

Szwajdler Paweł. The Disciplinary Committee and the Ethics Committee: main judicial bodies of FIFA = Główne organy sędownicze FIFA: Komitet Dyscyplinarny i Komitet ds. Etyki. *Journal of Education, Health and Sport*. 2015;5(5):510-515. ISSN 2391-8306. DOI [10.5281/zenodo.29043](https://doi.org/10.5281/zenodo.29043)

<http://ojs.ukw.edu.pl/index.php/johs/article/view/2015%3B5%285%29%3A510-515>

<https://pbn.nauka.gov.pl/works/611690>

<http://dx.doi.org/10.5281/zenodo.29043>

Formerly *Journal of Health Sciences*. ISSN 1429-9623 / 2300-665X. Archives 2011 – 2014  
<http://journal.rsw.edu.pl/index.php/JHS/issue/archive>

Deklaracja.

Specyfika i zawartość merytoryczna czasopisma nie ulega zmianie.

Zgodnie z informacją MNiSW z dnia 2 czerwca 2014 r., że w roku 2014 nie będzie przeprowadzana ocena czasopism naukowych; czasopismo o zmienionym tytule otrzymuje tyle samo punktów co na wykazie czasopism naukowych z dnia 31 grudnia 2014 r.

The journal has had 5 points in Ministry of Science and Higher Education of Poland parametric evaluation. Part B item 1089. (31.12.2014).

© The Author (s) 2015;

This article is published with open access at License Open Journal Systems of Kazimierz Wielki University in Bydgoszcz, Poland and Radom University in Radom, Poland

Open Access. This article is distributed under the terms of the Creative Commons Attribution Noncommercial License which permits any noncommercial use, distribution, and reproduction in any medium, provided the original author(s) and source are credited. This is an open access article licensed under the terms of the Creative Commons Attribution Non Commercial License

(<http://creativecommons.org/licenses/by-nc/3.0/>) which permits unrestricted, non commercial use, distribution and reproduction in any medium, provided the work is properly cited.

This is an open access article licensed under the terms of the Creative Commons Attribution Non Commercial License (<http://creativecommons.org/licenses/by-nc/3.0/>) which permits unrestricted, non commercial use, distribution and reproduction in any medium, provided the work is properly cited.

The authors declare that there is no conflict of interests regarding the publication of this paper.

Received: 20.05.2015. Revised 28.05.2015. Accepted: 31.05.2015.

## **The Disciplinary Committee and the Ethics Committee: main judicial bodies of FIFA**

### **Główne organy sędownicze FIFA: Komitet Dyscyplinarny i Komitet ds. Etyki**

**Paweł Szwajdler**

**Nicolaus Copernicus University in Toruń**

E-mail: [szwajdli@onet.eu](mailto:szwajdli@onet.eu)

#### **Abstract**

The main purpose of this work is to describe the Disciplinary Committee and the Ethics Committee, which are main judicial bodies of FIFA. The author focuses on differences between these bodies and shows, that both of them was created so as to protect fair play rules. Important part of this work deals with crossing over and doubling up powers of judicial bodies of FIFA and courts of general jurisdiction. Furthermore, the answer to the question: „is existence of two first- instance judicial bodies practical?“, is in conclusion of this work. The

author also focuses on diversity of sanctions applicable to legal and natural persons. In this work, the author analyses legal regulations and specialist literature.

**Key words: FIFA, the Ethics Committee, the Disciplinary Committee.**

### **Streszczenie**

Głównym celem niniejszej pracy jest omówienie problematyki związanej z funkcjonowaniem Komitetu Dyscyplinarnego oraz Komitetu ds. Etyki, działających wewnątrz organizacji FIFA. Autor skupia się na różnicach pomiędzy wskazanymi powyżej komitetami oraz wskazuje na fakt, że powstały one, aby zapewnić przestrzeganie w piłce nożnej zasad fair play. Znacząca część niniejszego artykułu poświęcona jest powielaniu się kompetencji omawianych komitetów oraz sądów powszechnych. Autor podejmuje także problematykę związaną z różnorodnością sankcji dyscyplinarnych stosowanych wobec osób fizycznych oraz prawnych przez organy sędziowskie FIFA. W podsumowaniu niniejszego artykułu została udzielona odpowiedź na pytanie, czy funkcjonowanie w ramach jednej organizacji dwóch pierwszoinstancyjnych organów sędziowskich ma uzasadnienie praktyczne. W pracy zastosowano metodę polegającą na analizie tekstów prawnych oraz poglądów doktryny.

**Słowa kluczowe: FIFA, Komitet ds. Etyki, Komitet Dyscyplinarny.**

Judicial bodies are essential not only in national and local entities, but also in international organisations like FIFA, because they are going to ensure fairness and justice in organisations, which parts they are. Furthermore, thanks to judicial bodies, majority of

problems related to organisations' activities is solved confidentially and fast without taking part by exterior entities and without unnecessary obstacles to sports life<sup>1</sup> in the case of FIFA. Article 61 of FIFA statute states that judicial bodies of FIFA are: the Disciplinary Committee, the Ethics Committee and the Appeal Committee.<sup>2</sup> Obligations of the first of above-mentioned bodies are obviously related to disciplinary proceedings. Second judicial authority(Ethics Committee ) is made up of two chambers.<sup>3</sup> First of them serves as investigatory authority and second one is an adjudicatory body.<sup>4</sup> Last mentioned judicial body plays an important role in proceeding, because its existence guarantees two-instance principle, which is crucial in the view of the fair trial.

It seems to be necessary to present main duties of the Disciplinary Committee. Issues, which are related to activity of this body, are doping, racism, corruption, arbitration and stadium bans<sup>5</sup>, misconducts against players<sup>6</sup> and officials<sup>7</sup>. It is not difficult to find out that majority of these issues are infringements or crimes, which are prohibited and punished by states in the civilised world. It is important to answer, why FIFA' s and states' activities cross over and double up. In opinion of this article's author the most important reason is the fact that main obligations of states, related to offences, is punishing perpetrators. And international associations should fight against any unjust which is related to their activity. It is well- known that some issues, like liability for injuries related to sport are solved not only by sports judicial bodies but also by courts of general jurisdiction<sup>8</sup>. It is also important to find out that codes created by international sports organizations are only non-governmental sources of law.<sup>9</sup> Therefore states must be able to punish heavy infringements and crimes related to sport, irrespective of FIFA's judicial bodies. It is necessary to highlight, that international organizations have other countermeasures than states.

For example, FIFA Disciplinary Committee can use three kinds of sanctions, which are described in articles 10, 11 and 12 of FIFA Disciplinary Code. First kind of penalties is

---

<sup>1</sup> D. Panagiotopoulos, Sporting Jurisdictional Order and Arbitration, *US-China Law Review* 10 (2013), p. 133

<sup>2</sup> Art. 61 Statute of FIFA

<sup>3</sup> FIFA Code of Ethics, Art. 26 point. 1, page 22

<sup>4</sup> FIFA Code of Ethics, Art. 26 point 2, page 22

<sup>5</sup> [https://en.wikipedia.org/wiki/FIFA\\_Disciplinary\\_Code](https://en.wikipedia.org/wiki/FIFA_Disciplinary_Code)

<sup>6</sup> Art. 48 Disciplinary Code

<sup>7</sup> Art. 49 Disciplinary Code

<sup>8</sup> M. Narol, Sports Participation with Limited Litigation: The Emerging Reckless Disregard Standard, *Seton Hall Journal of Sport Law* 1 *Seton Hall J. Sport L.* (1991), p. 29

<sup>9</sup> L. Casini, The Making of a Lex Sportiva by the Court of Arbitration for Sport, *German Law Journal* 12(2011), p. 1317

applicable both to natural and legal persons.<sup>10</sup> Second kind of them is applied only to natural person and third kind only to legal persons.<sup>11</sup> These division of sanctions is related to diversity of persons taking part in football life. Human factor is the most important, because natural persons are among others players, fans, coaches and referees. But it is unacceptable to ignore legal entities, which are necessary to organize professional sport, football teams and other institutions. It should be understood that not only legal differences are the reason of diversity of sanctions, but also other attributes of legal and natural persons. Sanctions applicable both to natural and legal persons are warning, reprimand, fine and return of award.<sup>12</sup> It is easy to find out that above- mentioned penalties are able to be applied both to natural and legal persons, but these sanctions except for fines are only dishonourable. It is also obvious that fine as financial penalty is able to be applied to all legally capable persons. Article 13 of FIFA Disciplinary Code states, that penalties applicable only to natural persons are caution, expulsion, match suspension, ban of taking part in football- related activities and a few kinds of bans related to entering into places such as dressing rooms or stadiums.<sup>13</sup> Majority of these sanctions are strictly related to human behaviour as entering into stadium( applicable probably especially to hooligans) or match suspension( applicable to players), but it is difficult to find out, why caution is dedicated only to natural persons. It seems to be similar to warning, which is sanction applicable both to natural and legal persons. Article 17 of FIFA Code of Ethics states that caution means well-known yellow or red card.<sup>14</sup> Thanks to this regulation difference between warning and caution is really easy to recognize. Sanctions, related only to infringements of legal persons, are mentioned in article 12 of FIFA Disciplinary Code. Particularly burdensome sanction seems to be transfer ban<sup>15</sup>, because it makes unable football clubs to earn money and involve new players.

Second important judicial body of FIFA is the Ethics Committee. It is necessary to show competences of this institution. Article 27 of FIFA Code of Ethics states that this Committee can give attention to all cases, which are related to rules and regulations of FIFA.<sup>16</sup> It should be mentioned that the Ethics Committee can handle with cases, which deal with persons, whose duties are regulated in FIFA' s legal provisions<sup>17</sup> or exceptionally with

---

<sup>10</sup> FIFA Disciplinary Code art. 10

<sup>11</sup> Art. 11 i 12 FIFA Disciplinary Code

<sup>12</sup> Art. 10 Disciplinary Code

<sup>13</sup> Art. 11 Disciplinary Code

<sup>14</sup> Art. 17 FIFA Disciplinary Code

<sup>15</sup> Art. 12 FIFA Disciplinary Code

<sup>16</sup> Art. 27. 1 FIFA Code of Ethics

<sup>17</sup> Art. 27. 2 FIFA Code of Ethics

cases of other persons, as if their infringements were related to image, integrity or reputation of FIFA.<sup>18</sup> The author of this article thinks that description of this judicial body should be limited to the Investigatory Chamber and the Adjudicatory Chamber, which are the most important parts of above- mentioned Committee. Main obligations of the Investigatory Chamber is conducting investigations and presenting final report to the Adjudicatory Chamber.<sup>19</sup> The author supposes that this Chamber can be compared to prosecutors. The Adjudicatory Chamber's obligations are related to review investigation<sup>20</sup>. Its chairman is able to predicate following sanctions: fine(a maximum of 50 000 CHF), suspension or prohibition of taking part in football- related activity<sup>21</sup>. Incidentally, the fine amounts up to 50 000 CHF, because FIFA was established in the beginning of 20<sup>th</sup> century under Swiss Law<sup>22</sup>. It is able to find out that these sanctions are milder than sanctions, which can be applied by the Disciplinary Committee. In the author's opinion, it is pointless to describe the Appeal Committee in this short article, because this is judicial body, which should only guarantee two- instance principle.

## **Conclusions**

In conclusion, author would like to emphasize the fact that there are two first- instance judicial bodies established in Statute of FIFA. First of them- the Disciplinary Committee can apply sanctions to natural and legal persons who transgress. Second of them- the Ethics Committee was established especially to handle with breaching of duties, but this Committee can also apply sanctions to persons damaging image, integrity or reputation of FIFA. It is also important to answer, if existence of two first- instance judicial bodies is practical. In the author of this work opinion, it is practical, because division of tasks and specialization lead to effectiveness. It is also interesting that majority of cases related to activity of the Disciplinary Committee are prohibited by criminal law. Therefore sanctions, which can be applied by this institution, are heavy in comparison with sanctions of the Ethics Committee. It is important to find out that the FIFA Code of Ethics and the FIFA Disciplinary Code differ, because they

---

<sup>18</sup> 27. 3 FIFA Code of Ethics

<sup>19</sup> Art. 28 FIFA Code of Ethics

<sup>20</sup> Art. 29 FIFA Code of Ethics

<sup>21</sup> Art. 30 FIFA Code of Ethics

<sup>22</sup> C. Lembo, *Fifa Transfers Regulations and UEFA Player Eligibility Rules: Major Changes in European Football and the Negative Effect on Minors*, *Emory International Law Review* 25 *Emory Int'l L. Rev.* (2011), p. 541

are applied to other cases and other persons<sup>23</sup>, but they were created so as to ensure protection of fair play rules, which is significant purpose of sports law.<sup>24</sup>

## **Bibliography**

1. Statute of FIFA 04. 2015.
2. Panagiotopoulos D., Sporting Jurisdictional Order and Arbitration, *US-China Law Review* 10 (2013).
3. FIFA Code of Ethics, 2012
4. FIFA Disciplinary Code, 2011.
5. [https://en.wikipedia.org/wiki/FIFA\\_Disciplinary\\_Code](https://en.wikipedia.org/wiki/FIFA_Disciplinary_Code)
6. Narol M., Sports Participation with Limited Litigation: The Emerging Reckless Disregard Standard, *Seton Hall Journal of Sport Law* 1 *Seton Hall J. Sport L.* (1991).
7. Casini L., The Making of a Lex Sportiva by the Court of Arbitration for Sport, *German Law Journal* 12 (2011).
8. Lembo C., Fifa Transfers Regulations and UEFA Player Eligibility Rules: Major Changes in European Football and the Negative Effect on Minors, *Emory International Law Review* 25 *Emory Int'l L. Rev.* (2011).
9. Morris S., FIFA World Cup 2022: Why the United States Cannot Successfully Challenge FIFA Awarding the Cup to Qatar and How the Qatar Controversy Shows FIFA Needs Large-Scale Changes, *California Western International Law Journal* 42 (2011-12).
10. Panagiotopoulos D., International Sports Rules' Implementation - Decisions' Executability: The Bliamou Case, *Marquette Sports Law Review* 15 *Marq. Sports L. Rev.* (2004-2005).

---

<sup>23</sup> S. Morris, FIFA World Cup 2022: Why the United States Cannot Successfully Challenge FIFA Awarding the Cup to Qatar and How the Qatar Controversy Shows FIFA Needs Large-Scale Changes, *California Western International Law Journal* 42(2011-12), p. 553

<sup>24</sup> D. Panagiotopoulos, International Sports Rules' Implementation - Decisions' Executability: The Bliamou Case, *Marquette Sports Law Review* 15 *Marq. Sports L. Rev.* (2004-2005), p. 1