



Disciplinary Committee

Date: 26 November 2020

Sent to

Respondent: Club Al Salmiya SC
c/o Mr. Habib Grami
maitre_grami2000@hotmail.fr

Claimant: Mr. Miloud Hamdi
c/o Antoine Semeria
as@asemia-avocat.fr;

Notification of the decision

Ref. FDD-6284

Dear Sirs,

Please find attached the grounds of the decision passed in the aforementioned case by a member of the FIFA Disciplinary Committee on 19 November 2020.

The Kuwait Football Association (in copy) is kindly requested to forward this decision to its affiliated club, Al Salmiya SC.

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

Yours faithfully,

FIFA



Carlos Schneider
Head of the FIFA Disciplinary Department

Decision of the Disciplinary Committee

passed in Zurich, Switzerland, on 19 November 2020

COMPOSITION:

Mr. Kia Tong Lim, Singapore (Member)

RESPONDENT:

Club Al Salmiya SC, Kuwait

Regarding failure to comply with:

Article 15 of the FDC (2019 ed.)

I. FACTS OF THE CASE

1. Below is a summary of the main relevant facts and allegations based on the documents pertaining to the file. Although the member of the FIFA Disciplinary Committee has considered all the facts, allegations, legal arguments and evidence submitted by the parties, he refers in his decision only to submissions and evidence he considers necessary to explain.
2. On 25 August 2020, the Single Judge of the Players' Status Committee decided that the club Al Salmiya SC (hereinafter also referred to as *the Debtor*) had to pay to the coach Miloud Hamdi (hereinafter also referred to as *the Creditor*), the following amounts:
 - USD 128,000 as outstanding remuneration, plus interest as follows:
 - 5% interest p.a. on the amount of USD 16,000 as from 1 August 2019;
 - 5% interest p.a. on the amount of USD 16,000 as from 1 September 2019
 - 5% interest p.a. on the amount of USD 16,000 as from 1 October 2019
 - 5% interest p.a. on the amount of USD 16,000 as from 1 November 2019
 - 5% interest p.a. on the amount of USD 16,000 as from 1 December 2019
 - 5% interest p.a. on the amount of USD 16,000 as from 1 January 2020
 - 5% interest p.a. on the amount of USD 16,000 as from 1 February 2020
 - 5% interest p.a. on the amount of USD 16,000 as from 1 March 2020
 - USD 48,000, as compensation for breach of contract, plus 5% interest as from 14 May 2020;
3. The findings of the decision of the Single Judge of the Players' Status Committee dated 25 August 2020 (hereinafter also referred to as "*the PSC Decision*") were notified to, amongst others, the Creditor and the Debtor, on 31 August 2020. The grounds of the PSC Decision were not requested within the stipulated deadline and hence, the said decision is final and binding.
4. On 24 October 2020, the Creditor claimed that the PSC Decision was not respected by the Debtor and requested the Disciplinary Committee to act accordingly in application of article 15 of the FIFA Disciplinary Code (FDC).
5. In light of the foregoing, and as the aforementioned amount was not paid to the Creditor, the secretariat to the FIFA Disciplinary Committee (hereinafter: the Secretariat) opened disciplinary proceedings against the Debtor on 27 October 2020. Moreover, the Secretariat informed the Debtor that the case would be submitted to a member of the Disciplinary Committee and invited the former to provide its position to this respect.

II. RESPONDENT'S POSITION

1. On 2 November 2020, the Debtor provided its arguments in relation to the disciplinary proceedings. The position of the Debtor can be summarized as follows¹:

- The PSC Decision was not notified to the Debtor properly. In this sense, it was notified on the first place on 31 August 2020 and, subsequently, on 8 September 2020.
- On the first occasion, this is, on 31 August 2020, the PSC Decision did not contain the exact name of the parties and hence, a rectification was sent on 8 September 2020.
- In light of the above, the Debtor is of the opinion that the PSC Decision has not been properly notified so no disciplinary measures can be requested and imposed against the Debtor.
- Both on 8 and 29 September 2020, the Debtor requested the grounds of the PSC Decision. Following this request, the Debtor was informed that the procedural costs had not been paid and hence, the grounds could not be notified.
- However, the present case relates to a dispute between a coach and a club and procedural costs are only due for procedures concerning disputes between two or more clubs and not between a coach and/or player against a club.
- For this reason, the Debtor believes that the PSC Decision does not concern the dispute arisen between the Creditor and the Debtor.
- Also, it must be noted that the assistant coach of the Creditor also filed a complaint against the Debtor on similar grounds than the Creditor and, in this case, the FIFA Players' Status Committee rejected the claim.
- Consequently, the Players' Status Committee rendered two different decisions with regard to the same or similar facts, which implies that the PSC Decision was addressed to the wrong person or based on false merits.

III. CONSIDERATIONS OF THE DISCIPLINARY COMMITTEE

1. In view of the circumstances of the present matter, the member of the FIFA Disciplinary Committee (hereinafter also referred to as "*the Single Judge*") decided first to address the procedural aspects of

¹ The summary does not purport to include every single contention put forth by the Debtor. However, the FIFA Disciplinary Committee has thoroughly considered in its discussion and deliberations 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.

the case, namely his jurisdiction and the applicable law. Secondly, the merits of the case and determining the possible failure to comply with the PSC Decision as well as the potential sanctions resulting therefrom.

A. Jurisdiction of the FIFA Disciplinary Committee

2. First of all, the Single Judge considers it relevant to point out that, at no moment during the present disciplinary proceedings, did the Debtor challenge the jurisdiction of the FIFA Disciplinary Committee or the applicability of the FIFA Disciplinary Code (FDC) in the present matter.
3. In this sense, the Single Judge highlights that art. 27 par. 1 of the FDC read together with art. 15 par. 1 of the FDC grants the FIFA Disciplinary Committee the jurisdiction to prosecute and sanction a person subject to the FDC, whenever the latter fails to respect a decision passed by a body, a committee or an instance of FIFA or CAS decision.
4. In addition, the Single Judge points out that clubs, such as the Debtor in the present case, are subject to the FIFA Disciplinary Code (art. 3 b) of the FDC) and that, on the basis of art. 53 par. 2 of the FIFA Statutes, the Disciplinary Committee may pronounce the sanctions described in the mentioned statutes and in the FDC.

B. Applicable law

5. In order to duly assess the matter, the Single Judge would like to recall the content and the scope of the provision at stake.
6. According to article 15 of the FDC

“ 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 CAS decision (financial decision), or anyone who fails to comply with another final decision (non-financial decision), passed by a body, a committee, or an instance of FIFA, or by CAS:

- a) will be fined for failing to comply with a decision; in addition:*
- 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;*
- c) 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 transfer ban will be pronounced 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 transfer ban*

in the event of persistent failure, repeated offences or serious infringements or if no full transfer could be imposed or served for any reason.

(...)

3. If the club disregards the final time limit, the relevant association shall be requested to implement the sanctions threatened.

7. Moreover, the Single Judge wishes to recall that, in line with art. 54 par. 1 h) of the FDC, cases involving matters under art. 15 of the FDC may be decided by one member of the Disciplinary Committee alone, acting as a single judge.

C. Merits of the Dispute

I. Analysis of the facts in light of art. 15 FDC

8. After having established that he is competent to assess the present matter, the Single Judge moves on to analyse whether the Debtor complied with the PSC Decision.
9. First of all, the Single Judge emphasizes that equal to the competence of any enforcement authority, he cannot review or modify as to the substance a previous decision, which is final and binding and, thus, has become enforceable.
10. Having said that, the Single Judge notes that the findings of the decision passed by the Single Judge of the Players' Status Committee on 25 August 2020 were duly communicated to the parties on 31 August 2020 and that the grounds of the said decision were not requested. Consequently, the PSC Decision is final and binding.
11. In these circumstances, the Single Judge notes that the Debtor claims that the PSC Decision was not notified properly and that, even though the Debtor requested the grounds of said decision, they were not notified as the procedural costs were not paid, which, according to the Debtor, do not apply for disputes between coaches and clubs, as in the present case.
12. To this respect, the Single Judge recalls, as already mentioned in point III.C.I.10 above, that the PSC Decision was duly notified to the Debtor on 31 August 2020 and that, due to a typographical error, a rectification letter, which did not change the substance of the PSC Decision, was sent to the Debtor on 8 September 2020.
13. In addition, the Single Judge observes that, although the Debtor requested the grounds of the PSC Decision, it did not fulfill the legal requirements within the stipulated deadline.
14. In this sense, the Single Judge wishes to draw the Debtor's attention to article 15 para. 4 of the Rules Governing the Procedures of the Players' Status Committee and the Dispute Resolution Chamber, - reflected in the note related to the findings of the PSC Decision – according to which, as of 1

November 2019, whenever procedural costs are due, the grounds of a decision will only be notified to the party requesting them on time, upon payment of the relevant procedural costs. If the procedural costs are not paid within 20 days of the notification of the findings, the request for grounds shall be deemed to have been withdrawn and the relevant party will be deemed to have waived their right to file an appeal.

15. Following the above, it comes clear to the Single Judge that, since the Debtor did not pay the relevant procedural costs within the aforementioned deadline, the PSC Decision is final and binding.
16. In addition, the Single Judge observes that the Debtor refers to a decision taken by the Players' Status Committee by which a claim filed by the assistant coach of the Creditor was rejected, which, according to the Debtor, suggests that the PSC Decision has been wrongly decided on the substance and improperly notified.
17. Following the above, the Single Judge deems it relevant to recall that he is not allowed to analyze the decision of the Single judge of the Players' Status Committee 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 analyze if the Debtor complied with the final and binding decision from the Single Judge of the Players' Status Committee
18. As such, the Single Judge deems that the arguments raised by the Debtor could not justify the fact that the amounts due to the Creditor, in accordance with the decision passed by the Single Judge of the Players' Status Committee, have not been paid.
19. In light of all the above, the Single Judge concludes that the Debtor failed to comply with the aforementioned decision, and is, consequently, withholding money from the Creditor. As a result, the Debtor is considered responsible of not complying with a financial decision under the terms of art. 15 of the 2019 FDC.

II. Summary

20. In view of the foregoing, the Single Judge concludes that the Debtor, by its conduct as described above, violated art. 15 of the FDC.
21. Therefore, the Single Judge considers that the Debtor is to be sanctioned for the aforementioned violation.

III. The determination of the sanction

22. With regard to the applicable sanctions for the present case, the Single Judge observes, in the first place, that the Debtor is a legal person, and as such, that it can be subject to the sanctions described under art. 6 par. 1 and 3 of the FDC.

23. The fine to be imposed under the above-referenced art. 15 par. 1 a), in combination with art. 15 par. 2 of the FDC and according to the provisions of art. 6 par. 4 of the FDC, shall range between CHF 100 and CHF 1,000,000.
24. The Debtor withheld the amount unlawfully from the Creditor. Even FIFA's attempts to urge it 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 amounts due, the Single Judge regards a fine amounting to CHF 15,000 as appropriate. This amount complies with the Committee's established practice.
25. In application of art. 15 par. 1 b) of the 2019 FDC, the Single Judge considers a final deadline of 30 days as appropriate for the amount due to be paid to the Creditor.
26. In accordance with art. 15 par. 1 c) of the FDC, the Debtor is hereby warned and notified that, in the case of default within the period stipulated, a transfer ban (at national and international level) will be automatically imposed until the complete amount due is paid.
27. The Kuwait Football Association is hereby reminded of its obligation to automatically implement the transfer ban following the notification of the present decision. In this respect, and for the sake of clarity, the Kuwait Football Association is referred to art. 34 of the 2019 FDC in what concerns the calculation of time limits. Should the Kuwait Football Association fail to automatically implement said sanction and provide the Secretariat 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.

IV. DECISION OF THE DISCIPLINARY COMMITTEE

1. The club Al Salmiya SC (hereinafter, the Debtor) is found guilty of failing to comply with the decision passed by the Single Judge of the Players' Status Committee on 25 August 2020, according to which it was ordered to pay to the coach Miloud Hamdi (hereinafter, the Creditor) the following amounts:
 - USD 128,000 as outstanding remuneration, plus interest as follows:
 - 5% interest p.a. on the amount of USD 16,000 as from 1 August 2019;
 - 5% interest p.a. on the amount of USD 16,000 as from 1 September 2019
 - 5% interest p.a. on the amount of USD 16,000 as from 1 October 2019
 - 5% interest p.a. on the amount of USD 16,000 as from 1 November 2019
 - 5% interest p.a. on the amount of USD 16,000 as from 1 December 2019
 - 5% interest p.a. on the amount of USD 16,000 as from 1 January 2020
 - 5% interest p.a. on the amount of USD 16,000 as from 1 February 2020

- 5% interest p.a. on the amount of USD 16,000 as from 1 March 2020
 - o USD 48,000, as compensation for breach of contract, plus 5% interest as from 14 May 2020;
- 2. The Debtor is ordered to pay a fine to the amount of CHF 15,000. The fine is to be paid within 30 days of notification of the present decision.
- 3. The Debtor is granted a final deadline of 30 days as from notification of the present decision in which to settle its debt to the Creditor.
- 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 Kuwait Football Association by this deadline, a ban from registering new players, either nationally or internationally, will be imposed on the Debtor. Once the deadline has expired, the transfer ban will be implemented automatically at national and international level by the Kuwait 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 upon the payment to the Creditor of the total outstanding amount. 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. As a member of FIFA, the Kuwait 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 Kuwait 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.
- 6. The Debtor is directed to notify the secretariat to the FIFA Disciplinary Committee as well as the Kuwait Football Association of every payment made and to provide the relevant proof of payment.
- 7. The Creditor is directed to notify the secretariat to the FIFA Disciplinary Committee as well as the Kuwait Football Association of every payment received.

FÉDÉRATION INTERNATIONALE
DE FOOTBALL ASSOCIATION



Kia Tong Lim
Member of the Disciplinary Committee

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.

NOTE RELATING TO THE LEGAL ACTION:

This decision can be contested, in accordance with art. 49 together with art. 57 par. 1 of the FIFA Disciplinary Code, 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 the contact details 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