

Sent to:

Brazilian Football Association
General Secretariat
Decision Ref: 171218 PST



Zurich, 23 December 2019

Notification of the grounds of the decision

Dear Sirs,

Please find attached the grounds of the decision passed in the aforementioned case by a member of the FIFA Disciplinary Committee on 18 July 2019.

The Brazilian Football Association is kindly requested to forward this decision to the club Atlético Mineiro.

We would appreciate your taking due note of this decision and ensuring its implementation.

Yours faithfully,

FIFA

A handwritten signature in black ink, appearing to be "C. Schneider", written in a cursive style.

Carlos Schneider
Head of the FIFA Disciplinary Department

Cc: - Atlético Mineiro, c/o Mr Breno Costa Ramos Tannuri;
- Udinese Calcio, c/o Mr Gianpaolo Monteneri;
- Italian Football Federation (FIGC).

Decision
of the
**Member of the FIFA Disciplinary
Committee**

Mr Alejandro Piera [PAR]

on 18 July 2019,

to discuss the case of:
Club Atlético Mineiro, Brazil
(Decision 171218 PST)

regarding:

failure to comply with art. 64 of the FIFA Disciplinary Code

I. inferred from the file

1. On 13 June 2016, the Single Judge of the Players' Status Committee decided that the club Atlético Mineiro (hereinafter: *the Debtor*) had to pay:

To the club Udinese Calcio (hereinafter: *the Creditor*):

EUR 830,000 as overdue payables within 30 days as from the date of notification of the decision as well as interest at the rate of 5% per year from 16 January 2016 until the date of effective payment;

CHF 5,000 as costs of the proceedings;

To FIFA:

CHF 30,000 as fine;

CHF 15,000 as costs of the proceedings.

2. The grounds of the decision were duly communicated, amongst others, to the parties on 24 June 2016.
3. On 15 July 2016, the Debtor filed a statement of appeal with the Court of Arbitration for Sport (CAS) against the aforementioned decision of the Single Judge of the Players' Status Committee.
4. On 31 March 2017, CAS passed an Award dismissing the Debtor's appeal and confirming the decision of the Single Judge of the Players' Status Committee dated 13 June 2016. Moreover, in addition to the amounts determined in the aforementioned decision, CAS imposed the obligation on the Debtor to pay to the Creditor an amount of **CHF 4,000** as contribution towards the legal fees incurred in connection with the arbitration proceedings. No appeal was filed against the CAS decision and therefore it became final and binding.
5. On 4 December 2017, the secretariat to the FIFA Disciplinary Committee sent a letter informing the parties that the disciplinary proceedings were suspended, given that two appeal proceedings related to the allocation of the payments in relation to the transfers of the players Douglas dos Santos Justino de Melo and Maiconsuel Reginaldo de Matos were pending before CAS.
6. On 30 November 2018, the secretariat to the FIFA Disciplinary Committee sent a letter informing the parties that the disciplinary proceedings were resumed after the decision passed by CAS on 20 June 2018 in relation to the procedure *CAS 2017/A/5202 Club Atlético Mineiro v. Udinese Calcio S.p.A & FIFA (player: Maiconsuel Reginaldo de Matos)*.

7. As the aforementioned amounts were not paid to the Creditor, the secretariat to the FIFA Disciplinary Committee opened disciplinary proceedings against the Debtor in relation to the decision of the Court of Arbitration for Sport dated 31 March 2017 and invited it to pay the outstanding amounts or provide its position by 14 December 2018 at the latest. Moreover, the secretariat to the FIFA Disciplinary Committee informed the Debtor that the case would be submitted to the Disciplinary Committee for consideration and a formal decision within the following week as of the expiry of the aforementioned time limit, and that the decision would be passed based on the file in the Committee's possession (cf. art. 110 par. 4 FDC).
8. On 14 December 2018, the legal representative of the Debtor submitted the club's position whereby it provided FIFA with a payment plan and requested to be granted a reasonable period of grace in order to comply with its financial obligations.
9. On 10 April 2019, the secretariat to the FIFA Disciplinary Committee sent a letter to the parties and requested the Creditor to confirm whether it agreed to accept the payment plan proposed by the Debtor. In this regard, the Debtor was informed that a possible payment plan had to be agreed by the Debtor directly with the Creditor, which at its own discretion could accept or not the proposed payment plan. In this regard, the parties were informed that should a payment plan be agreed between them, the disciplinary proceedings would be declared closed, and any claim resulting from the breach of the aforementioned agreement signed by the parties would have to be lodged before the Players' Status Committee or Dispute Resolution Chamber, as applicable, or before the competent bodies at national or international level mutually agreed by the parties.
10. On 12 April 2019, the legal representative of the Creditor sent a letter requesting FIFA the exhibits of the Debtor's position, as they had not been received. In this regard, the secretariat to the FIFA Disciplinary Committee forwarded the said exhibits to the Creditor on 4 June 2016, and requested confirmation on whether the Creditor accepted the payment plan proposed by the Debtor.
11. On 12 June 2016, the legal representative of the Creditor sent a letter informing FIFA that its client did not accept the payment plan proposed by the Debtor and requesting for the disciplinary proceedings to continue.
12. On 10 July 2019, the secretariat to the FIFA Disciplinary Committee sent a letter to the parties informing that the Creditor did not accept the payment plan proposed by the Debtor, and that the case would be submitted to a member of the FIFA Disciplinary Committee on 15 July 2019 for evaluation in

accordance with article 78 par. 2 of the FDC so that disciplinary measures (fine, transfer ban or relegation to a lower league) may be imposed on the club.

II. and considered

1. According to art. 53 par. 2 of the FIFA Statutes, the Disciplinary Committee (hereinafter also referred to as *the Committee*) may pronounce the sanctions described in the Statutes and the FIFA Disciplinary Code (hereinafter also referred to as *the FDC*) on member associations, clubs, officials, players, intermediaries and licensed match agents.
2. 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 or an instance of FIFA or a subsequent CAS appeal decision (art. 64 par. 1 of the FDC):
 - a) will be fined for failing to comply with a decision;
 - b) will be granted a final deadline by the judicial bodies of FIFA in which to pay the amount due;
 - c) if it is a club, it will be warned and notified that, in the case of default or failure to comply with a decision within the period stipulated, points will be deducted or demotion to a lower division ordered. A transfer ban may also be pronounced.

If the club disregards the final time limit, the relevant association shall be requested to implement the sanctions threatened (art. 64 par. 2 of the FDC).

3. Moreover, in line with art. 78 par. 2 of the FDC, cases involving matters under art. 64 of the FDC may be decided by one member of the Disciplinary Committee alone (hereinafter also referred to as *member of the Committee*).
4. The member of the Committee emphasises that equal to the competence of any enforcement authority, it cannot review or modify as to the substance a previous decision, which is final and binding and, thus, has become enforceable.
5. Having said that, the member of the Committee notes that the grounds of the decision passed by the Single Judge of the Players' Status Committee on 13 June 2016 have been duly communicated, amongst others to the parties, on 24 June 2016. Moreover, the member of the Committee notes that the subsequent CAS decision passed on 31 March 2017 was not appealed against, and therefore became final and binding.
6. In view of what has been explained under paragraph II./4. above, the member of the Committee is not allowed to analyse the case decided by the Court of

Arbitration for Sport as to the substance, in other words, to check the correctness of the amount ordered to be paid, but has as a sole task to analyse if the Debtor complied with the final and binding decision rendered by the Court of Arbitration for Sport.

7. As the Debtor did not comply with the decision passed by the Court of Arbitration for Sport on 31 March 2017 and is consequently withholding money from the Creditor, it is considered guilty under the terms of art. 64 of the FDC.
8. The fine to be imposed under the above-referenced art. 64 par. 1 a) of the FDC in combination with art. 15 par. 2 of the FDC shall range between CHF 300 and CHF 1,000,000. The Debtor withheld the amount unlawfully from the Creditor. Even FIFA's attempts to urge the Debtor to fulfil its financial obligations failed to induce it to pay the total amount due. In view of all the circumstances pertaining to the present case and by taking into account the outstanding amount due, the member of the Committee regards a fine amounting to CHF 30,000 as appropriate. This amount complies with the Committee's established practice.
9. In application of art. 64 par. 1 b) of the FDC, the member of the Committee considers a final deadline of 90 days as appropriate for the amount due to be paid to the Creditor and FIFA.
10. In accordance with art. 64 par. 1 c) of the FDC and with the Circular n° 1628, the Debtor is hereby warned and notified that, in the case of default within the period stipulated, a transfer ban may also be pronounced or demotion to a lower division may be ordered.
11. In case of non-compliance with the decision of the Court of Arbitration for Sport dated 31 March 2017, a ban from registering any new players, either nationally or internationally will be automatically imposed on the Debtor as from the first day of the next registration period following the expiry of the granted deadline.
12. In this sense, in view of the amount of the outstanding debt, the member of the Committee considers a transfer ban for two (2) entire and consecutive registration periods to be proportionate. Once the deadline has expired, the transfer ban will be implemented automatically at national and international level by the Brazilian Football Association and FIFA respectively, without a further formal decision having to be taken nor any order to be issued by the FIFA Disciplinary Committee or its secretariat.
13. The Brazilian Football Association is hereby reminded of its obligation to automatically implement the abovementioned transfer ban upon expiry of the final deadline without having received any proof of payment from the Debtor.

In this respect, and for the sake of clarity, the Brazilian Football Association is referred to arts. 90 to 92 of the FDC in what concerns the calculation of time limits. Should the Brazilian Football Association fail to automatically implement said sanctions and provide the secretariat to the FIFA Disciplinary Committee with the relevant proof of implementation of the transfer ban at national level, disciplinary proceedings – which may lead to an expulsion from all FIFA competitions – may be opened against it.

III. has therefore decided

1. The club Atlético Mineiro (hereinafter, the Debtor) is found to have infringed art. 64 of the FIFA Disciplinary Code as it is guilty of failing to comply in full with the decision passed by the Court of Arbitration for Sport on 31 March 2017, according to which it was ordered to pay:

To the club Udinese Calcio (hereinafter, the Creditor):

EUR 830,000 (CHF 623,406) as overdue payables as well as interest at a rate of 5% per year from 16 January 2016 until the date of effective payment;

CHF 5,000 as procedural costs;

CHF 4,000 as contribution towards the legal fees incurred in connection with the arbitration proceedings before CAS.

To FIFA:

CHF 30,000 as fine;

CHF 15,000 as procedural costs.

2. The Debtor is ordered to pay a fine to the amount of CHF 30,000. The fine is to be paid within 90 days of notification of the present decision.
3. The Debtor is granted a final deadline of 90 days as from notification of the present decision in which to settle its debt to the Creditor and to FIFA.
4. If payment is not made to the Creditor and proof of such a payment is not provided to the secretariat to the FIFA Disciplinary Committee and to the Brazilian Football Association by this deadline, a ban from registering new

players, either nationally or internationally, for two (2) entire and consecutive registration periods will be imposed on the Debtor as from the first day of the next registration period following the expiry of the granted deadline. Once the deadline has expired, the transfer ban will be implemented automatically at national and international level by the Brazilian Football Association and FIFA respectively, without a further formal decision having to be taken nor any order to be issued by the FIFA Disciplinary Committee or its secretariat. The transfer ban shall cover all men eleven-a-side teams of the Debtor – first team and youth categories –. The Debtor shall be able to register new players, either nationally or internationally, only from the next registration period following the complete serving of the transfer ban or upon the payment to the Creditor of the total outstanding amount, if this occurs before the full serving of the transfer ban. In particular, the Debtor may not make use of the exception and the provisional measures stipulated in article 6 of the Regulations on the Status and Transfer of Players in order to register players at an earlier stage.

5. If the Debtor still fails to pay the amount due to the Creditor even after the complete serving of the transfer ban in accordance with point 4 above, the Creditor may demand in writing, for the imposition of the appropriate disciplinary measures, including but not limited to an additional transfer ban for two (2) additional entire and consecutive registration periods or a potential relegation of the Debtor's first team to the next lower division.
6. As a member of FIFA, the Brazilian Football Association is reminded of its duty to implement this decision and provide FIFA with proof that the transfer ban has been implemented at national level. If the Brazilian Football Association does not comply with this decision, the FIFA Disciplinary Committee will decide on appropriate sanctions on the member. This can lead to an expulsion from FIFA competitions.
7. The Debtor is directed to notify the secretariat to the FIFA Disciplinary Committee as well as the Brazilian Football Association of every payment made and to provide the relevant proof of payment.
8. The Creditor is directed to notify the secretariat to the FIFA Disciplinary Committee as well as the Brazilian Football Association of every payment received.

FÉDÉRATION INTERNATIONALE
DE FOOTBALL ASSOCIATION



Alejandro Piera
Member of the Disciplinary Committee

Sent to: - Atlético Mineiro, c/o Mr Breno Costa Ramos Tannuri;
- Brazilian Football Association;
- Udinese Calcio, c/o Mr Gianpaolo Monteneri;
- Italian Football Federation (FIGC).

LEGAL ACTION

According to art. 64 par. 5 of the FDC and art. 58 par. 1 of the FIFA Statutes, 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.

The full address and contact numbers of the CAS are the following:

Avenue de Beaumont 2
1012 Lausanne
Switzerland
Tel: +41 21 613 50 00
Fax: +41 21 613 50 01
e-mail: info@tas-cas.org
www.tas-cas.org