



Arbitration CAS 2015/A/3903 Club Samsunspor v. Fédération Internationale de Football Association (FIFA), award of 4 May 2015

Panel: Prof. Luigi Fumagalli (Italy), President; Mr Lucas Anderes (Switzerland); Mr Hans Nater (Switzerland)

Football

Consequences of non-compliance with FIFA Disciplinary Committee decision

Scope of CAS review

Decisions without grounds under FIFA Disciplinary Code

Consequences of failure to request reasoned decision under Article 116 par. 1 FIFA Disciplinary Code

1. A claimant that wishes to have a CAS panel annul a letter which in its view contains a decision has to make a specific petition – *e.g.* in the form of a request for setting aside or for any other remedy – against that letter. In the absence of a specific request CAS cannot render a decision in this regard.
2. According to Article 116 par. 1 of the 2009 FIFA Disciplinary Code (“FDC”), FIFA judicial bodies may decide not to communicate the grounds of a decision and instead communicate only the terms of the decision. The duty to request the motivated reasons of a decision within 10 days of its notification in order to be able to appeal it before CAS does not infringe fundamental legal principles; little is required within the 10 day time frame – just to solicit a reasoned decision; the 10 day-deadline to request the grounds of the decision does not shorten the deadline that is applicable for filing an appeal; lastly the articles providing for such a request of grounds serve a legitimate purpose, *i.e.* to cope with the heavy caseload of FIFA and contribute to the goal of an efficient administration of justice.
3. Failure to request the grounds of a decision within the deadline foreseen in Article 116 par. 1 of the FDC provokes that the respective decision becomes final and binding.

1. BACKGROUND

1.1 The Parties

1. Club Samsunspor (hereinafter referred to as the “Club” or the “Appellant”) is a Turkish football club with seat in Samsun, Turkey, affiliated to the Turkish Football Federation (hereinafter referred to as the “TFF”), which is a member of the Fédération Internationale de Football Association.

2. The Fédération Internationale de Football Association (hereinafter referred to as “FIFA” or the “Respondent”) is the world governing body of football. It exercises regulatory, supervisory and disciplinary functions over national associations, clubs, officials and players, worldwide. FIFA is an association under Swiss law and has its headquarters in Zurich, Switzerland.

1.2 The Dispute between the Parties

3. The circumstances stated below are a summary of the main relevant facts, as submitted by the parties in their written pleadings or in the evidence offered in the course of the proceedings. Additional facts may be set out, where relevant, in connection with the legal discussion which follows.
4. On 26 April 2012, the Dispute Resolution Chamber of FIFA (hereinafter referred to as the “DRC”) adopted a decision (hereinafter referred to as the “DRC Decision”) in a dispute regarding an employment related matter between the Club and B. (hereinafter referred to as the “Player”), holding as follows:
 - “1. *The claim of the Claimant, B., is partially accepted.*
 2. *The Respondent, Samsunspor Kulübü, has to pay to the Claimant the amount of USD 30,000 within 30 days as from the date of notification of this decision.*
 3. *In the event that the amount due to the Claimant is not paid by the Respondent within the stated time limit, interest at the rate of 5% p.a. will fall due as of expiry of the aforementioned time limit and the present matter shall be submitted, upon request, to the FIFA Disciplinary Committee for consideration and a formal decision.*
 4. *Any further claim lodged by the Claimant is rejected.*
 5. *The Claimant is directed to inform the Respondent immediately and directly of the account number to which the remittance is to be made and to notify the Dispute Resolution Chamber of every payment received”.*
5. The terms of the DRC Decision were communicated to the Club on 8 May 2012.
6. On 5 November 2012, the counsel for the Player contacted FIFA indicating that the payment due by the Club under the DRC Decision had not been made and requesting the application of the pertinent sanctions for the Club’s failure to comply with the DRC Decision.
7. In a letter dated 27 November 2012, FIFA requested the Club to immediately pay the amount due to the Player. At the same time, FIFA indicated that, in the absence of payment, the matter would be forwarded to the FIFA Disciplinary Committee (hereinafter referred to as the “DC”) pursuant to Article 64 of the FIFA Disciplinary Code (hereinafter referred to as the “FDC”).
8. On 19 August 2013, the Player’s counsel informed FIFA that the amount due by the Club had not been paid yet and therefore requested that the case be referred to the DC.
9. On 8 April 2014, disciplinary proceedings were opened against the Club and the Club was requested to immediately pay the amount due. The TFF was informed by the Secretariat to the

DC (hereinafter referred to as the “DC Secretariat”) of the opening of such proceedings and invited to forward to the Club all communications in their regard.

10. In a letter dated 29 April 2014, the Club, via the TFF, was notified that a decision in its disciplinary case would be taken by the DC on 22 May 2014. At the same time, the Club was informed that, in the event of payment of the outstanding amount by 13 May 2014 at the latest, the disciplinary case would not proceed.
11. Following a cancellation of the meeting of the DC scheduled for 22 May 2014, the decision on the Club’s disciplinary case was postponed to 6 July 2014. The Club was therefore given another deadline expiring on 23 June 2014 to settle the outstanding debt.
12. On 6 July 2014, the DC adopted the following decision (hereinafter referred to as the “DC Decision”) for the Club’s failure to comply with the DRC Decision:
 - “1. *The club Samsunspor Kulübü is pronounced guilty of failing to comply with the decision passed by the Dispute Resolution Chamber on 26 April 2012 and is, therefore, in violation of art. 64 of the FIFA Disciplinary Code.*
 2. *The club Samsunspor Kulübü is ordered to pay a fine to the amount of CHF 5,000. The fine is to be paid 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 the account no.*
 3. *The club Samsunspor Kulübü is granted a final period of grace of 30 days as from notification of the present decision in which to settle its debt to the creditor, the player B.*
 4. *If payment is not made by this deadline, the creditor may demand in writing from the secretariat to the FIFA Disciplinary Committee that three (3) points be deducted from the debtor’s first team in the domestic league championship. Once the creditor has filed this request, the points will be deducted automatically without a further formal decision having to be taken by the FIFA Disciplinary Committee. The order to implement the points deduction will be issued on the association concerned by the secretariat to the FIFA Disciplinary Committee.*
 5. *If the club Samsunspor Kulübü still fails to pay the amount due even after deduction of the points in accordance with point 4. above, the FIFA Disciplinary Committee will decide on a possible relegation of the debtor’s first team to the next lower division.*
 6. *As a member of FIFA, the Turkish Football Association is reminded of its duty to implement this decision and, if so requested, provide FIFA with proof that the points have been deducted. If the Turkish Football Association does not comply with this decision despite being ordered to do so, the FIFA Disciplinary Committee will decide on appropriate sanctions on the member. This can lead to expulsion from all FIFA competitions.*
 7. *The Committee decides exceptionally based on art. 105 par. 5 of the FDC to dispense the debtor with the costs and expenses of these proceedings.*
 8. *The creditor is directed to notify the secretariat to the FIFA Disciplinary Committee of every payment received”.*
13. The terms of the DC Decision were communicated to the Club by the DC Secretariat on 25

August 2014.

14. In a letter dated 5 November 2014, the Player's counsel informed the DC Secretariat that the Club had only partially paid (for the amount of USD 10,000) the sum due (totalling USD 30,000 plus interest). He therefore requested the application of the penalty imposed by the DC Decision.
15. On 13 November 2014, the DC Secretariat informed the Player's counsel that:

"... the secretariat to the FIFA Disciplinary Committee may only order the implementation of the points deduction in accordance with point 4 of the decision of the FIFA Disciplinary Committee rendered on 6 July 2014, once the secretariat has received the relevant explicit written request of the creditor.

Consequently, we would like to ask B. to inform us if he requests that three (3) points be deducted from the first team of the club Samsunspor Kulübü".
16. In a letter to the DC Secretariat of 3 December 2014, the Player's counsel expressly requested the application of the *"penalty of deduction of 3 points"*.
17. As a result, on 17 December 2014, the DC Secretariat requested the TFF *"to immediately implement point 4 of the decision taken by the FIFA Disciplinary Committee on 6 July 2014 and to deduct three (3) points from the club's first team"*.
18. On 29 December 2014, the Club sent to the DC Secretariat a letter as follows:

"With respect to the decisions of the FIFA Dispute Resolution Chamber dated 26.04.2012 and the Disciplinary Committee dated 06.07.2014 concerning the dispute case between our club, Samsunspor Kulübü, and the player B., please kindly find enclosed the bank swifts related to the abovementioned decisions.

Due to the administrative disorder encountered, the Club have failed to comply with the above mentioned decisions on time. Please accept our sincere apologies for the late payment. Additionally, please take note that, on 27.12.2014 the General Assembly of Samsunspor Kulübü elected a new ExCo, and a new management is appointed. From now on, we will do our best for complying with FIFA rules and decisions on time.

Considering the all above mentioned, we kindly request FIFA to withdraw the three (3) points deduction mentioned in the decision of the Disciplinary Committee and your letter of the reference".
19. In a letter of 7 January 2015, the Player's counsel confirmed receipt of payment and that no other receivable was outstanding. As a result, he requested FIFA *"to disregard our application to your Committee for the implementation of point 4 of the decision taken by the FIFA Disciplinary Committee to deduct three (3) points from Club Samsunspor's first team"*.
20. On the same 7 January 2015, the Club requested again the cancellation of the three points deduction. In the letter transmitting to the DC Secretariat the Club's request, the TFF requested *"the closure of the referred file"*.
21. On 26 January 2015, the DC Secretariat sent to the Club, the TFF and the Player's counsel a letter (hereinafter also referred to as the "Letter of 26 January 2015") as follows:

“We take due note from the contents of both of the correspondence of the legal representative of B. dated 7 January 2015 that the entire outstanding amount due to B. has been paid by the club Samsunspor Kulübü in accordance with the decision rendered by the Dispute Resolution Chamber on 26 April 2012. Moreover, we duly note that B. asks FIFA “to disregard our application to your Committee for the implementation of point 4 of the decision taken by the FIFA Disciplinary Committee to deduct three (3) points from Club Samsunspor’s first team”.

Furthermore, we take due note from the contents of both of the correspondence of the club Samsunspor Kulübü dated 29 December 2014 and 7 January 2015 that the club Samsunspor Kulübü requests the withdrawal of the deduction of three (3) points.

In this regard, we take due note that the outstanding amount due to B. by the club Samsunspor Kulübü has only been paid after the deadline given by the decision of the FIFA Disciplinary Committee rendered on 6 July 2014 had been elapsed.

In view of the foregoing, we hereby inform the club Samsunspor Kulübü, on behalf of the chairman of the FIFA Disciplinary Committee, that its request to have the three (3) points deduction withdrawn is rejected.

Bearing in mind the foregoing, we herewith kindly ask the Turkish Football Association once again to immediately implement point 4 of the decision taken by the FIFA Disciplinary Committee on 6 July 2014 and to deduct three (3) points from the first team of the club Samsunspor Kulübü.

As a member of FIFA, we wish to underline that the Turkish Football Association is responsible for implementing the decision, as stated in point 6 of the decision of the FIFA Disciplinary Committee rendered on 6 July 2014. We therefore kindly ask you once again to send us immediately the proof for the points deduction, in particular the standings of the relevant division, on which it can be seen that three (3) points have been deducted from the first team of the club Samsunspor Kulübü. Please let us remind you that in case your association should fail to do so, the FIFA Disciplinary Committee will pronounce an appropriate sanction against the Turkish Football Association. This can lead to expulsion from all FIFA competitions.

Finally, we herewith kindly inform the parties that upon receipt of the relevant proof of the points deduction, the present disciplinary proceedings against the club Samsunspor Kulübü will be closed, since all financial duties have been fulfilled”.

2. THE ARBITRAL PROCEEDINGS

2.1 The CAS Proceedings

22. On 30 January 2015, the Club filed a statement of appeal with the CAS, pursuant to the Code of Sports-related Arbitration (hereinafter referred to as the “Code”), to challenge the DC Decision “*in connection*” with the DRC Decision and the Letter of 26 January 2015.
23. The statement of appeal filed by the Club contained the appointment of Mr Lucas Anderes as arbitrator and included an application for the stay of the DC Decision, as it “*may cause irreparable harm on the Appellant on sportive manner and financially as well*”.
24. On 6 February 2015, the CAS Court Office transmitted to the Respondent the statement of appeal filed by the Club.

25. On 9 February 2012, the Appellant filed with CAS its appeal brief in accordance with Article R51 of the Code.
26. In a letter dated 10 February 2015, the Respondent requested that the appeal be declared inadmissible.
27. On 18 February 2015, the Appellant stated its position as to the admissibility of the appeal.
28. On 23 February 2015, the CAS Court Office informed the parties that the President of the CAS Appeals Arbitration Division had decided that the question of the admissibility of the appeal would be submitted to the Panel, once constituted, and therefore that the arbitration would proceed.
29. In a letter of 2 March 2015, FIFA objected to the appointment of a sole arbitrator to deal with the case, described to involve an issue of principle. Therefore, FIFA appointed Dr Hans Nater as member of the Panel.
30. On 5 March 2015, the Respondent filed its answer to the Appellant's application for provisional measures, seeking its dismissal.
31. On 16 March 2015, FIFA filed its answer to the statement of appeal lodged by the Club.
32. On 20 March 2015, the President of the CAS Appeals Arbitration Division issued an order on the Appellant's request for provisional and conservatory measures (hereinafter referred to as the "Order on Provisional Measures"), dismissing it.
33. By communication dated 24 March 2015, the CAS Court Office informed the parties, on behalf of the President of the CAS Appeals Arbitration Division, that the Panel had been constituted as follows: Prof. Luigi Fumagalli, President of the Panel; Mr Lucas Anderes and Dr Hans Nater, arbitrators.
34. On 8 April 2015, the CAS Court Office, on behalf of the President of the Panel, issued an order of procedure (hereinafter referred to as the "Order of Procedure"), which was accepted and countersigned by the parties.
35. A hearing was held on 22 April 2015 on the basis of the notice given to the parties in the letter of the CAS Court Office dated 7 April 2015. The Panel was assisted at the hearing by Mr William Sternheimer, Counsel to CAS. The following persons attended the hearing:
 - i. for the Appellant: Mr Erkurt Tutu, President, Mr Rustu Araboglu, Vice-President, and Mr Deniz Coskun Zeren, Sportive Director, assisted by Ms Deniz Acunaz, interpreter;
 - ii. for the Respondent: Ms Valérie Horyna and Mr Bernardo Palmeiro, legal counsel at the FIFA Disciplinary & Governance Department.
36. At the hearing, the parties made submissions in support of their respective cases. In such

context, and *inter alia*:

- i. the Appellant referred to the financial problems that the Club was facing before a new management took office at the end of 2014, and explained the activities thereafter implemented in order to solve all pending issues. At the same time, the Appellant underlined the importance for the Club not to be penalized, in order to have the opportunity to compete for the promotion to the top division of Turkish football;
- ii. the Respondent insisted that the appeal be declared inadmissible. At the same time, it summarized the various steps taken to induce the Club to comply with the DRC Decision, and underlined that, once the Player had requested the implementation of point 4 of the DC Decision, the point deduction had to be automatically ordered, with no possibility to withdraw it – notwithstanding the sympathy for the commendable efforts made by the new management of the Club.

37. At the conclusion of the hearing, the parties expressly stated that they did not have any objection in respect of their right to be heard and to be treated equally in these arbitration proceedings.

2.2 The Position of the Parties

38. The following outline of the parties' positions is illustrative only and does not necessarily comprise every contention put forward by the parties. The Panel, indeed, has carefully considered all the submissions made by the parties, even if there is no specific reference to those submissions in the following summary.

a. *The Position of the Appellant*

39. The Appellant's prayers for relief, as indicated in the statement of appeal and in the appeal brief, are the following:

- *to set the appeal in motion,*
- *to set aside the challenged FIFA Disciplinary Committee decision,*
- *to accept the requests filed by the Appellant,*
- *condemn the Respondent to pay the legal fees and other expenses of the Appellant in connection with the proceedings".*

40. The Appellant, at the outset, defends the admissibility of its appeal. In that respect, the Appellant confirms that it does not challenge the findings contained in the DRC Decision, whereby it was ordered to pay an amount to the Player. At the same time, however, the Appellant underlines that its "*main challenge is directed to FIFA's request and persistence of the deduction of 3 points even after the Appellant had paid the amounts in full and even after the legal representative of the Player requested FIFA to stop the execution*". In fact, the appeal is directed not only against the DC Decision, in connection with the DRC Decision, but also against the Letter of 26 January 2015, whereby "*FIFA rejected the Appellant's request based on the allegation that the payment is done after the deadline provided by FIFA and requested Turkish Football Federation to deduct 3 points from the Appellant and send the proof of the point deduction accordingly*".

41. In support of its appeal, then, the Appellant emphasizes that a new management was only recently elected, which immediately paid the amounts pending and pledged to comply with FIFA rules. In addition, the Appellant underlines that *“the main goal of FIFA should be not to sanction the Clubs automatically, but to make sure that they pay the due amounts”*. Therefore, *“taking account of the Club’s special circumstances, ... the Player’s legal representative’s request and ... FIFA’s jurisprudence of rendering its decision case by case”*, the decision to deduct 3 points despite the payment should be set aside.

b. The Position of the Respondent

42. In its answer, FIFA requested the CAS:

1. *To reject the Appellant’s request to set aside the decision hereby appealed against.*
2. *To confirm the decision hereby appealed against in its entirety.*
3. *To order the Appellant to bear all costs incurred with the present procedure and to cover all legal expenses of the Respondent related to the present procedure”*.

43. In support of its request to have the appeal dismissed, FIFA submits, as a *“preliminary remark”*, that it is *“inadmissible”*.

44. In such respect, the Respondent underlines that the DC Decision is final and binding: since its grounds were not requested to be submitted, the Appellant is deemed to have waived its right to file an appeal against the DC Decision. Therefore, the challenge brought by the Club in these proceedings against the *“terms”* of the DC Decision (as made clear by the wording of the statement of appeal) is not admissible and in any case too late.

45. In the same way, according to the Respondent, an appeal against the Letter of 26 January 2015 would also be inadmissible. Such letter, in fact, sent by the DC Secretariat, *“requesting the implementation of the points deduction, is a mere measure of execution of a final and binding decision”* adopted by the DC: therefore, no application to the CAS can be lodged against it. In addition, *“to consider that such a correspondence could be the starting point of a new deadline to appeal would be contrary to the system of enforcement of decisions implemented by FIFA to ensure that decisions are being correctly executed by the debtors”*.

46. On the merits, then, FIFA makes submissions regarding the Club’s failure to respect the DRC Decision and with reference to Article 64 of the FDC, underlining that:

- i. proceedings under Article 64 FDC *“are to be considered not as an enforcement but rather as the imposition of a sanction for breach of the association’s regulations and under the terms of association law”*;
- ii. the DC cannot review or modify the merits of a decision taken by the DRC: it has the sole task of analysing if the debtor complied with it, taking into account all possible facts arising after the date of the decision of the DRC;
- iii. it is *“without a doubt”* that the DC correctly applied Article 64 FDC to the Club’s case, which had not paid the amount it was ordered to pay by the DRC, and notwithstanding

the several deadlines given to comply. In addition, the sanction imposed is not oppressive and is proportionate to the amount due.

47. FIFA, at the same time, emphasizes that the Appellant had failed to respect the DC Decision, which remained unchallenged, and the terms of which were clear and left no room for interpretation: *“not only was the Appellant duly informed of the potential consequences it would incur if it did not execute the payment of the outstanding amount within the given deadline, but it was also duly informed that once the creditor has filed the formal request for point deduction, the points would be deducted automatically without a further formal decision having to be taken”* by the DC. As a result, the Appellant was well aware of the risks it was incurring by not executing the payment of the total amount due or negotiating and agreeing a payment plan.
48. On such basis, FIFA confirms that the 3 points deduction was correctly ordered by means of the Letter of 26 January 2015 by the DC Secretariat. Such letter is *“administrative”* in nature, as a *“mere measure of execution of a final and binding decision”* adopted by the DC. It was sent as a consequence of the Appellant’s failure to comply with the DC Decision and following a request by the Player, *i.e.* in accordance with point No. 4 of the DC Decision, which did require a formal decision to be taken. In addition, FIFA underlines that *“it is impossible to withdraw the order for point deduction once it has been sent to the relevant association. Indeed, the cancellation of such a sanction ... based on the fact that the debt would have been finally settled ... would simply mean that the final deadline of grace would be absolutely ineffective, as a debtor would be entitled to pay at any time ... without facing further disciplinary measures”*.
49. The reasons adduced by the Appellant in support of its request for relief are disputed by the Respondent as follows:
 - i. the argument that only on 29 December 2014 a new Executive Committee of the Club was elected, and that the amounts due were thereafter immediately paid by the new management, is *“not substantiated”* and is *“irrelevant”*, bearing in mind the extensive possibilities granted to the Appellant to settle its debts. In addition, the debtor’s financial problems in meeting its obligations are not a *“relevant argument”*;
 - ii. the submission regarding the *“goal”* of the proceedings (defined to be to ensure compliance and not to sanction the clubs) cannot be accepted, as Article 64 FDC intends to ensure that decisions are respected;
 - iii. the request of the creditor to cancel the sanction is irrelevant, as the Article 64 FDC proceedings intend to sanction a breach of the association’s rules;
 - iv. the invoked necessity to render decisions on a *“case by case”* basis does not prevent FIFA from implementing the sanctions imposed by the DC.
50. In summary, the arguments brought by the Appellant are, in FIFA’s opinion, not pertinent to justify an absence of compliance: they are therefore to be discarded, while the DC Decision has to be confirmed.

3. LEGAL ANALYSIS

51. The object of these proceedings is determined by the Appellant's request for relief, as defined in the statement of appeal and confirmed in the appeal brief, whereby CAS was requested "... to set aside the challenged FIFA Disciplinary Committee decision ...".
52. In other words, the Panel notes that the Appellant's requests concern the DC Decision, defined to be the "challenged" decision. Submissions, indeed, were also made by the Appellant against the measures of implementation of the DC Decision adopted by FIFA – and chiefly against the Letter of 26 January 2015. The Panel, however, notes that no petition (in the form of a request for setting aside or for any other remedy) is submitted against the Letter of 26 January 2015. Therefore, no decision (which was not requested) is to be made in this regard.
53. As a result, the Panel will verify its jurisdiction and the admissibility of the appeal only with respect to the object of these proceedings, as defined by the Appellant's request for relief.

3.1 Jurisdiction of CAS

54. CAS has jurisdiction to decide on the appeal brought by the Club against the DC Decision.
55. In fact, the jurisdiction of CAS is not disputed by the Respondent, and is contemplated by the Statutes of FIFA as follows:

Article 66

- "1. FIFA recognises the independent Court of Arbitration for Sport (CAS) with headquarters in Lausanne (Switzerland) to resolve disputes between FIFA, Members, Confederations, Leagues, Clubs, Players, Officials and licensed match agents and players' agents.
2. The provisions of the CAS Code of Sports-related Arbitration shall apply to the proceedings. CAS shall primarily apply the various regulations of FIFA and, additionally, Swiss law".

Article 67

- "1. Appeals against final decisions passed by FIFA's legal bodies and against decisions passed by Confederations, Members or Leagues shall be lodged with CAS within 21 days of notification of the decision in question.
2. Recourse may only be made to CAS after all other internal channels have been exhausted.
3. CAS, however, does not deal with appeals arising from:
- (a) violations of the Laws of the Game;
 - (b) suspensions of up to four matches or up to three months (with the exception of doping decisions);
 - (c) decisions against which an appeal to an independent and duly constituted arbitration tribunal recognised under the rules of an Association or Confederation may be made.
4. The appeal shall not have a suspensive effect. The appropriate FIFA body or, alternatively, CAS may order the appeal to have a suspensive effect ...".

3.2 Appeal Proceedings

56. As these proceedings involve an appeal against a decision rendered by FIFA (the DC Decision), brought on the basis of rules providing for an appeal to the CAS, in a dispute relating to a contract, they are considered and treated as appeal arbitration proceedings in a non-disciplinary case, within the meaning, and for the purposes, of the Code.

3.3 Admissibility

57. The Respondent challenges the admissibility of the appeal brought against the DC Decision, *i.e.* against a decision which according to FIFA is “*final and binding*”. In support of such contention, FIFA advances two reasons:

- i. the grounds of the DC Decision were not requested by the Appellant pursuant to Article 116.2 FDC. As a result, the Appellant is deemed to have waived its right to file an appeal against it, and the challenge brought in these proceedings against the “*terms*” of the DC Decision is not admissible; and in any case
- ii. the DC Decision (in its “*terms*”) was notified to the Club on 25 August 2014. According to Article 67.1 of the FIFA Statutes an appeal had to be lodged with CAS within 21 days of its notification. The Club filed an appeal on 30 January 2015, well beyond such deadline. As a result, the appeal cannot be admitted.

58. The Panel agrees with the Respondent’s submissions on both counts.

59. As to the first point, the Panel, indeed, confirms the CAS case law, referred to by the Respondent in its answer, and holds that:

- i. the duty to request the motivated reasons of a decision within 10 days of its notification in order to be able to appeal it before CAS does not infringe fundamental legal principles;
- ii. little is required from the appellant within the 10 day time frame – just solicit a reasoned decision;
- iii. the 10 day-deadline to request the grounds of the decision does not shorten the deadline that is applicable for filing an appeal;
- iv. the articles providing for such a request of grounds serve a legitimate purpose, *i.e.* to cope with the heavy caseload of FIFA and contribute to the goal of an efficient administration of justice.

60. Applying the above mentioned provisions and considerations to the present case, the Panel notes that:

- i. the “*terms*” of the DC Decision were notified to the Club on 25 August 2014;
- ii. the grounds of such DC Decision were not communicated to the Club, but the DC Decision included “*Notes*” reading as follows:
“*Note relating the terms of the decision:*

The judicial bodies may decide not to communicate the grounds of a decision and instead communicate only the terms of the decision. Any request for the grounds of the decision must be sent in writing to the secretariat to the FIFA Appeal Committee, within ten days of receipt of notification of the terms of the decision (art. 116 par. 1 of the FIFA Disciplinary Code). Such a request does not affect the terms of the decision, which come into force with immediate effect (art. 106 of the Disciplinary Code).

Note relating to the legal action:

If a party requests the grounds of a decision, the motivated decision will be communicated to the parties in full, written form. The time limit to lodge an appeal, where applicable begins upon receipt of this motivated decision (art. 116 par. 2 of the FIFA Disciplinary Code)".

- iii. in spite of such notes, the Appellant did not request the grounds of the DC Decision to FIFA, but filed with the CAS a Statement of Appeal (on 30 January 2015) against the “non-grounded” DC Decision;
- iv. the consequences of the failure by the Club to ask for the grounds of the DC Decision are stipulated in Article 116.1 FDC *in fine*:

“At the same time, the parties shall be informed that they have ten days from the receipt of the terms of the decision to request, in writing, the grounds of the decision, and that failure to do so will result in the enforcement of the decision” (emphasis added by the Panel).

- 61. The Club, therefore, was expressly and particularly warned in the DC Decision about Article 116 FDC’s terms, being it irrelevant for such purpose whether said warning was in the operative part or in another place of the DC Decision.
- 62. Notwithstanding this, the Club, for whatever reason (apparently its mismanagement, which, in the Panel’s view, is absolutely irrelevant and cannot constitute a valid excuse of any kind), decided not to request the grounds of the DC Decision. The Club was of course free to act this way, but shall bear the consequences of such decision as per Article 116 FDC. The wording and consequences foreseen in the referred provision are clear for the Panel. The inactivity of the Club, which did not request the grounds of the DC Decision, provoked that this DC Decision became final and binding. The expression “*enforcement*” in Article 116.1 FDC has a clear component of final and binding nature of the DC Decision which in the Panel’s view, is not likely to reasonably induce an affiliate to a member of FIFA to think otherwise.
- 63. Therefore, the Panel, on this first basis alone, considers that the present appeal is inadmissible.
- 64. In any case, the Panel notes that the Appellant lost its right to appeal also for the second reason indicated by the Respondent. Appeals against a decision adopted by the FIFA bodies must be lodged with CAS within 21 days of its notification (Article 67.1 of the FIFA Statutes). The DC Decision was notified to the Club on 25 August 2014. Therefore, an appeal had to be filed by 15 September 2014. The Club filed an appeal on 30 January 2015, well beyond such deadline. As a result, the appeal is not admissible also for this second, independent reason.

3.4 Conclusion

- 65. In light of the foregoing, the Panel concludes that the appeal brought with respect to the DC Decision is not admissible. Therefore, it has to be dismissed.

66. The Panel wishes to underline that the above conclusion does not detract from the Panel's sympathy for the Club's efforts to overcome the financial crisis that affected it. The sanction which was imposed by FIFA appears a consequence of past mismanagement: and the dismissal of the appeal does not imply any reproach to the way the Club is currently conducted.

ON THESE GROUNDS

The Court of Arbitration for Sport rules that:

1. The appeal filed by Club Samsunspor is inadmissible.
- (...)
4. All other prayers for relief are dismissed.