman
Ms Margarita Echeverria [CRC], Member
Mr Melchior Wathelet [BEL], Member

taken on 26 July 2019

in the case of:

Mr Eduardo Deluca [ARG]

Adj. ref. no. 15/2019
(Ethics 150963)

I. Inferred from the file

1. Mr Eduardo Deluca (hereinafter "*Mr Deluca*" or "*the official*"), Argentinian national, has been a high-ranking football official, most notably the Secretary General of the Confederación Sudamericana de Futból (CONMEBOL) between 1986 and 2011. Furthermore, he was a member of several standing committees of FIFA, such as the FIFA Organising Committee for the FIFA Confederations Cup (2000 - 2002), the FIFA Organising Committee for the FIFA U20 World Cup (1999 - 2012) and the FIFA Strategic Committee (2001 - 2007).

2. On 3 December 2015, the United States Department of Justice (hereinafter "*DOJ*") issued an official press release related to the Indictment of the United States District Court, Eastern District of New York dated 25 November 2015 (hereinafter "*the Indictment*"). According to the Press Release, Mr Deluca appeared as a defendant amongst said individuals.

3. The official press release further indicated that Mr Deluca had been charged for acts of racketeering, wire fraud and money laundering conspiracy. The infringements referred in the Indictment occurred in or about and between 2002 and 2012. This timeframe coincides with the time in which Mr Deluca was an official of CONMEBOL and FIFA.

4. Based on the above, the then Chairman of the investigatory chamber of the FIFA Ethics Committee (hereinafter "*the investigatory chamber*"), Dr. Cornel Borbély, determined that there was a *prima facie* case that Mr Deluca had committed violations of the FIFA Code of Ethics ("*FCE*") in accordance with art. 64 par. 1 of the FCE, 2012 edition (hereinafter "*2012 FCE*"). The then Chairman of the investigatory chamber decided to lead the investigation proceedings as the chief of the investigation (cf. art. 65 of the 2012 FCE). On 4 December 2015, Mr Deluca was notified, pursuant to arts. 63 par. 1 and 64 par. 1 of the 2012 FCE, that investigation proceedings under ref. no. 150963 had been opened against him relating to possible violations of arts. 13, 14, 15, 16, 17, 18, 19, 20, 21, 22 and 25 of the 2012 FCE.

5. At the occasion of the 67th FIFA Congress, Ms Maria Claudia Rojas was elected as chairperson of the investigatory chamber, replacing Dr Cornel Borbély as chairman and member of said chamber.

6. With regard to the procedural history before the investigatory chamber, reference is made to the relevant section in the final report.

7. On 21 June 2019, the appointed chief of investigation, Ms Maria Claudia Rojas, informed Mr Deluca that the investigation proceedings had concluded and, therefore, the relevant final report (hereinafter "*the final report*") was being submitted to the attention of the Chairperson of the adjudicatory chamber of the FIFA Ethics Committee (hereinafter "*the adjudicatory chamber*") in accordance with art. 65 of the 2018 (current) edition of the FCE (hereinafter "*FCE*").

8. On 21 June 2019, Mr Vassilios Skouris – the chairperson of the adjudicatory chamber (hereinafter "*the Chairperson*"), opened adjudicatory proceedings against Mr Deluca in accordance with art. 68 par. 3 of the FCE. Mr Deluca was provided with a copy of the final report and its enclosures, and informed of the deadlines within which he would have to provide his position on the final report and to request a hearing.

9. On 8 July 2019, Mr Deluca was informed about the composition of the adjudicatory chamber's panel and of the fact that it would decide the matter using the file in its possession (since no hearing was requested and no position was submitted). On the same day, Mr Deluca was informed that Ms Margarita Echeverria, member of the adjudicatory chamber, would replace Mr Flavio Zveiter on the panel.

II. and considered

A. Applicability of the FCE *ratione materiae* (art. 1 of the FCE)

1. The adjudicatory chamber notes that, according to the final report of the investigatory chamber on the present matter, there are several indications of potential improper conduct in terms of the FCE by the official. In particular, during the investigations, possible violations of the relevant provisions of the (2018) FCE related to general rules (art. 13), loyalty (art. 15), conflicts of interest (art. 19), offering and accepting gifts or other benefits (art. 20) and bribery (art. 27), as well as their analogous provisions in the 2012 FCE, have been identified. The factual circumstances raise, without any doubt, questions of potential misconduct in terms of the FCE.

2. Consequently, the FCE is applicable to the case according to art. 1 FCE (*ratione materiae*).

B. Applicability of the FCE *ratione personae* (art. 2 of the FCE)

3. According to art. 2 FCE, the Code shall apply, *inter alia*, to "*officials*". The definitions section of the current FCE does not contain a definition of the term "*official*" but refers to the definitions section in the FIFA Statutes.

4. By virtue of his various positions within FIFA and CONMEBOL mentioned previously (cf. par. I.1 above), Mr Deluca was an official within the meaning of the definition given in no. 13 of the definitions section in the FIFA Statutes during the relevant period (2002 – 2012).

5. As a consequence, at the time the relevant actions and events occurred, and in view of Mr Deluca's position in football at the time, the FCE applies to the official according to art. 2 of the FCE (*ratione personae*).

C. Applicability of the FCE *ratione temporis* (art. 3 of the FCE)

6. The relevant events took place between 2002 and 2012, at a time before the current edition of the FCE came into force. This means that, since the first FIFA Code of Ethics come into force on 6 October 2004, the Ethics Committee is only entitled to investigate and judge the conduct of Mr Deluca from 2004 until 2012. With regard to the applicability of the FCE in time, art. 3 of the FCE stipulates that the Code shall apply to conduct whenever it occurred. Accordingly, the material rules of the current FCE shall apply, provided that the relevant conduct was sanctionable at the time (with a maximum sanction that was equal or more) and unless the previous editions of the FCE would be more beneficial to the party (*lex mitior*).

7. In this context, following the relevant case law and jurisprudence, the adjudicatory chamber notes that the spirit and intent of the 2004, 2006, 2009 and 2012 editions of the FCE (which were applicable in the relevant period 2004 – 2012) is duly reflected in the below articles of the FCE, which contain equivalent provisions:

   – Art. 27 of the FCE has a corresponding provision in the 2012 FCE (art. 21), in the 2009 FCE (art. 11), in the 2006 FCE (art. 12) and in the 2004 FCE (art. 7);
   – Art. 20 of the FCE has a corresponding provision in the 2012 FCE (art. 20), in the 2009 FCE (art. 10), in the 2006 FCE (art. 11) and in the 2004 FCE (art. 6);
   – Art. 19 of the FCE has a corresponding provision in the 2012 FCE (art. 19), in the 2009 FCE (art. 5), in the 2006 FCE (art. 8) and in the 2004 FCE (art. 9);
   – Art. 15 of the FCE has a corresponding provision in the 2012 FCE (art. 15), in the 2009 FCE (art. 9), in the 2006 FCE (art. 10) and in the 2004 FCE (art. 5);
   – Art. 13 of the FCE has a corresponding provision in the 2012 FCE (art. 13), in the 2009 FCE (art. 3), in the 2006 FCE (art. 3) and in the 2004 FCE (art. 1 par. 1; art. 2 par. 1; art. 3 par. 1; art. 4 par. 1).

8. In consideration of all the above, the adjudicatory chamber concludes that the different FCE editions cover the same offence and that the maximum sanctions in the current FCE are equal or less. Furthermore, from a material point of view, the adjudicatory chamber considers that none of the provisions would be more beneficial to the accused (principle of "*lex mitior*"), since their application would lead to the same result.

9. Consequently, the current edition (2018) of the FCE is applicable to the case according to art. 3 of the FCE (*ratione temporis*).

D. Jurisdiction of the FIFA Ethics Committee

10. The scope of jurisdiction of the FIFA Ethics Committee is defined in art. 30 of the FCE, which is more restrictive compared to the equivalent provisions in the previous editions of the FCE.

11. Art. 30 of the FCE defines a primary (par. 1) and subsidiary (par. 2) competence of the FIFA Ethics Committee. At present, the competence of the FIFA Ethics Committee can be deduced from par. 1, which stipulates that if the relevant conduct has been committed by an individual elected, appointed or assigned by FIFA to exercise a function, the Ethics Committee shall be entitled to investigate and judge the respective matter.

12. The adjudicatory chamber notes that the relevant conduct has been committed by a member of various FIFA committees (cf. par. I.1 above). Consequently, the FIFA Ethics Committee is entitled to judge his conduct as per art. 30 par. 1 of the FCE.

E. Assessment of potential violations of the FCE committed by Mr Deluca

a) Possible violation of art. 27 FCE (Bribery)

1. The relevant facts

13. The official may have violated art. 27 of the FCE in connection with the CONMEBOL Copa Libertadores schemes [Final Report, pp. 5 *et seqq.*].

1. Copa Libertadores "Scheme #1"

14. Starting in or about 1996 and continuing thereafter, [A] - operating through [Company 1] (a sports marketing company that she founded and owned) - was the exclusive marketing agent for the worldwide sponsorship rights to the Copa Libertadores. In or about 1997 and continuing to the present, [Company 1], CONMEBOL, various sponsors, and, at times, an entity affiliated with [Company 1] entered into a series of contracts for the sponsorship rights to the Copa Libertadores. Several of the contracts, were signed by Mr Nicholas Leoz (former President of CONMEBOL) and Mr Deluca on behalf of CONMEBOL.

15. In or about 2008, after [Company 1], CONMEBOL, and [Bank 1] entered into a $40 million title sponsorship contract, Mr Deluca solicited bribe and kickback payments from [A] in the amount of USD 400,000 per year. According to her testimony, [A] agreed to make these payments and made the payments, periodically until 2012, from [Company 1]'s U.S. based bank accounts to a [Bank 2] account in the name of [Company 2] ("*[Company 2]*") in Uruguay and to a brokerage account opened in the United States in the name of [Company 3] ("*[Company 3]*"). [Company 2] and [Company 3] were companies controlled by Mr Deluca.

2. Copa Libertadores "Scheme #2"

16. From around 1999 to 2015, the broadcasting company "*[Company 4]*" (hereinafter "*[Company 4]*"), a subsidiary of a production company named "*[Company 5]*" (hereinafter "*[Company 5]*"), held – by virtue of several contracts with CONMEBOL – the exclusive worldwide broadcasting rights for the Copa Libertadores, the Copa Sudamericana and the Recopa Sudamericana editions between 2000 and 2020. In

or about 2005, [B] had acquired an ownership share in [Company 5] and since then managed the day-to-day operations of the company as its CEO.

17. The respective agreements between [Company 4] and CONMEBOL were made through approximately six contracts, contract amendments and respective extensions. Some of those contracts were signed by Mr Deluca, on behalf of CONMEBOL, in his role as Secretary General. As per [B]'s testimony and in his guilty plea, the conclusion of those contracts required the support of CONMEBOL officials. This support was ensured through various bribe payments offered by representatives of [Company 4].

18. According to the testimony of [B], Mr Deluca had solicited and received bribe payments in the period from 2006 to 2011 in connection with the assignment of the broadcasting rights to [Company 4] as follows:

- as from 2006, a bribe payment of USD 600,000 was paid to Mr Deluca that he "*collected […] until he left the position in December 2011*". The payments were made "*through wire transfers to Swiss banks*" and "*with coverage provided by banks of fake service agreements, or service contracts, to disguise those payments*";

- a bribe payment of USD 500,000 was paid to Mr Deluca for his support to the special right for extension of the contracts between [Company 4] and CONMEBOL regarding Copa Libertadores;

- a fake contract was signed between [Company 4] and [Company 6], an intermediating vehicle that was used for [Company 4] to generate the bribes and redirect the payments for the relevant CONMEBOL officials, including Mr Deluca.

19. Based on the testimonies of [A], [B], as well as [C] (a long-time administrative manager at [Company 5] and the "*person responsible for keeping track, making payments and receiving acknowledgment*"), [D] (US special agent of the IRS Criminal Investigation Division), and on various documentary evidence (such as the bank account statements and wire transfers of [Company 6]) it was established that Mr Deluca accepted to receive the following bribe payments:

- from [A] (and/or her companies) an amount of USD 400,000 per year in the period 2008 - 2012, for a total of (at least) USD 2,000,000, in connection with the sponsorship rights to the Copa Libertadores (**Copa Libertadores Scheme #1)**;

- from [Company 4], annual bribe payments of USD 600,000 during the period 2004 - 2011, for a total of (at least) USD 4,800,000, paid through the company [Company 6] to Mr Deluca's bank account or to his company [Company 2], in connection with Copa Libertadores contracts (**Copa Libertadores Scheme #2**).

20. In conclusion, in connection to the schemes related to the Copa Libertadores, Mr Deluca accepted to receive bribes for an amount of at least USD 6,800,000 in the period between 2004 and 2012.

A. Summary of the position of the investigatory chamber

21. With regard to the investigatory chamber's position on the abovementioned scheme and payment, reference is made to the pertinent sections of the Final Report (pp. 9 *et seqq.*).

2. Legal assessment

A. Wording of the relevant provision

22. With regard to the structure of art. 27 of the FCE, the adjudicatory chamber notes that the actual offence of bribery is laid down in the opening sentence of art. 27 par. 1 of the FCE, both with regard to the offerer ("*offer, promise, give*") and the offeree ("*accept, receive, request or solicit*"). The second sentence specifies the persons who may be involved in the act of bribery. The third sentence is a further specification of the first sentence in view of art. 322ter and art. 322^{quater} of the Swiss Criminal Code to which there are several analogies.

B. Persons involved

23. The first two elements set out in art. 27 par. 1 FCE are that (i) the person acting must be bound by the FCE and (ii) the counterpart must be a person within or outside FIFA. As has already been demonstrated (cf. par. II.4 above), Mr Deluca was an official bound by the FCE at the relevant time. As he received the kickbacks from [B] (through the [Company 4] company) and from [A] (and or her companies) the counterpart condition is also fulfilled *in casu*.

C. Accepting, giving, offering, promising, receiving, requesting or soliciting an advantage

24. For a violation of art. 27 par. 1 of the FCE to occur, an undue pecuniary or other advantage (see par. II.28 *et seqq.* below) must be accepted, given, offered, promised, received, requested or solicited by the persons involved. Both the acceptance of an offer or a promise on the one hand and of the actual advantage on the other hand constitute acts of bribery and corruption. From a legal perspective, it is therefore not decisive if benefits were actually given (e.g. payments actually made) or received.

25. In the adjudicatory chamber's view, there is sufficient evidence that Mr Deluca accepted payments for a total of (at least) USD 6,800,000 (some executed through [Company 6]) in connection with the Copa Libertadores schemes #1 and #2 in the period 2004-2012. Among the supporting evidence are the witness testimonies of [A], [B], [C] and [D], [Company 6]'s bank account statements and wire transfers (see Final Report, p. 6 *et seqq.*).

26. In view of the above, the adjudicatory chamber concludes that Mr Deluca accepted the offer and promise of a payment of (at least) USD 6,800,000.

27. Accordingly, the relevant requirement of art. 27 par. 1 of the FCE (regarding the acceptance, receipt, or acceptance of an advantage) is met in the present case.

D. Personal or undue pecuniary or other advantage

28. Thirdly, a *"personal or undue pecuniary or other advantage"* must be at stake.

a. Pecuniary or other advantage

29. With regard to the term "*pecuniary or other advantage*", the adjudicatory chamber recalls that this includes any kind of advancement of economic, legal or personal, material or non-material interest.

30. Without any doubt, the bribe of USD 6,800,000 offered, accepted and/or received by Mr Deluca gave him a pecuniary advantage within the meaning of art. 27 par. 1 of the FCE.

b. Personal or undue advantage

31. Not every kind of pecuniary or other advantage, however, falls within the scope of art. 27 par. 1 of the FCE. Rather, the relevant advantage has to be a "*personal or undue*" one.

32. The pecuniary advantage described previously was offered, accepted and paid to Mr Deluca directly and personally, and therefore represents a personal benefit.

33. Furthermore, the advantage must be "*undue*" in the light of the provisions of FIFA regulations.

34. The adjudicatory chamber notes that in the present case, there are no indications whatsoever of any legal or proper contractual basis for the abovementioned payment (and/or promises of payment), to Mr Deluca. In fact, the witnesses and other evidence expressly confirmed that these were bribe payments and promises (see par. II.15-19 above and Final Report, p. 5 *et seqq*.).

35. Following the above considerations, it can be concluded that the respective advantage offered, accepted and received by Mr Deluca constitutes an undue pecuniary advantage within the meaning of art. 27 par. 1 of the FCE.

E. Ratio of equivalence

36. The core element of art. 27 par. 1 of the FCE is the establishment of a "*quid pro quo*" (ratio of equivalence) between the undue advantage and a specific action by the official obtaining it.

aa. Act that is related to official activities

37. Acts of bribery require that they are aimed at an act related to the official activities of the offeree or recipient.

38. In this respect, Mr Deluca, as Secretary General of CONMEBOL, signed the majority of the relevant contracts in connection with Copa Libertadores. Without any doubt, these are acts that are related to the official duties and activities of Mr Deluca.

bb. Act contrary to duties or falling within discretion

39. The targeted official act must, then, be either contrary to the duties of the official or, despite not being contrary to his duties, be based on illegitimate motives or flawed conduct on his part. Signing contracts on behalf of CONMEBOL is not contrary to Mr Deluca's duties as a as official. Accordingly, it needs to be examined whether said approval were based on illegitimate motives or flawed conduct on his part.

40. In this respect, it is well established in the relevant practice and legal doctrine that any kind of reward – *i.e.* a payment to the individual carrying out the acts, resulting in an advantage for the person making the payment – renders the relevant acts contrary to the official's duties, even if the actions per se could be considered in line with the relevant duties. In that sense, it is undisputable that Mr Deluca held an important position as Secretary General of CONMEBOL, a capacity in which he clearly held a central role, in particular (co-)signing the important CONMEBOL contracts.

41. As already established (cf. par. II.25-26 and II.31-35 above), Mr Deluca accepted and received bribes or undue payments, (in particular) from [A] and [B] and his companies. Consequently, Mr Deluca's acts must be considered as having been based on illegitimate motives and contrary to his duties.

cc. *Incitement of the execution or omission of the act*

42. The undue advantage pursuant to art. 27 par. 1 of the FCE must, then, specifically be given in exchange for the execution or omission of the act (*quid pro quo*). Since, in many cases, it is difficult to establish a correlation between a payment and a particular act of an official, the Swiss Federal Court and legal doctrine refer to objective indicators in such contexts. Of particular relevance are, for instance, the amount of the payment, the timing of the payment and the act of the official, as well as the occurrence and frequency of contacts between the parties involved.

43. In this respect, the adjudicatory chamber further recalls that CAS has held that "*corruption is, by nature, concealed, as the parties involved will seek to use evasive means to ensure that they leave no trail of their wrongdoing*" (CAS 2014/A/3537, par. 82; CAS 2010/A/2172, par. 21). On the other hand, it must be pointed out that according to the pertinent definition of CAS, a violation must be established to the

comfortable satisfaction of the adjudicatory chamber "*bearing in mind the seriousness of the allegation*". Without any doubt, the allegation of bribery is among the most serious ones under FIFA's rules and regulations and the FCE. As a consequence, even if the act of bribery does not have to be proven beyond reasonable doubt, it shall also not be considered as established with levity.

44. Concerning the question whether the promises and payments to Mr Deluca were incitements and/or rewards to him to participate in the CONMEBOL Executive Committees, the adjudicatory chamber has considered as follows:

45. Firstly, and most importantly, the witnesses, in particular [B] and [A], testified that these promises and payments were bribes, given in exchange for Mr Deluca's approval and support of their contracts with CONMEBOL. The available documentary evidence and witness testimonies confirms this finding.

46. Moreover, the adjudicatory chamber notes the high amount of the promise and payment at stake (cf. par. II.25-26 above). Promises and payments in such amounts demand a clear and proper basis; the lack of such basis, in turn, is a very strong indicator of corruption.

47. Accordingly, the adjudicatory chamber is comfortably satisfied that Mr Deluca requested and received the benefit in question as a return – *quid pro quo* – and, hence, as an incitement for the execution of an official act within the meaning of art. 27 par. 1 of the FCE.

dd. Intention to obtain or retain business or any other improper advantage

48. Finally, art. 27 par. 1 of the FCE states that the undue advantage must be given "*in order to obtain or retain business or any other improper advantage*". This requirement is to be sub-divided into several different elements, the first one being the business and/or advantage sought.

49. With regard to the term "*advantage*", the adjudicatory chamber points out that it must be interpreted in a broad sense, *i.e.* any kind of betterment or advancement of economic, legal or personal, material or non-material nature (cf. par. II.29 above).

50. In the present case, the advantage lies in Mr Deluca accepting or receiving bribes from a third party. This constitutes a personal betterment and thus an "*advantage*". Furthermore, the advantage sought must be "*improper*". Since Mr Deluca was, as per the relevant FIFA regulations, obliged not to accept or receive bribes, it follows that the advantage sought was improper (cf. par. II.39-41 above).

F. Conclusion

51. Overall, and in the light of the considerations and findings above, the adjudicatory chamber holds that Mr Deluca by his conduct presently relevant, has violated art. 27 of the FCE (Bribery).

52. In the present context, bearing in mind the gravity of the violation of art. 27 of the FCE, the adjudicatory chamber finds there is no necessity to consider the violations of arts. 20, 19, 15 and 13 of the FCE set out in the final report (see in this sense CAS 2014/A/3537, Vernon Manilal Fernando v. FIFA, par. 105), which, in any case, appear to be consumed by Mr Deluca's breach of art. 27 of the FCE.

F. Sanctions and determination of sanctions

a) Sanction

53. According to art. 6 par. 1 of the FCE, the Ethics Committee may pronounce the sanctions described in the FCE, the FIFA Disciplinary Code (hereinafter "*FDC*") and the FIFA Statutes.

54. When imposing a sanction, the adjudicatory chamber shall take into account all relevant factors in the case, including the nature of the offence, the offender's assistance and cooperation, the motive, the circumstances, the degree of the offender's guilt, the extent to which the offender accepts responsibility and whether the person mitigated his guilt by returning the advantage received (art. 9 par. 1 FCE). It shall decide the scope and duration of any sanction (art. 9 par. 3 FCE).

55. When evaluating, first of all, the degree of the offender's guilt, the seriousness of the violation and the endangerment of the legal interest protected by the relevant provisions of the FCE need to be taken into account. In this respect, it is important to note that as the Secretary General of CONMEBOL, Mr Deluca was one the highest representatives of a confederation. In addition, he was formerly a member of various committees of FIFA. As such, Mr Deluca held several very prominent and senior positions in association football at international level. In these functions, he has a responsibility to serve the football community as a role model. Yet, his conduct revealed a blunt disrespect for core values of the FCE, violating the provision on bribery and corruption. He accepted bribe payments and promises of such payments, money which could otherwise have been invested into the development of football in South America. In addition, no acts of mere negligence are at stake here but deliberate actions (see art. 6 par. 2 of the FCE). By the same token, the relevant acts are not merely attempted acts but have been completed. In view of these findings, the official's degree of guilt must be regarded as of utmost seriousness.

56. With regard to the circumstances of the case, the adjudicatory chamber emphasizes that several of its aspects render the case at hand to be of very serious: Mr Deluca is a senior and influential football official at several levels; he personally enriched himself through the acceptance of bribe payments amounting to more than six million dollars; the bribe payments related to a very renowned and popular competition worldwide, and in particular in South America – Copa Libertadores; Mr Deluca's conduct was detrimental to his confederation and association football at large. It must also be borne in mind that Mr Deluca violated art. 27 of the FCE on bribery, which is among the most serious offences under the Code.

57. As far as the official's motive is concerned, the adjudicatory chamber notes that Mr Deluca had purely personal interests involved in his actions presently relevant. He sought to materially benefit (by millions of dollars) from his actions and abused his high-ranking position in CONMEBOL for his personal benefit. Accordingly, Mr Deluca's motive in the present case must be qualified as particularly reprehensible and an aggravating factor in the case.

58. Another circumstance that is suited to mitigate the culpability of an offender is, according to the case law of FIFA's judicial bodies, remorse or confession. In this connection, the adjudicatory chamber notes that Mr Deluca has not demonstrated, at any point during these proceedings and in spite of the overwhelming evidence against him, awareness of wrongdoing.

59. To sum up, the adjudicatory chamber deems that the guilt of Mr Deluca in the present case is particularly serious.

b) Determination of the sanction

60. With regard to the type of sanction to be imposed on Mr Deluca, the adjudicatory chamber deems – in view of the serious nature of his misconduct (cf. par. II.13 *et seqq*. above) – only a ban on taking part in any football-related activity is appropriate in view of the inherent, preventive character of such sanction in terms of potential subsequent misconduct by the official. In the light of this, the adjudicatory chamber has chosen to sanction Mr Deluca by banning him from taking part in any football-related activity (art. 7 par. 1(j) of the FCE; art. 56 par. 2(f) of the FIFA Statutes; art. 11(f) and art. 22 of the FDC).

61. With regard to the scope and duration of a ban (see art. 9 par. 2 and 3 of the FCE), neither art. 27 of the FCE nor its corresponding provisions in the 2012 and 2009 editions of the Code set maximum limits. As for the minimum limit, art. 27 of the FCE does foresee a minimum duration of five years for any ban imposed in relation to the violation of such provision (whereas the 2012 and 2009 corresponding articles do not establish any minimums). Furthermore, according to the well-established case law of CAS, lifetime bans are admissible under the Code (see, *e.g.*, CAS 2014/A/3537). In any case, when determining the scope and duration of the ban in a specific case, the adjudicatory chamber has to be guided by the principle of proportionality.

62. At this point, the adjudicatory chamber reaffirms its position of zero tolerance against all kinds of corruption. In this context, the adjudicatory chamber refers to the relevant case-law of CAS, which has expressly confirmed that it is essential for sporting regulators like FIFA to impose sanctions sufficient to serve as an effective deterrent to individuals who might otherwise be tempted to consider involvement in such criminal activities, and that it is vital that the integrity of sport is maintained (cf. CAS 2010/A/2172, par. 80 *et seqq*.). In the respective context, CAS found a lifetime ban from any football-related activities against the accused concerned to be

a proportionate sanction. In another relevant decision, CAS expressively stated that only strong sanctions would set the necessary deterrent signal to officials (cf. CAS 2009/A/1920, par. 116).

63. Finally, the adjudicatory chamber stresses that corruption affects the very core of sports and is nothing less than life threatening for sports and sports organizations. Thus, if officials who are found guilty of corruption remained within the sports structures, this would cause irreparable damage to sports and football in general and to CONMEBOL and FIFA in particular. In cases like the present one, the only means to save sports from enormous reputational damage is a determined and resolute sanctioning of the persons concerned. In addition, it must be noted that corruption offences are to be rated in every respect as reprehensible and that respective allegations cause grave external effects. Consequently, FIFA has a direct and pressing interest in barring the persons concerned from sports and sports governance effectively.

64. After having taken into account all relevant factors of the case, the adjudicatory chamber considers that nothing short of the maximum sanction under the FCE, *i.e.* a ban on taking part in any football-related activity for life, is adequate for the violation of art. 27 of the FCE committed by Mr Deluca. With regard to the scope (geographical area, art. 9 par. 4 of the FCE), only a worldwide effect is appropriate since Mr Deluca committed FCE violations while being a member of various FIFA committees and his misconduct related to an international football competition such as the Copa Libertadores. Limiting the ban to association or confederation level, in turn, would neither prevent him from future misconduct nor adequately reflect the chamber's disapproval of his conduct.

65. In conclusion and in light of the above considerations, Mr Deluca is hereby banned for life from taking part in any football-related activity (administrative, sports or any other) at national and international level. In accordance with art. 42 par. 1 of the FCE, the ban shall come into force as soon as the decision is communicated.

66. In the present case, the adjudicatory chamber is of the opinion that the imposition of a ban on taking part in any football-related activity is not sufficient to sanction the misconduct of Mr Deluca adequately, in particular since a personal financial motive and gain were involved. Hence, the adjudicatory chamber considers that the ban imposed on Mr Deluca should be completed with a fine.

67. The amount of the fine shall not be less than CHF 300 and not more than CHF 1,000,000 (art. 6 par. 2 of the FCE in conjunction with art. 15 par. 1 and 2 of the FDC). In the case at hand – in view of Mr Deluca's serious misconduct, the significant amount of bribes he accepted (at least USD 6,800,000, part of which was received), to the clear detriment of football and thus FIFA, and the fact that he held very prominent official positions in association football –, the adjudicatory chamber determines that the maximum amount of the fine must apply. Accordingly, Mr Deluca shall pay a fine of CHF 1,000,000.

c) Procedural costs and procedural compensation

68. The procedural costs are made up of the costs and expenses of the investigation and adjudicatory proceedings (art. 54 of the FCE).

69. Mr Deluca has been found guilty of violations of art. 27 of the FCE and has been sanctioned accordingly. The adjudicatory chamber deems that no exceptional circumstances apply to the present case that would justify deviating from the general principle regarding the bearing of the costs. Thus, the adjudicatory chamber rules that Mr Deluca shall bear the procedural costs (art. 56 par. 1 of the FCE).

70. In the present case, the costs and expenses of the investigation and the adjudicatory proceedings add up to […].

71. According to art. 57 of the FCE, no procedural compensation shall be awarded in proceedings conducted by the Ethics Committee. Consequently, Mr Deluca shall bear his own legal and other costs incurred in connection with these proceedings.

III. has therefore decided

1. Mr Eduardo Deluca is found guilty of infringement of art. 27 (Bribery) of the FIFA Code of Ethics.

2. Mr Eduardo Deluca is hereby banned for life from taking part in any kind of football-related activity at national and international level (administrative, sports or any other) as of notification of the present decision, in accordance with article 7 lit. j) of the FIFA Code of Ethics in conjunction with art. 22 of the FIFA Disciplinary Code.

3. Mr Eduardo Deluca shall pay a fine in the amount of CHF 1,000,000 within 30 days of notification of the present decision. Payment can be made either in Swiss francs (CHF) to account no. […] or in US dollars (USD) to account no. […], with reference to case no. "*Adj. ref. no. 15/2019 (Ethics 150963)*" in accordance with art. 7 let. e) of the FIFA Code of Ethics.

4. Mr Eduardo Deluca shall pay costs of these proceedings in the amount of […] within 30 days of notification of the present decision, which shall be paid according to the modalities stipulated under point 3. above.

5. Mr Eduardo Deluca shall bear his own legal and other costs incurred in connection with the present proceedings.

6. This decision is sent to Mr Eduardo Deluca. A copy of the decision is sent to CONMEBOL, the Asociación del Fútbol Argentino and to the chief of investigation, Ms Maria Claudia Rojas.

LEGAL ACTION:

In accordance with art. 82 par. 1 of the FCE and art. 58 par. 1 of the FIFA Statutes, this decision can be appealed against to the Court of Arbitration of Sport ("*CAS*") in Lausanne, Switzerland (www.tas-cas.org). The statement of appeal must be sent directly to CAS within 21 days of notification of this decision. Within another ten (10) days following the expiry of the time limit for filing the statement of appeal, the appellant shall file with CAS a brief stating the facts and legal arguments giving rise to the appeal (see art. R51 of the Code of Sports-related Arbitration).

FÉDÉRATION INTERNATIONALE
DE FOOTBALL ASSOCIATION

Vassilios Skouris
Chairman of the adjudicatory chamber
of the FIFA Ethics Committee