

TO THE MEMBER ASSOCIATIONS OF FIFA

Circular no. 1628

Zurich, 9 May 2018

SG/jca/jud

Art. 64 of the FIFA Disciplinary Code – new approach adopted by the FIFA Disciplinary Committee with respect to debtor clubs

Dear Sir or Madam,

As you are aware, one of the tasks of the FIFA Disciplinary Committee is to ensure that decisions passed by a body, a committee or an instance of FIFA or a subsequent CAS appeal decision are respected and complied with. In order to fulfil this objective, art. 64 of the FIFA Disciplinary Code (hereinafter *the FDC*) was implemented and has been applied in a consistent and systematic manner ever since.

In recent years, the FIFA Disciplinary Committee has noted that a very high number of football stakeholders, mainly clubs, keep on failing to respect decisions, namely those that were passed by the Dispute Resolution Chamber or the Players' Status Committee. This tendency was already addressed by granting the members of the FIFA Disciplinary Committee the competence, as from May 2017, to pass decisions individually concerning this type of case, therefore allowing the submission of a higher number of cases per year and in an expedited manner. Moreover, a new article 24bis of the Regulations on the Status and Transfer of Players was approved by the FIFA Council in March 2018. The relevant provisions will come into force on 1 June 2018. The new article grants FIFA's decision-making bodies, i.e. the Players' Status Committee, the Dispute Resolution Chamber, the single judge or the DRC judge, as the case may be, powers to impose sanctions on players and clubs should a monetary decision not be complied with. Such possible sanctions will be part of the decision as to the substance of the dispute.

Despite this, and in view of the fact that the above-mentioned new provisions will only be applicable to claims lodged as from 1 June 2018 and have a limited scope of application (i.e. debtor players or clubs), there is still a considerable number of cases that will continue to be dealt with by the FIFA Disciplinary Committee.

In this respect, the FIFA Disciplinary Committee, in order to better address the current situation, has decided to reinforce the system and ensure that all decisions passed by a body, a committee or an instance of FIFA are respected as soon as they are issued, without necessarily requiring the intervention of the FIFA Disciplinary Committee.



In this sense, it is to be recalled that according to art. 64 FDC:

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

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 or to comply with the (non-financial) decision;

c) (only for clubs:) 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 relegation to a lower division ordered. A transfer ban may also be pronounced;

d) (only for associations) will be warned and notified that, in the case of default or failure to comply with a decision within the period stipulated, further disciplinary measures will be imposed. An expulsion from a FIFA competition may also be pronounced.

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

3. If points are deducted, they shall be proportionate to the amount owed.

4. A ban on any football-related activity may also be imposed against natural persons. [...]"

A. Current procedure

In this context, up until now, whenever a club was found to have infringed art. 64 of the FDC in relation to a financial decision, the standard procedure has been as follows:

1. The FIFA Disciplinary Committee pronounced a sanction against the debtor, by means of which the latter was ordered to pay a fine and granted a final period of grace to settle its debt to the creditor. In addition, the debtor club was *inter alia* informed that, should the payment not be made by the stipulated deadline, a point deduction would be imposed upon the creditor's request.
2. In those cases where the debtor still failed to comply with the relevant decision by the stipulated deadline, upon request of the creditor, the secretariat to the FIFA Disciplinary Committee requested the debtor's association, in writing, to implement the specified point deduction.
3. Should the relevant payment still not have been made by the debtor after the implementation of the aforementioned sanctions, upon request of the creditor, the matter was submitted again

to the FIFA Disciplinary Committee in order to possibly order the relegation of the debtor's first team to a lower division.

B. New procedure

In this respect, and with the aim of establishing a system that will better ensure the respect of decisions passed by FIFA bodies and will ultimately induce debtor clubs to swiftly comply with their financial duties towards their creditors, the FIFA Disciplinary Committee has decided to improve the abovementioned procedure. Accordingly, the main changes concern the aforementioned paragraph "2".

i. Overview

Under the new procedure, if a party is to be found in violation of art. 64 of the FDC:

1. The FIFA Disciplinary Committee will continue to apply par. 1a) in the same way; pronouncing a sanction against the debtor, by means of which it will *inter alia* be ordered to pay a fine and granted a final deadline to settle its debt to the creditor. In addition to the fine, the FIFA Disciplinary Committee will impose a point deduction and/or a transfer ban that will be effective only as from expiry of the final deadline. Consequently, the debtor club will be entitled to avoid said additional sanctions if it settles its debt to the creditor by such final deadline.
2. Should the relevant amount due not be paid in full by the debtor by the aforementioned final deadline, the debtor's association will have the obligation to check whether the decision has been complied with by the deadline and will be required to **automatically** apply the point deduction and/or the ban from registering any new players, either nationally or internationally, for one or more entire and consecutive registration periods.
3. After all sporting sanctions have been fully served and if the debt has not been fully paid, the creditor may request in writing that the case be resubmitted to the FIFA Disciplinary Committee in order to possibly impose additional sanctions, up to the relegation of the debtor's first team to a lower division.

- ii. Implementation of the sporting sanctions under the new procedure
 - a. Point deduction

The member association concerned **will be required to automatically¹ implement such sanction** as of the first day following the expiry of the granted deadline, unless the debtor provides evidence to both the secretariat to the FIFA Disciplinary Committee and the member association concerned that the amount due has been paid (i.e. proof of payment) before the expiration of the final deadline. In such case, the receipt of payment shall be confirmed by the creditor.

It will not be possible to avoid the implementation of the point deduction (or to lift it, once implemented) even if the debtor complies with the decision after the expiration of the final deadline.

If the point deduction is to be implemented after the last match of the relevant season in which the debtor club is participating (because the final deadline expires after such date), such sanction will have to be implemented in the next season.

Should a member association fail to automatically implement said sanction and provide the secretariat to the FIFA Disciplinary Committee with the relevant proof of point deduction, disciplinary proceedings – which may lead to an expulsion from all FIFA competitions – may be opened against the association concerned.

- b. Transfer ban

Unless the debtor demonstrates that it has paid the amount due, a transfer ban will be **automatically implemented in the Transfer Matching System by the secretariat to the FIFA Disciplinary Committee** as from the first day of the next registration period following the expiry of the granted deadline. **The member association** concerned **will be required to automatically¹ implement such sanction at national level**. In this regard, the debtor club will only be able to register new players, either nationally or internationally, as of the next registration period following the complete serving of the relevant sanction.

A transfer ban may be lifted both at national and international level only by the FIFA Disciplinary Committee prior to its complete serving upon the confirmation of receipt of payment by the creditor.

¹ Meaning that after the expiration of the final deadline, the member association will have to (i) commence any internal procedure that may be required to ensure a timely implementation of the sanction or, (ii) if there is no internal procedure in place, it shall implement the sanction straight away.

Thus, the member association will have to act proactively as from the expiration of the final deadline, as there will no longer be any prior request from the secretariat to the FIFA Disciplinary Committee.

Should a member association fail to automatically implement said sanction at national level and provide the secretariat to the FIFA Disciplinary Committee with proof of the implementation of the transfer ban, disciplinary proceedings – which may lead to an expulsion from all FIFA competitions – may be opened against the association concerned.

- iii. Effects of entering into a settlement agreement and/or a payment plan during the disciplinary proceedings

Finally, we wish to draw your attention to the fact that the FIFA Disciplinary Committee will no longer enforce financial decisions pronounced by a body, a committee or an instance of FIFA or a subsequent CAS appeal decision should the parties reach a settlement agreement and/or a payment plan after the notification of said decision.

In such cases, the conclusion of an agreement between the parties will automatically lead to the closure of disciplinary proceedings, and any claim resulting from the breach of such agreements will 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.

The aforementioned procedural changes will be applied to all disciplinary cases as from 23 May 2018, regardless of the date on which the procedure was opened.

We thank you for taking note of the above and for informing your affiliated stakeholders accordingly.

Yours faithfully,

FÉDÉRATION INTERNATIONALE
DE FOOTBALL ASSOCIATION



Fatma Samoura
Secretary General

cc: - FIFA Disciplinary Committee
- Players' Status Committee