

TO THE MEMBER ASSOCIATIONS OF FIFA

Circular no. 1867

Zurich, 7 December 2023

Failure to respect settlement agreements – competence of the FIFA Disciplinary Committee

Dear Sir or Madam,

On 16 December 2022, the FIFA Council adopted the 2023 edition of the FIFA Disciplinary Code (**FDC** – cf. [FIFA circular no. 1833](#)).

In this respect, and in line with FIFA's commitment to achieving (financial) justice, a number of important changes were made to article 21 of the FDC (formerly art. 15, 2019 edition).

Amongst others, one such amendment was the inclusion of article 21 paragraph 9 of the FDC in order to grant the FIFA Disciplinary Committee the competence to enforce private settlement agreements concluded in the context of disciplinary proceedings opened against a debtor with respect to a final and binding decision issued by FIFA or the Court of Arbitration for Sport (**CAS**)¹.

In this context, in light of the number of settlement agreements concluded by parties in connection with financial decisions and the related volume of requests received by the FIFA administration, the purpose of this circular is to clarify the scope and/or the application of this provision.

a. Settlement agreements concluded in the context of disciplinary proceedings opened against a debtor

Prior to the entry into force of the 2023 edition of the FDC, the conclusion of a settlement agreement would lead to the termination of (or prevent the initiation of) disciplinary proceedings. Indeed, in accordance with [FIFA circular no. 1628](#), non-compliance with the

¹ Art. 21 par. 9 FDC: "The Disciplinary Committee shall be competent to decide on cases related to the failure to respect settlement agreements concluded in the context of disciplinary proceedings opened against a debtor with respect to a final and binding financial decision issued by a body, a committee, a subsidiary or an instance of FIFA or by CAS."

agreement had to be resolved by the Football Tribunal or the relevant competent body as chosen by the parties.

As such, with a view to avoiding this need for parties to initiate a new procedure before the Football Tribunal or the relevant competent body to enforce such a settlement agreement, the FDC was amended in order to provide the Disciplinary Committee with the competence to enforce such agreements, this being provided that the applicable settlement concluded was directly linked to a final and binding financial decision issued by FIFA or CAS.

More specifically, if, following the opening/initiation of disciplinary proceedings in relation to (non-compliance with) a financial decision passed by FIFA (the Football Tribunal) or CAS, the parties decide to settle their dispute by means of a private settlement agreement, the Disciplinary Committee is now, pursuant to article 21 paragraph 9 of the FDC, competent to enforce such an agreement without the need for a new complaint to be lodged before the Football Tribunal (or the relevant competent body as chosen by the parties).

For the sake of good order, we would like to clarify that this procedure shall exclusively apply to those agreements concluded following the entry into force of the 2023 edition of the FDC, i.e. as from 1 February 2023.

b. Settlement agreements concluded after a financial decision passed by a body, a committee, a subsidiary or an instance of FIFA or by CAS

Based on its wording, the scope of article 21 paragraph 9 of the FDC should, in principle, be limited to those agreements concluded “in the context of disciplinary proceedings opened against a debtor with respect to a final and binding financial decision issued by a body, a committee, a subsidiary or an instance of FIFA or by CAS”.

Notwithstanding the foregoing and taking into account the rationale behind the implementation of such provision as explained *supra.*, it is considered that the competence granted to the Disciplinary Committee under article 21 paragraph 9 of the FDC shall also cover agreements concluded after any decision passed by a body, a committee, a subsidiary or an instance of FIFA or by CAS.

In other words, following the notification of such decision rendered by FIFA or CAS, if the relevant parties then conclude a private settlement agreement in order to settle their dispute, the Disciplinary Committee shall also be competent to enforce such agreement in accordance with article 21 paragraph 9 of the FDC, without the need for a new complaint to be lodged before the Football Tribunal (or the relevant competent body as chosen by the parties).

Similarly, the above shall exclusively apply to those agreements concluded following the entry into force of the 2023 edition of the FDC, i.e. as from 1 February 2023.

c. Other settlement agreements

Finally, and for the sake of good order, we would like to clarify that any settlement agreement concluded outside of the framework(s) stipulated above, i.e. any settlement falling outside of the remits of sections a. or b. *supra*, will remain subject to the provisions of FIFA circular no. 1628.

Consequently, any claim arising from a breach of these types of agreements shall still be lodged before the Football Tribunal or before the relevant competent bodies at national or international level, as mutually agreed by the parties.

Should you have any questions, please contact Julien Deux, Head of Judicial Bodies (Adjudicatory) at legal@fifa.org.

We thank you for your kind attention to the above and for ensuring that your affiliated clubs are informed accordingly.

Yours faithfully,

FÉDÉRATION INTERNATIONALE
DE FOOTBALL ASSOCIATION



Mattias Grafström
Secretary General ad interim

cc: - FIFA Council
 - Confederations
 - FIFA judicial bodies
 - FIFA Football Tribunal
 - ECA
 - FIFPRO
 - World Leagues Forum