



**Arbitration CAS 2011/A/2377 Salernitana Calcio 1919 S.p.A. v. FIFA, award of 3 August 2011**

Panel: Mr Lars Hilliger (Denmark), President; Mr José Juan Pintó (Spain); Mrs Margarita Echeverria Bermudez (Costa Rica)

*Football*

*Disciplinary sanction for non-compliance with a CAS award*

*Difference between the requests for relief in the statement of appeal and in the appeal brief*

*Due process rights of a party*

*Obligation to intervene in the dispute to foster a settlement*

1. If a new request for relief contained in the Appellant's Appeal Brief only asks the Panel to send the case back to the previous instance for new consideration and decision but does not, on the merits of the case, differ from the other requests for relief set out in the Appellant's Statement of Appeal, it would be unnecessarily formalistic to disregard the disputed request for relief, in particular as the Code of Sports-related Arbitration already grants the Panel the necessary power to refer the case back to the previous instance should the Panel so desire, regardless of any request for relief to be submitted by the parties.
2. The right to be heard, the right to defence and the principle of the equality of the parties are fundamental rights, which must be respected under all circumstances. However, any party is also personally responsible for contributing to applying these rights and principles if the party so wishes. If, on repeated occasions, the party has been informed in writing about pending disciplinary proceedings and the risks of being imposed various sanctions, and has been invited to submit additional statements within a designated time limit but has not done so and has chosen to remain silent, it cannot be deemed that its procedural rights have been violated.
3. The sole intention behind art. 64 of the FIFA Disciplinary Code is to provide the FIFA Disciplinary Committee (FDC) with a tool for trying to make a debtor comply with a (financial) decision or meet the terms of a (non-financial) decision. In that connection, it is not the duty of the FDC to analyse the decision concerned in any way, including assessing such factors as the correctness of the amount ordered to be paid. It is also not the duty of the FDC to intervene to present possible solutions for an amicable resolution of the dispute, as such disputes have already been decided with final and binding effect.

Salernitana Calcio 1919 S.p.A. (the "Club" or the "Appellant") is an Italian football club affiliated with the Italian Football Association, which in turn is affiliated with FIFA.

The Fédération Internationale de Football Association (FIFA; the “Respondent”) is the world governing body of football, which is registered in Zurich, Switzerland.

Club Atlético River Plate (“River Plate”) is an Argentinean football club affiliated with the Argentinean Football Association, which in turn is affiliated with FIFA.

On 18 June 2009 the FIFA Dispute Resolution Chamber (DRC) decided that the Appellant had to pay to River Plate the amount of EUR 280,000.00 as well as 5% interest p.a. as from the expiry of the time limit. On 23 July 2009 the Appellant appealed that decision to the Court of Arbitration for Sport (CAS).

On 7 May 2010 CAS decided to partially uphold the appeal of the Appellant and to partially confirm the DRC decision insofar as to state that the Appellant had to pay to River Plate the amount of EUR 145,000.00 as well as 5% interest p.a. as from 3 August 2009.

Since no payment was made by the Appellant, on 25 November 2010 disciplinary proceedings were instituted against the Appellant by the FIFA Disciplinary Committee, and the Appellant was urged to pay the outstanding amount immediately. Furthermore, the Appellant was informed that *“the case will be on the agenda for the next meeting of the FIFA Disciplinary Committee (FIFA DC) so that disciplinary sanctions (fine, deduction of points, relegation to a lower league) may be imposed on the club”*.

Since still no payment was made, on 6 January 2011 the Appellant once again was urged to pay the outstanding amount and was informed that if the Appellant failed to submit a statement or pay the full amount by 14 January 2011, the FIFA DC would then decide the case using the file in its position.

The FIFA DC did not receive any statement from the Appellant, and no payment was made within the time limit, which is why it decided as follows on 19 January 2011 (the “Decision”):

1. *The club Salernitana Calcio 1919 is pronounced guilty of failing to comply with a decision of a FIFA body in accordance with art. 64 of the FDC.*
2. *The club Salernitana Calcio 1919 is ordered to pay a fine in the amount of CHF 15,000. The fine is to be paid within 30 days of notification of the present decision. Payment can be made in either Swiss francs (CHF) to account (...).*
3. *The club Salernitana Calcio 1919 is granted a final period of grace of 30 days as from notification of the present decision, in which to settle its debts to the creditor.*
4. *If payment is not made by this deadline, the creditor may demand in writing from FIFA that six (6) 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 secretary of the FIFA Disciplinary Committee.*
5. *If the club Salernitana Calcio 1919 still fails to pay the amount due even after deduction of the points in accordance with 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 Federazione Italiana Giuoco Calcio 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 Federazione Italiana Giuoco Calcio 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 costs of these proceedings, amounting to CHF 2,000, are to be borne by the club Salernitana Calcio 1919 and shall be paid according to the modalities stipulated under 2. above.*
8. *The creditor is directed to notify the secretariat to the FIFA Disciplinary Committee of every payment received.*

On 18 March 2011 the Appellant filed a statement of appeal with CAS challenging the Decision rendered by the FIFA DC on 19 January 2011 and requested a stay of the execution of the appealed Decision.

By letter of 25 March 2011 FIFA informed CAS that FIFA did not oppose to the requested stay of execution of the appealed Decision.

On 28 March 2011 the Appellant filed the appeal brief.

Also on 28 March 2011 River Plate forwarded to CAS a request for being allowed to intervene in the case as a party since the outstanding amount was still not paid and since River Plate apparently was informed that the sanctions against the Appellant was still not in force.

FIFA filed an answer on 20 April 2011 in which FIFA stated that both the Appellant and River Plate on 5 April 2011 had been informed that the disciplinary proceedings were suspended for the duration of the proceedings before CAS.

On 23 June 2011 CAS issued an Order for Request on Provisional Measures and River Plate's Intervention (the Order) pronouncing the following:

1. *The Application for provisional measures filed by the Appellant shall be admitted, and the decision pronounced by the FIFA Disciplinary Committee on 19 January 2011 is stayed for the duration of these proceedings before CAS.*
2. *The request from River Plate to intervene in the present arbitral proceedings as a party is denied.*
3. *The costs deriving from the procedure relation to the request for provisional measures and the intervention of River Plate shall be determined in the final award.*

On 27 April 2011, both the Appellant and the Respondent advised CAS that they did not consider it necessary to have a hearing in the present case. On 27 June 2011, the Parties were informed that the Panel had decided not to hold a hearing in the case. Furthermore, on 28 June 2011 the Parties signed the Order of Procedure, which stated that pursuant to Article 57 of the Code, the Panel considered itself sufficiently well informed and decided not to hold a hearing.

All written material has been duly taken into consideration by the Panel in its decision-making process.

## LAW

### CAS jurisdiction

1. Article R47 of the Code of Sports-related Arbitration and Mediation Rules (the CAS Code) states:  
*“An appeal against the decision of a federation, association or sports-related body may be filed with the CAS insofar as the statutes or regulations of the said body so provide or as the parties have concluded a specific arbitration agreement and insofar as the Appellant has exhausted the legal remedies available to him prior to the appeal, in accordance with the statutes or regulations of the said sports-related body”.*
2. With respect to the appealed Decision, the jurisdiction of CAS derives from article 64 para. 5 of the FDC and article 63 para. 1 of the FIFA Statutes. In addition, neither the Appellant nor the Respondent objected to the jurisdiction of CAS in their written submissions and both Parties confirmed the jurisdiction when signing the Order of Procedure.
3. It follows that CAS has jurisdiction to decide the appeal.

### Applicable law

4. Article 62 para. 2 of the FIFA Statutes states:  
*“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”.*
5. Article R58 of the CAS Code states:  
*“The Panel shall decide the dispute according to the applicable regulations and the rules of law chosen by the parties or, in the absence of such a choice, according to the law of the country in which the federation, association or sports-related body which has issued the challenged decision is domiciled or according to the rules of law, the application of which the Panel deems appropriate. In the latter case, the Panel shall give reasons for its decision”.*
6. The applicable law in this case shall consequently be the various regulations of FIFA and, additionally, Swiss law.

### The Parties' Requests for Relief and Basic Positions

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

A. *The Appellant:*

8. In the Statement of Appeal of 18 March 2011 the Appellant requested the following request for relief from CAS:
  - “1. *to accept the present appeal against the Challenged Decision;*
  2. *to establish that the Challenged Decision violates fundamental procedural rights of the Appellant;*
  3. *to set aside the Challenged Decision;*
  4. *to condemn the Respondent to the payment in the favour of the Appellant of the legal expenses incurred;*
  5. *to establish that the costs of the arbitration procedure shall be borne by the Respondent”.*
9. In the Appeal Brief of 28 March 2011, the Appellant submitted its Positions with regard to the Requests for Relief. The Appellant furthermore requested the following Request for Relief from CAS:
  - “1. *to accept the present appeal against the Challenged Decision;*
  2. *to establish that the Challenged Decision violated fundamental procedural rights of the Appellant;*
  3. *to set aside the Challenged Decision;*
  4. *to send back the case to the Respondent for new consideration and decision;*
  5. *to condemn the Respondent to the payment in the favour of the Appellant of the legal expenses incurred;*
  6. *to establish that the costs of the arbitration procedure, if any, shall be borne by the Respondent”.*
10. The Panel notes in that connection that an addition has been made to the Appellant’s Requests for Relief as set forth in the Appeal Brief compared with the Requests for Relief set forth in the Statement of Appeal, as the Appellant in the Appeal Brief has added “*to send back the case to the Respondent for new consideration and decision*”. This addition will be addressed below.

B. *The Respondent*

11. In the Answer of 20 April 2011, the Respondent presented the following Requests for Relief:
  - “1. *To reject the Appellant’s prayers for relief in their entirety, insofar as they are admissible.*
  2. *To confirm the decision hereby appealed against.*
  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”.*
12. The Respondent subsequently claims that the new Request for Relief added by the Appellant in the Appeal Brief be disregarded as not admissible.

### **Admissibility – including difference between the Requests for Relief in the Statement of Appeal and in the Appeal Brief**

13. The Decision with its grounds was notified to the Parties on 25 February 2011, and the Statement of Appeal was filed by the Appellant on 18 March 2011, i.e. within 21 days from the receipt of the Decision, which is the deadline provided by the FIFA Statutes and stated in the appealed decision issued by the FIFA Disciplinary Committee. The Appeal Brief was filed by the Appellant on 28 March 2011.
14. According to art R48 of The Code, the Appellant's Statement of Appeal must include, without limitation, *"the Appellant's request for relief"*. Subsequently, under art R51 of the Code, the Appellant is required in its Appeal Brief to *"state the facts and legal arguments giving rise to the appeal, together with all exhibits and specifications of other evidence upon which he intends to rely (...)"*.
15. As already mentioned, the Appellant's Appeal Brief has included a request for relief that does not originally appear from the Statement of Appeal, i.e. *"to send the case back to the Respondent for new consideration and decision"*.
16. In its Answer, the Respondent submits that this request is to be disregarded and therefore is not admissible.
17. The Panel notes initially in that connection that art 57 of the Code reads as follows:  
*"The Panel shall have full power to review the fact and the law. It may issue a new decision which replaces the decision challenged or annul the decision and refer the case back to the previous instance. (...)"*
18. Against the background of the Code, the Panel therefore clearly has the power, regardless of the contents of the Parties' requests, to choose to refer the case back to the previous instance should the Panel so desire.
19. The Panel further notes that the request for relief now contained in the Appellant's Appeal Brief does not, on the merits of the case, differ from the other requests for relief set out in the Appellant's Statement of Appeal.
20. Given these circumstances, the Panel finds it unnecessarily formalistic to disregard the disputed request for relief, in particular as the Panel has already been granted the necessary power in the Code, regardless of any request for relief to be submitted by the Parties.
21. It follows that the Appeal with all the submitted requests for relief is admissible.

### **Discussion on the merits**

22. The main issues to be resolved by the Panel are:  
Did the Respondent violate fundamental procedural rights of the Appellant, in particular

- a) the right to be heard, the right to defence and/or the equality of the parties?
- b) the obligation to estimate properly all the background of the case before deciding it?, and/or
- c) the alleged obligation to intervene in the dispute between the Appellant and the creditors to foster a settlement?

*A. Did the Respondent violate the right of the Appellant to be heard, the Appellant's right to defence and/or the principle of the equality of the parties?*

- 23. The Appellant submits that the Respondent has violated the fundamental rights for the Appellant to be heard and to have the right to defence and that the fundamental principle of the equality of the parties has been disregarded.
- 24. Thus, it is stated that the Appellant has never been proposed to represent its position in respect of the disciplinary proceedings. The Appellant writes, for instance, that it was only notified of the ongoing disciplinary proceedings of the Respondent when the Respondent provided information about the final deadline to cover the outstanding debt and threatened with 6 points deduction.
- 25. This alleged failure to inform the Appellant and failure to represent its position means, according to the Appellant, that the Appellant has been deprived of its fundamental right to be heard and to defend itself in connection with the disciplinary proceedings.
- 26. Finally, the Appellant submits that the Respondent, by his very formal application of the disciplinary sanctions and for other reasons, has acted in such a way that the principle of the equality of the parties has been violated.
- 27. The Respondent dismissed these allegations in its Answer, in which connection the Respondent produced the following documents, among others:
  - Telefax dated 8 July 2010 from the Respondent (Legal Counsel – Players' Status) to the Appellant and the club River Plate, cc the Italian Football Federation and Mr Brian Cesar Costa (fax of 8 July 2010).
  - Telefax dated 24 August 2010 from the Respondent (Legal Counsel - Players' Status) to the Appellant, cc the club River Plate, Italian Football Federation and Mr Brian Cesar Costa (fax of 24 August 2010).
  - Telefax erroneously dated 25 November 2009 (but in reality prepared and sent on 25 November 2010) from the Respondent (Deputy Secretary of the Disciplinary Committee) to the Italian Football Federation, cc the Appellant and the club River Plate (fax of 25 November 2010).
  - Telefax dated 6 January 2011 from the Respondent to the Italian Football Federation, cc the Appellant and the club River Plate (fax of 6 January 2011).

All these documents contain fax receipts, from which it appears that they have been sent by fax both directly to the Appellant and to the Italian Football Federation. The Panel has therefore no grounds to doubt that this written correspondence has reached the addressees, which will be assumed in the following.

28. First, the Panel examined the evidence produced by the Respondent with a view to proving whether the Appellant, as claimed by the Appellant, had been informed of the disciplinary proceeding and, hence, to an adequate extent had had an opportunity to promote its interests in the case.
29. In connection with this examination, the Panel particularly commented as follows on the exhibits produced:

Fax of 8 July 2011:

*"In this respect, we kindly call the attention of the club, Salernitana Calcio 1919, to the fact, that it seems like, it has still not fulfilled with its obligations as established in point 5 of the finding of the relevant CAS decision (cf correspondence enclosed received from the legal representative of the Players 'Agent Brian Cesar Costa).*

*As a result, we kindly ask the club, Atlético River Plate, to inform FIFA until 19 July 2010 if the amount in accordance with the point 3 of the findings of the relevant CAS decision has been paid.*

*Finally, please be informed that the Disciplinary Committee will only be in a position to start proceedings concerning the enforcement of the above-mentioned decision in case the creditor has notified the debtor of the bank account where the payment has to be remitted, in accordance with point 4 of the findings of the relevant DRC decision".*

Fax of 24 August 2011:

*"In this respect, we acknowledge receipt of two correspondences, one from the legal representative of the Players 'Agent Brian Cesar Costa and other one from the football club Atlético River Plate. Please find enclosed herewith a copy of both correspondences for your information.*

*In addition, we refer you to our correspondence dated 8 July 2010 which remains unanswered until today's date.*

*In view of the above, please be informed that we are now reporting this matter to the FIFA Disciplinary Committee for its consideration and decision".*

Fax of 25 November 2010:

*"We refer to the above-mentioned matter, as we have learnt that the club Salernitana Calcio 1919 has not acted in accordance with the decision passed by the Court of Arbitration for Sport on 7 May 2010. This would appear to be a violation of article 64 of the FIFA Disciplinary Code (FDC), and as such, it will be the subject of an investigation by the FIFA Disciplinary Committee.*

*We are therefore opening disciplinary proceedings against the club Salernitana Calcio 1919 in respect of violation of article 64 of the FDC.*

*This case will be on the agenda for the next meeting of the FIFA Disciplinary Committee so that disciplinary sanctions (fine, deduction of points, relegation to a lower league) may be imposed in the club.*



*With this in mind, we hereby urge the club Salernitana Calcio 1919 to pay the outstanding amount immediately, and to send us a copy of proof of payment.*

*Should the club pay the outstanding amount immediately and send us a copy of proof of payment, these disciplinary proceedings will be closed.*

*Please forward this letter to the club Salernitana Calcio 1919 immediately”.*

and finally, Fax of 6 January 2011:

*“In this regard, we wish to inform you and the club, Salernitana Calcio 1919, in respect of a violation of art 64 of the FIFA Disciplinary Code (FDC).*

*With this in mind, we hereby urge the club, Salernitana Calcio 1919, for the final time to pay the outstanding amount immediately, and to send us a copy of proof of payment.*

*Should the club pay the outstanding amount by 14 January 2011 at the latest and send us a copy of proof of payment by the same deadline, the case will not be submitted to the FIFA Disciplinary Committee and the disciplinary proceedings will be closed.*

*Should the club, Salernitana Calcio 1919, fail to submit a statement or pay the outstanding amount by the specified deadline, the FIFA Disciplinary Committee will decide the case using the fine in its possession (cf. art 110 par 4 FDC).*

*Please forward this letter to the club, Salernitana Calcio 1919, immediately”.*

30. The Panel will first and foremost make clear that the right to be heard, the right to defence and the principle of the equality of the parties are fundamental rights, which must be respected under all circumstances. However, any party is also personally responsible for contributing to applying these rights and principles if the party so wishes.
31. Against the background of the evidence produced, the Panel notes that the Appellant already in July 2010 received written information that continued failure to pay the outstanding amount stipulated in the CAS decision of 7 May 2010 to the club River Plate could result in the Disciplinary Committee taking steps to institute proceedings concerning the enforcement of the payment.

As this letter to the Appellant neither caused the Appellant to reply to the letter nor to pay the outstanding amount, the Appellant was informed about 45 days later that the case would now be transferred to the FDC for consideration and decision.

This letter, too, did not result in payment nor in any kind of communication from the Appellant to the Respondent, and the Appellant is therefore informed about three months later that the continued non-payment of the due amount appears to be a violation of art. 64 of the FIFA Disciplinary Code and that the case will therefore come on the agenda of the FDC’s next meeting so that disciplinary sanctions may be imposed on the club.

As this letter still had no impact, either in regard to payment or in regard to contact from the Appellant, the Appellant is finally informed at the beginning of 2011 that the case will be

considered at the forthcoming meeting of the FDC. Furthermore, the Appellant is informed that the case will be settled on the evidence produced should the Appellant fail to submit a statement.

32. Against this background, the Panel notes that the Appellant, on repeated occasions, has been informed in writing about the pending disciplinary proceedings against the club as a result of the default, that the Appellant in that connection risks being imposed various sanctions in compliance with FIFA's rules and that the case will be settled on the material and evidence already in the possession of the FDC unless the Appellant submits additional statements within a designated time limit.

The Panel finds that FIFA, by following this procedure, has provided adequate information to the Appellant on the pending proceedings and has opened up an opportunity for the Appellant, if the Appellant so desires, to submit additional statements in the case, which means that the Appellant's right to be heard and to defend itself has been sufficiently observed.

The Panel thus adheres to the view that the Respondent, on the evidence, cannot be deemed to have violated the Appellant's right to be heard or to a defence.

On the contrary, the Panel finds that the Appellant alone is responsible for not having submitted additional statements or, in any other manner, having contacted the Respondent if this was the Appellant's genuine intention.

33. Similarly, in the Panel's view, there are no grounds to assume that the Respondent would in any way have violated the principle of the equality of the parties or any other fundamental procedural rights of the Appellant.

B. *Did the Respondent violate the obligation to estimate properly all the background of the case before deciding it?*

34. Further to and with reference to the above-mentioned case about the Respondent's alleged violation of the Appellant's right to be heard, the Appellant submits that this violation, as a consequence, has caused the Respondent to violate the obligation to estimate properly all the background of the case before deciding it. In particular, the Appellant underlines that the Respondent, in doing so, has failed to take into account the Appellant's very grave financial situation, the effect of which is that the Appellant, according to the information available, is unable to pay all debts when they fall due, and throughout this period the Appellant has therefore attempted to find alternative solution models with its creditors.
35. With reference to the assessment set out above, on the basis of which the Panel concludes that the Respondent cannot, on the evidence, be assumed to have violated the Appellant's right to be heard or to a defence, the Panel concludes that the FDC cannot be criticised for having failed to take into account the alleged facts of the case pertaining to the Appellant's financial situation as argued by the Appellant.

Thus, in accordance with the foregoing, the Panel is of the opinion that the Appellant alone is to blame for not submitting any information concerned to the FDC before its decision of the case. The FDC is thus solely obliged to take into account such information as is in the FDC's possession.

This also appears expressly from art. 110 par. 4 of the FIFA Disciplinary Code:

*"If the parties fail to collaborate, especially if they ignore the stipulated time limits, the judicial bodies will reach a decision on the case using the file in their possession".*

As the Appellant has failed to submit any statements or other material to the FDC, the Appellant cannot rightly expect the FDC to take into account any additional aspects in the decision of the case other than those already considered.

36. In addition, to provide a comprehensive view, the Panel notes that the Disciplinary Committee – as described in detail under C. below – is not entitled to analyse the decision in question for the purpose of changing or otherwise modifying such a decision. The Panel therefore finds that even in the event that the Appellant had informed the FDC about the grave financial situation in which the Appellant apparently finds itself, then the FDC would not, without the express acceptance from the club River Plate of an alternative payment scheme, have been capable of taking into account such information in connection with its decision of the case.
37. The Panel thus adheres to the view that the Respondent, on the evidence, cannot be deemed to have violated the obligation to estimate properly all the background of the case before deciding it.
- C. *Did the Respondent violate the alleged obligation to intervene in the dispute between the Appellant and the creditors to foster a settlement?*
38. With a view to establishing whether the Respondent violated an obligation to intervene in the dispute between the Appellant and the creditors to foster a settlement, it is essential first to find out whether the Respondent is under such an obligation.
39. According to the Appellant, the Respondent has not *"created any positive effect in terms of the resolution to the dispute between the Appellant and the creditor in question, the club River Plate"*.
40. Art. 64 par. 1 of the FIFA Disciplinary Code reads as follows:

***"Failure to respect decision***

*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 CAS (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 CAS:*

- a) *will be fined at least CHF 5,000 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 club:) 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 demotion to a lower decision ordered. A transfer ban may also be pronounced”.*
41. The Panel notes initially that the FDC, with reference to art. 58 par. 3 of the FIFA Statutes, is empowered to pronounce the sanctions described in the Statutes and the FIFA Disciplinary Code. The FDC is thus competent to apply the provision of art. 64 of the FIFA Disciplinary Code.
42. Following a thorough analysis of the wording of the provision, the Panel finds that it is beyond any doubt that the sole intention behind the provision, including the sanctions available, is to provide the FDC with a tool for trying to make a debtor comply with a (financial) decision or meet the terms of a (non-financial) decision.
43. In that connection, it is the duty of the FDC to establish whether the debtor has already complied with the final and binding decision or whether the claim has been satisfied in any other manner, without analysing the decision concerned in any way, including assessing such factors as the correctness of the amount ordered to be paid.
44. In that connection, it is not the duty of the FDC to try to present possible solutions to an amicable resolution between the parties to a case as such cases have already been decided with final and binding effect. There is nothing to preclude the parties to a case, however, from notifying the FDC of, for instance, their success in reaching agreement on an alternative resolution to a financial dispute, after which, as stated by the Respondent, there is nothing to prevent the FDC from suspending the disciplinary proceedings in such case.
45. In the specific case before us, however, no agreement has been concluded between the Appellant and River Plate on an alternative resolution to the unsettled financial accounts between the clubs. On the contrary, River Plate has on former occasions informed the FDC that the outstanding amount has still not been paid by the Appellant to River Plate.
46. In these circumstances, the Panel can therefore establish that there was no obligation for the Respondent to intervene in the dispute between the Appellant and the club River Plate's creditors to foster a settlement.
47. As such an obligation did not exist, the Respondent has not violated the rights of the Appellant by not trying, at its own initiative, to foster a settlement between the two clubs.
48. This result is not changed by the statement made by the Appellant, according to which the Appellant risks suffering a massive and irreparable financial and sportive harm in the event of the immediate execution of the Decision.

## Summary

49. Against the background of the foregoing, the Panel can therefore conclude that the Respondent cannot, on the evidence of the case, be found to have violated any fundamental procedural rights of the Appellant in connection with the proceedings and the imposition of disciplinary sanctions on the Appellant.
50. Accordingly, the appeal is dismissed and the Decision of the FDC of 19 January 2011 is confirmed in full.
51. In that connection, the Panel will not refrain from stating that the Appellant's appeal of the Decision in regard to its contents and, among other circumstances, the fact that the Appellant did not want to submit additional statements in a hearing, leaves the Panel with a suspicion that a considerable – if not the only – ground for the appeal was the desire to have the imposed sanctions postponed, including not least the deduction of six points, until the question about the Appellant's promotion to a higher division had been settled.

If this suspicion is justified, the Panel would like to voice its disapproval of such practice.

## The Court of Arbitration for Sport rules:

1. The appeal filed on 18 March 2011 by Salernitana Calcio 1919 S.p.A. against Fédération Internationale de Football Association regarding the decision pronounced by the FIFA Disciplinary Committee on 19 January 2011 is dismissed.
2. The decision pronounced by the FIFA Disciplinary Committee on 19 January 2011 is confirmed.
3. (...).
4. (...).
5. All further and other requests for relief are dismissed.