



Arbitration CAS 2005/A/944 FC Aris Thessaloniki v. Fédération Internationale de Football Association (FIFA), award of 7 June 2006

Panel: Mr Beat Hodler (Switzerland), President; Mr Jean-Philippe RoCHAT (Switzerland); Mr Michele Bernasconi (Switzerland)

Football

Alleged denial of justice

Decision appealable to CAS

Conditions for a substantive denial of justice

1. There is not necessarily a denial of justice when a body does not rule on a request within a time-limit set by the requesting party. However the body is in a situation to have committed a formal denial of justice when not issuing, respectively not communicating a decision following a party's request which itself follows several previous requests as well as an appeal to CAS. The requesting party is entitled to question the absence of a decision, even though the decision it is seeking is a decision to which it would not be a party, provided it has a legal interest to do so. If the regulations of an association or federation do not contain any provision regarding cases in which it remains inactive, in particular if its regulations do not give the intervening party any right to appeal to a particular body in case its complaint remains unanswered, a decision from this association or federation, or one of its juridical bodies, not to open a disciplinary procedure – or the mere absence of any reaction – must therefore be considered as a decision which is final. It is thus subject to an appeal with CAS.
2. According to Swiss case law, there can be a denial of justice (so-called “substantive” denial of justice – “déni de justice matériel”) even after a decision has been issued, if such decision is arbitrary, i.e. constitutes a very serious breach of a statutory provision or of a clear and undisputable legal principle, or when it seriously offends the sense of justice and equity. In examining whether a decision is arbitrary, it must not be determined whether the decision was fully appropriate, or whether another sanction would have been more adequate. In particular, it must be recognised that an association or federation has a certain discretionary power to determine which sanctions should be imposed in case of a violation of its Statutes or of other applicable regulations by one of its members. Thus, based on the principles mentioned above, there can only be a denial of justice if the association or federation exceeded this discretionary power and issued a decision which is arbitrary and constitutes an obvious and very serious breach of the applicable rules.

On 9 November 2004, the FIFA Dispute Resolution Chamber (hereinafter “the DRC”) issued a decision on a claim presented by the player A. against the Greek club Panionios N.F.C. (“Panionios”), whereby it ordered Panionios to pay an amount of EUR 70,500 to A. within 30 days and pronounced a ban on the registration of any new player, either nationally or internationally, until the expiry of the second transfer period following the date on which a breach of contract had been found.

On the same day, a similar decision was issued against Panionios concerning a claim presented by the player B.

Panionios did not pay the amounts due to A. and B. within the time limit set by the DRC. On 14 February 2005, the FIFA Disciplinary Committee (hereinafter “the Disciplinary Committee”) issued a first decision establishing the failure to comply with a decision passed by a FIFA body. The Disciplinary Committee found that Panionios was guilty of failing to comply with the decision of the DRC of 9 November 2004. It ordered Panionios to pay a fine of EUR 15,000 and granted a final period of grace of 30 days for the payment of the amount due to A. In addition, the Disciplinary Committee ruled that if payment was not made within this deadline, the creditor may demand in writing that 6 points be deducted from Panionios’ first team in the domestic league championship. Finally, it reminded the HFF that, as a member of FIFA, it had a duty to implement the decision and that if it failed to do so despite being ordered by FIFA, it would be subject to sanctions.

On the same day, the Disciplinary Committee issued a similar decision in the matter concerning the player B., again – inter alia – ordering the deduction of 6 points from Panionios’ first team in case of non-compliance within the period of grace.

On 3 March 2005, FIFA confirmed to the HFF that its two decisions of 14 February 2005 had become final and binding and that, as a consequence, FIFA was not in a position to grant a payment plan.

On 21 March 2005, the Secretariat of the FIFA Disciplinary Committee wrote to the HFF as follows:

“We have been informed that your affiliated club Panionios N.F.C. did not comply with the decision taken by the FIFA Disciplinary Committee on 14 February 2005. Consequently, we ask your association to immediately execute the decision and to send us proof that the six points have been deducted from the club’s first team. Furthermore, we had to note that your affiliated club did not pay to date the fine imposed on them”.

In a letter to the HFF dated 19 April 2005, the Secretariat of the FIFA Disciplinary Committee wrote the following:

“We would like to inform you that the above-referenced case is closed as regard to the dispute between the parties, since the amount due has been paid.

However, we would like to remind the Club Panionios that the fine in the amount of CHF 15,000 imposed by the Disciplinary Committee on 14 February 2005 is still due. Consequently, we ask the club to pay it immediately”.

Panionios had paid the amounts due to the players, but only after the expiration of the grace period granted in the decisions of 14 February 2005. However, despite FIFA’s decision, the HFF had not proceeded to the deduction of points from Panionios’ first team.

On 2 June 2005, the Hellenic Football League wrote to the Secretariat of the FIFA Disciplinary Committee. In its letter, it presented a summary of the decisions issued by FIFA and pointed out that there existed a controversy between FC Aris Thessaloniki (hereinafter “FC Aris” or “the Appellant”) and Panionios on what should be the consequence of the fact that payment of the sums due by Panionios was indeed made, but late. According to FC Aris, the deduction of points should be enforced, since Panionios did not comply with the terms of the applicable decisions. On the contrary, Panionios argued that the cases had been closed by FIFA upon settlement of the amounts due and, thus, no sanction should be imposed.

On 3 June 2005, the Appellant’s counsel wrote to FIFA, namely to its Secretary General and to the Disciplinary Committee. In its letter, the Appellant submitted that both Panionios and the HFF had breached FIFA’s decisions of 14 February 2005: Panionios, because it hired 5 players in breach of the ban imposed by FIFA; the HFF, because it failed to deduct 6 points from Panionios’ first team. According to the Appellant, these violations seriously affected its own situation, since if the decisions had been complied with, FC Aris would have remained in first division and Panionios would have been relegated to the second division. On this basis, FC Aris made the following formal requests:

- that, within 10 days, the decisions of 14 February 2005 be enforced;
- that the Disciplinary Committee open new disciplinary proceedings against Panionios;
- that sanctions be imposed on the HFF for voluntarily distorting the first division championship.

On 6 June 2005, Mr Heinz Tännler, Director of FIFA’s Legal Division, replied to the Appellant’s counsel as follows:

“On behalf of the FIFA General Secretary and the Chairman of the FIFA Disciplinary Committee, we would like to emphasize that the execution of a decision taken by a FIFA body falls under the competence of the relevant member association. Consequently, we inform you to contact the Hellenic Football Federation in this regard.

Regarding your request to open a disciplinary procedure against the Hellenic Football Federation, we would like to inform you that it is at the FIFA Disciplinary Committee’s discretion to decide if a disciplinary procedure is to open”.

In a second letter dated 6 June 2005, the Appellant’s counsel pointed out that 12 points, instead of 6 as mentioned in the letter of 3 June, should be deducted from Panionios’ first team, namely 6 points for each of the two decisions issued on 14 February 2005. He also submitted further argumentation in support of the Appellant’s allegation that it has a direct interest in seeking the enforcement of FIFA’s decisions.

FIFA replied on 7 June 2005, as follows:

“We acknowledge receipt of your fax dated 6 June 2005 and have duly taken note of it.

In this regard, we would like to refer to our letter dated 6 June 2005 sent to you”.

On 8 June 2005, the Appellant filed a statement of appeal with CAS to challenge these decisions. It requested CAS to annul the two letters, to order FIFA to enforce the decision previously issued by

the Disciplinary Committee, and to open disciplinary proceedings against the HFF for not complying with the decisions of the Disciplinary Committee.

In parallel to its request filed with the Respondent and the subsequent appeal to CAS, the Appellant also submitted claims against Panionios before the Greek sports bodies. The Appellant's request was dismissed on 21 June 2005 by the Adjudicatory Authority of the Hellenic Football League (EPAE). This decision was confirmed by the Appeal Committee of HFF on 30 June 2005.

On 20 June 2005, the FIFA Disciplinary Committee issued a decision against the HFF in the matter relating to the transfer ban, in which it found that the HFF was "*guilty of having failed to respect its obligations as a FIFA member*", by not enforcing the sanctions imposed by the Disciplinary Committee on 14 February 2005. As a consequence, FIFA issued a warning to the HFF and imposed a fine of CHF 14,000. This decision was sent to the HFF on 20 June 2005. It was not communicated to the Appellant.

In the matter concerning the appeal filed by the Appellant against the letters of 6 and 7 June 2005, a hearing was held in Lausanne, at the seat of CAS, on 4 July 2005 and was attended, amongst others, by representatives of the Appellant and of the Respondent. During the hearing, the parties and the Panel addressed the Appellant's argument that sanctions should be imposed on the HFF for not complying with the Disciplinary Committee's decisions of 14 February 2005. FIFA stated that the matter had been referred to the Disciplinary Committee, but did not mention the fact that a decision had indeed been issued on 20 June 2005.

CAS issued an award on 15 July 2005 (CAS 2005/A/899) in which it ruled as follows:

1. *The Court of Arbitration for Sports has no jurisdiction to decide upon the appeal filed on 8 June 2005 by FC ARIS THESSALONIKI with regard to the letters issued on 6 and 7 June 2005 on behalf of the President of the FIFA Disciplinary Committee and of the Secretary General of FIFA.*
2. *The present award is rendered without costs.*
3. *Each party shall bear its own legal and other costs incurred in connection with this arbitration".*

On 15 July 2005, the Appellant wrote to FIFA to request that:

- *FIFA executes the decisions of its Disciplinary Committee of 14 February 2005 (Decision 050039 pst GRE ZH and Decision 050042 pst GRE ZH) by instructing the Hellenic Football Federation and the Hellenic Football League (i) to deduct 12 points from the Club Panionios N.F.C., Greece, in the Greek League Championship and (ii) to deduct all points gained by the Club Panionios N.F.C., Greece, playing with a team established in violation of the transfer prohibition imposed by the Dispute Resolution Chamber, with the consequence that the Club Panionios N.F.C. is relegated to the second league and the club FC Aris remains in the first league;*
- *the disciplinary proceedings already opened against the Hellenic Football Federation for not complying with the decision of the FIFA Disciplinary Committee of 14 February 2005 (Decision 050039 pst GRE ZH and Decision 050042 pst GRE ZH) be continued and decided as soon as possible;*
- *injunctions be issued and sanctions imposed against the Hellenic Football Federation and the Greek League of such severity as to make sure that the decisions of FIFA's Disciplinary Committee of 14*

February 2005 (Decision 050039 pst GRE ZH and Decision 050042 pst GRE ZH) are immediately and fully complied with”.

FIFA answered the Appellant’s letter on 19 July 2005. It notably stated the following:

“We can only firmly reiterate that the case in question has been referred to the FIFA Disciplinary Committee for it to be processed”.

On 27 July 2005, the Disciplinary Committee issued a decision against the HFF in the matter relating to the late payment, by Panionios, of amounts due to the players A. and B., and of the fine that was imposed on the club as a consequence of such late payment. In this decision, the Disciplinary Committee found the HFF *“guilty of having failed to respect its obligations as a FIFA member”* and issued a warning to the HFF. This decision was sent to the HFF on 3 August 2005. It was not communicated to the Appellant. However, also on 3 August 2005, the decision was sent to CAS, which forwarded it to the Appellant.

On 28 July 2005, the Appellant filed with CAS a statement of appeal and appeal brief, together with supporting exhibits, for *“denial of justice”*.

LAW

Applicable Law and Regulations

1. Article R58 of the Code provides that:

“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, which the Panel deems appropriate. [...]”.

2. Article 59 para. 2 of the FIFA Statutes reads as follows:

“The CAS Code of Sports-Related Arbitration governs the arbitration proceedings. With regard to substance, CAS applies the various regulations of FIFA, Confederation, Members, Leagues and Clubs and, additionally, Swiss law”.

3. Thus, in the present matter, the applicable regulations are the FIFA regulations, more specifically the FIFA Statutes and the FIFA Disciplinary Code. Swiss law shall apply complementarily.

CAS Jurisdiction

4. According to Article R47 of the Code, an appeal may be filed before CAS only against “*a decision [of last instance] of a federation, an association or other sports-related organization*” if the statutes or the regulations of the said organization provide for it and insofar as the available internal appeals have been exhausted.
5. Article 60 para. 1 of the FIFA Statutes provides the following:
“Only CAS is empowered to deal with appeals against decisions and disciplinary sanctions of the last instance, after all previous stages of appeal available at FIFA, Confederation, Member or League level have been exhausted. The appeal shall be made to CAS within 10 days of notification of the decision”.
6. In the present case, however, the appeal filed on 28 July 2005 was not directed against the decisions issued by FIFA, but was based on denial of justice. Indeed, in its appeal brief, the Appellant submitted that there was a denial of justice because the Respondent had failed to issue a decision, following the Appellant’s letter of 15 July 2005.
7. As this Panel already stated in its decision of 15 July 2005, if a body refuses without reasons to issue a decision or delays the issuance of a decision beyond a reasonable period of time, there can be a denial of justice, opening the way for an appeal against the absence of a decision (CAS 2005/A/899; see also CAS award of 15 May 1997, published in Digest of CAS Awards 1986-1998, p. 539; see also PAULSSON J., Denial of justice in international law, New York 2005, pp. 176-178). Swiss case law also expressly provides that when a body fails to rule within a reasonable period of time (which depends on the circumstances of each case) on a request that falls within its competence, it commits a so-called “formal” denial of justice (see, e.g., decision of the Swiss Federal Tribunal, ATF 119 Ib 311; ATF 107 Ib 160; see also HOTZ R., Die schweizerische Bundesverfassung, Kommentar, Zurich 2002, n. 10 ff ad Art. 29).
8. In the present case, when the Appellant filed its appeal on 28 July 2005, the Respondent had already issued a decision on 20 June 2005, sanctioning the HFF for not enforcing the transfer ban on Panionios. However, the decision dated 27 July 2005, in the matter of the withdrawal of points for late payment by Panionios of amounts due to the players A. and B., which was formally notified to the HFF on 3 August 2005, had not been communicated yet.
9. The Panel agrees with the Respondent that there is not necessarily a denial of justice when a body does not rule on a request within a time-limit set by the requesting party. However, in the present case, the Panel considers that – at least from the point of view of the Appellant – on 28 July 2005, FIFA was in a situation to have committed a formal denial of justice by not having issued, respectively not having communicated a decision following the Appellant’s request of 15 July 2005, which followed several previous requests by the Appellant, as well as an appeal to CAS on 8 June 2005. In this respect, the Panel takes into account the particular urgency that existed for the Appellant due to the fact that the Greek 2005/2006 championship was due to begin in August 2005 and that a decision on the Appellant’s request could have been determinant regarding the question on which team would play in the first or second league.

10. The Panel further finds that the Appellant is entitled to question the absence of a decision, even though the decision it is seeking is a decision issued by FIFA against the HFF and/or Panionios, i.e., a decision to which it would not be a party.
11. The Appellant, being a member of the HFF, can be considered an indirect member of FIFA and has therefore standing to dispute FIFA's decisions, provided it has a legal interest to do so (see ATF 119 II 271; CAS 2002/O/372; RIGOZZI A., *L'arbitrage international en matière de sport*, Basle 2005, pp. 46 ff. and pp. 105 ff.).
12. According to CAS case law, relying on Swiss procedural law, "*a claimant has standing to sue and the claim is admissible provided the person is invoking a substantive right of its own, i.e. a right deriving from contract, tort or another source*" (CAS 2002/O/372). In the same decision, the CAS Panel also mentioned that standing to sue can also be derived from Swiss administrative procedure, "*the basic principle being that an appellant has standing to sue if she/he has an interest worthy of protection. This is deemed to be the case if the appellant is factually and directly affected by the litigious decision in a fashion that can be eliminated by its annulment and if the appellant did not have the opportunity to be heard in the first instance*" (CAS 2002/O/372).
13. In the present case, the Appellant explained that if the initial FIFA decisions were enforced and points deducted from Panionios, Panionios would be relegated in the second division instead of the Appellant, and the latter would remain in the first division. The Panel considers that this constitutes an interest worthy of protection and that the Appellant is directly affected by the decision sought (see CAS 2002/O/372).
14. In the case CAS 2005/A/899, the Appellant requested the annulment of two communications from FIFA to the Appellant's counsel containing information regarding the competence to enforce decisions taken by a FIFA body, such competence lying with the national federation. The Appellant argued that these communications were "decisions" taken by FIFA and thus subject to an appeal. The Panel however ruled that the letters from FIFA were only of an informative nature. It furthermore stated that, even assuming that these letters were to be considered as decisions, such decisions would in any event not be final and could still be appealed with the FIFA Appeal Committee. In the absence of a final decision, the appeal to CAS was premature. On these grounds the Panel declined its jurisdiction.
15. Article 113 of the FIFA Disciplinary Code states that "*disciplinary infringements are automatically prosecuted*" (para. 1) and that "*any person or authority may report conduct that he or it considers incompatible with the regulations of FIFA to the judicial bodies*" (para. 2). On the other hand the regulations do not contain any provision regarding cases in which FIFA remains inactive. In particular, the regulations do not give the intervening party any right to appeal to a particular body in case its complaint remains unanswered. A decision from FIFA or one of its juridical bodies not to open a disciplinary procedure – or the mere absence of any reaction – must therefore be considered as a decision which is final within FIFA. It is thus subject to an appeal with CAS.
16. Therefore, CAS in this case has jurisdiction to hear the Appellant's appeal, insofar as the Appellant's request – at least to the knowledge of the Appellant at the time of submission of the appeal, i.e. on 28 July 2005 – was unanswered.

Merits

17. As set out above, in cases of denial of justice, an appeal can be filed against the absence of a decision. It is therefore necessary for the Panel to determine whether this absence of a decision constitutes a breach of the applicable law and regulations by the Respondent.
18. However, in the present case, it appeared after the appeal was filed that the Respondent had issued a decision on 20 June 2005. In addition, a second decision was made by the Respondent on 27 July 2005 and notified to the HFF, with a copy to CAS, on 3 August 2005. As a consequence, there is no formal denial of justice anymore and any claim based on such a formal denial of justice is moot.
19. The Appellant, after having reviewed these decisions, has indicated that the “*denial of justice continues to exist despite the decision rendered by FIFA*”. In its Observations, it disputed these decisions and submitted that they were grossly inadequate, as they failed to enforce FIFA’s prior decisions. In addition, in the Observations, the Appellant formally requested CAS “*that the decisions DisCo 050284 GRE FRA [decision of 20 June 2005] and DisCo 05421 GRE ZH [decision of 27 July 2005] be annulled*”.
20. According to Swiss case law, there can be a denial of justice (so-called “substantive” denial of justice – “*déni de justice matériel*”) even after a decision has been issued, if such decision is arbitrary, i.e. constitutes a very serious breach of a statutory provision or of a clear and undisputable legal principle, or when it seriously offends the sense of justice and equity (see Decisions of the Swiss Federal Tribunal, 5P.94/2004; ATF 115 Ia 120; ATF 85 I 88; see also PAULSSON, *op. cit.*, p. 196).
21. Therefore, the Panel needs to review the decisions issued by the Respondent, in order to determine, in the light of the Appellant’s request of 15 July 2005, whether the decisions and the absence of further decisions violate the applicable law and regulations in such a way as to be arbitrary. Since the Appellant made several requests and several different prayers for relief, which were not always identical, the Panel will examine each of the Appellant’s prayers for relief separately for the sake of clarity and completeness.

A. *Appeal brief, request no. 1, first paragraph and Observations, request no. 2, first paragraph*

22. In its statement of appeal and appeal brief, the Appellant made the following request:

“That CAS executes the decisions of the FIFA Disciplinary Committee of 14 February 2005 (Decision 050039 pst GRE ZH and Decision 050042 pst GRE ZH) by instructing the Hellenic Football Federation and the Hellenic Football League (i) to deduct 12 points from the Club Panionios N.F.C., Greece, in the Greek League Championship and (ii) to deduct all points gained by the Club Panionios N.F.C., Greece, playing with a team established in violation of the transfer prohibition imposed by the Dispute Resolution Chamber, with the consequence that the Club Panionios N.F.C. is relegated to the second league and the club FC Aris remains in the first league, all this by 5 August 2005 at the latest”.

23. Although the wording is slightly different, this request is the same as that set out in the Appellant's Observations, request no. 2, first paragraph.
24. As this Panel set out in its decision of 15 July 2005, the Respondent does not have the power to directly enforce decisions affecting clubs, for example by effectively deducting points in a national championship and altering the national league's standings. On the contrary, for enforcement purposes, the Respondent must rely on its members, the national football associations, which have an obligation to assist FIFA in enforcing its decisions, in accordance with Article 70 para. 2 of the FIFA Disciplinary Code and Article 13 para. 1 lit. a and d of the FIFA Statutes. The Respondent's enforcement powers in these cases are limited to sanctioning the national federations that do not provide the requested assistance, pursuant to Article 74 of the FIFA Disciplinary Code.
25. In the present case, the Respondent did formally request the HFF to enforce its decisions of 14 February 2005, by letter dated 21 March 2005. If the HFF has failed to do so, the Respondent has no further enforcement authority and its powers are limited to sanctioning the HFF for breach of FIFA's applicable rules, which is what the Respondent did on 20 June and 27 July 2005.
26. The Panel finds that the Appellant had no right, under the applicable law and regulations, to ask the Respondent to instruct one more time the HFF, or to instruct the Hellenic Football League, to deduct points. The Panel also finds that the Respondent, by issuing decisions threatening the deduction of points, then expressly requesting the HFF to enforce the deduction of points, and then sanctioning the HFF for its failure to implement FIFA's decisions, complied with the FIFA Statutes and the Disciplinary Code.
27. As a consequence, the Respondent did not commit a denial of justice on this point and the Appellant's prayer for relief must be dismissed.

B. *Appeal brief, request no. 1, second paragraph*

28. In its statement of appeal and appeal brief, the Appellant made the following request:
"That CAS orders FIFA that the disciplinary proceedings already opened against the Hellenic Football Federation for not complying with the decisions of the FIFA Disciplinary Committee of 14 February 2005 (Decision 050039 pst GRE ZH and Decision 050042 pst GRE ZH) be continued and decided, before 5 August 2005 at the latest".
29. The documents submitted by the Respondent, in particular the decision of 27 July 2005, establish that proceedings had been opened against the HFF for non-compliance with the decisions of the Disciplinary Committee of 14 February 2005 and that decisions had been made. The Appellant's request on this point is therefore moot and must be dismissed.
30. The Appellant nevertheless submitted in its Observations that the sanctions imposed on the HFF were grossly inadequate and failed to enforce FIFA's prior decisions. In the Appellant's view, this constitutes a denial of justice.

31. As set out above, if a decision has been issued, there can only be a denial of justice if such decision is arbitrary. In this respect, the Panel notes that, in examining whether a decision is arbitrary, it must not determine whether the decision was fully appropriate, or whether another sanction would have been more adequate. In particular, the Panel recognises that the Respondent has a certain discretionary power to determine which sanctions should be imposed in case of a violation of its Statutes or of other applicable regulations by one of its members. Thus, based on the principles mentioned above, the Panel finds that there can only be a denial of justice if the Respondent exceeded this discretionary power and issued a decision which is arbitrary and constitutes an obvious and very serious breach of the applicable rules.
32. In the present case, the Panel has found that the Respondent had no other enforcement powers than the sanctioning of the HFF. It further considers that the sanctions imposed on the HFF, although they may be considered as being rather clement, fall within the Respondent's discretionary authority and are not completely inadequate so as to render the decisions of 20 June and 27 July 2005 arbitrary. As a consequence, the Respondent's decisions and the absence of different, more severe, sanctions are not arbitrary and do not constitute a denial of justice.
33. Therefore, the Appellant's prayer for relief must be dismissed.

C. Appeal brief, request no. 1, third paragraph

34. In its statement of appeal and appeal brief, the Appellant made the following request:
"That CAS, by the most appropriate means, make sure that injunctions be issued and sanctions imposed against the Hellenic Football Federation and the Greek League of such severity as to make sure that the decisions of the FIFA Disciplinary Committee of 14 February 2005 (Decision 050039 pst GRE ZH and Decision 050042 pst GRE ZH) are immediately and fully complied with, all this by 5 August 2005 at the latest".
35. On 21 March 2005, the Respondent has instructed the HFF to deduct points from Panionios. By decisions of 20 June and 27 July 2005, the Respondent has imposed sanctions against the HFF for not complying with the Respondent's previous decisions. Therefore, the Panel considers that the Appellant's prayer for relief is moot.
36. The Appellant submitted that the Respondent still committed a denial of justice, because the sanctions imposed by the Respondent were not of sufficient severity so as to allow the effective enforcement of the Disciplinary Committee's decisions of 14 February 2005. However, for the reasons already set out above (see section B.), the Panel finds that the Respondent did not commit a denial of justice by not imposing more severe sanctions against the HFF.
37. Therefore, the Appellant's prayer for relief must be dismissed.

D. Appeal brief, request no. 2, first paragraph Observations, request no. 2, third paragraph

38. In its statement of appeal and appeal brief, the Appellant made the following request:

“2. Or in the alternative,

That CAS order FIFA to execute the decisions of the FIFA Disciplinary Committee of 14 February 2005 (Decision 050039 pst GRE ZH and Decision 050042 pst GRE ZH) by instructing the Hellenic Football Federation and the Hellenic Football League (i) to deduct 12 points from the Club Panionios N.F.C., Greece, in the Greek League Championship and (ii) to deduct all points gained by the Club Panionios N.F.C., Greece, playing with a team established in violation of the transfer prohibition imposed by the Dispute Resolution Chamber, with the consequence that the Club Panionios N.F.C. is relegated to the second league and the club FC Aris remains in the first league, all this by 5 August 2005 at the latest”.

39. Although the wording is slightly different, this request is the same as that set out in the Appellant’s Observations, section 2, third paragraph.
40. This request is also the same as the one set out in the appeal brief, no. 1, first paragraph, the only difference being that the Appellant requests CAS to order FIFA to enforce the decisions instead of enforcing them itself. Therefore, for the same reasons as those developed above under section A., the Panel rules that the Appellant’s prayer for relief must be dismissed.

E. Appeal brief, request no. 2, second paragraph

41. In its statement of appeal and appeal brief, the Appellant made the following request:
“That CAS orders FIFA that the disciplinary proceedings already opened against the Hellenic Football Federation for not complying with the decisions of the FIFA Disciplinary Committee of 14 February 2005 (Decision 050039 pst GRE ZH and Decision 050042 pst GRE ZH) be continued and decided, before 5 August 2005 at the latest”.
42. This request is the same as the one submitted under request no. 1, second paragraph. For the same reasons as those set out above under section B., the Panel rules that it must be dismissed.

F. Appeal brief, request no. 2, third paragraph

43. In its statement of appeal and appeal brief, the Appellant made the following request:
“That CAS, by the most appropriate means, make sure that injunctions be issued and sanctions imposed against the Hellenic Football Federation and the Greek League of such severity as to make sure that the decisions of the FIFA Disciplinary Committee of 14 February 2005 (Decision 050039 pst GRE ZH and Decision 050042 pst GRE ZH) are immediately and fully complied with, all this by 5 August 2005 at the latest”.
44. This request is the same as the one submitted under request no. 1, third paragraph. For the same reasons as those set out above under section C., the Panel rules that it must be dismissed.

G. Appeal brief, request no. 3 and Observations, request no. 2, fifth paragraph

45. In its statement of appeal and appeal brief, the Appellant made the following request:

“3. Or in the alternative,

That CAS declares that FIFA has committed a denial of justice by not enforcing at all (or by not enforcing in a sufficiently efficient manner) the relevant decisions and by not reacting with the appropriate diligence and efficiency to the arbitral award 2005/A/899, such denial of justice amounting to a civil tort/wrongdoing and making FIFA responsible for the damage suffered by FC ARIS, such damage having to be established in a detailed manner in due course”.

46. Although the wording is slightly different, this request is the same as that set out in the Appellant’s Observations, section 2, fifth paragraph.
47. The Panel ruled above that after the Respondent had issued both its decisions of 20 June and 27 July 2005, there remained no formal denial of justice on the Respondent’s part. In addition, the Panel ruled above that the Respondent’s decisions or the absence of different, more severe sanctions do not constitute a substantive denial of justice.
48. Therefore, the Appellant’s prayer for relief must be dismissed.

H. Observations, request no. 1

49. In its Observations, the Appellant made the following request:
“1. That the decisions DisCo 050284 GRE FRA and DisCo 050421 GRE ZH be annulled;”
50. The Appellant filed an appeal on 28 July 2005, based on denial of justice, because, in the Appellant’s view, the Respondent had not issued decisions which the Appellant had expressly requested. In its appeal brief, the Appellant did not request the annulment of the decisions. Indeed, the Appellant was unaware that the decision of 20 June 2005 had already been issued, and that the decision dated 27 July 2005, which was only communicated by the Respondent on 3 August 2005, had been made.
51. In the course of the proceedings, the Appellant received notice of the two decisions issued by the Respondent. In particular, on 4 August 2005, CAS sent to the Appellant a copy of the decision of 27 July 2005 and requested the Appellant to indicate whether the appeal was to proceed or to be withdrawn.
52. By letter dated 9 August 2005, the Appellant stated the following: *“We refer to your facsimile of 4 August 2005 and hereby inform that the denial of justice continues to exist despite the decision rendered by FIFA [...]”.*
53. The Appellant did not file an appeal against the Respondent’s decisions of 20 June and 27 July 2005.
54. However, during the proceedings, the Panel requested the Appellant to provide its comments on the consequences deriving from the Respondent’s decisions. The Appellant did so on 25

August 2005 and, in its submission, included the additional prayer for relief requesting the Panel to annul the decisions.

55. The Appellant's request that the Panel annul the decisions of 20 June and 27 July is based on its argument that these decisions are grossly inadequate to enforce the prior decisions issued by FIFA in the matters involving Panionios and, as a consequence, embody a denial of justice. The Appellant also submitted in its Observations that the decisions violate the FIFA Regulations for Status and Transfer of Players, as well as the FIFA "*Regulation and disciplinary measures*", since FIFA did not provide for the enforcement of such Regulations.
56. The Panel ruled that the Respondent, by issuing decisions threatening the deduction of points, then expressly requesting the HFF to enforce the deduction of points, and then sanctioning the HFF for its failure to implement FIFA's decisions, complied with the FIFA Statutes and the Disciplinary Code (see above, section A.). In addition, the Panel ruled that the Respondent's decisions of 20 June and 27 July 2005, although they may be considered as being rather clement, fall within the Respondent's discretion authority and do not constitute a denial of justice (see above, section B.).
57. As a consequence, the Appellant's prayer for relief must be dismissed.

I. Observations, request no. 2, second, fourth and sixth paragraphs

58. In its Observations, the Appellant made the following request:
"that appropriate sanctions including but not limited to the order of deduction of 12 points of Panionios N.F.C. for the season 2004/2005 be imposed on the Hellenic Football Federation for not enforcing and on Panionios N.F.C. for not complying with the decisions of the Dispute Resolution Chamber against Panionios N.F.C. of 9 November 2004 and of the Disciplinary Committee of 14 February 2005".
59. It also made the following request, as an alternative:
"that the Respondent be ordered to impose appropriate sanctions including but not limited to the order of deduction of 12 points of Panionios N.F.C. for the season 2004/2005 be imposed on the Hellenic Football Federation for not enforcing and on Panionios N.F.C. for not complying with the decisions of the Dispute Resolution Chamber against Panionios N.F.C. of 9 November 2004 and of the Disciplinary Committee of 14 February 2005".
60. In these prayers for relief, the Appellant requests that certain specific sanctions be imposed on the HFF and on Panionios. As other requests made by the Appellant in these proceedings, it is based on the submission that the non or insufficient enforcement of the decisions of the Dispute Resolution Chamber of 9 November 2004 and of the Disciplinary Committee of 14 February 2005 by the Respondent constitutes a denial of justice. In other words, the Appellant considers that the sanctions imposed on the HFF by the Respondent on 20 June and 27 July 2005 are insufficient and requests the Panel to impose additional, or different, sanctions.

61. In this respect, the Panel already ruled above that the Respondent's decisions, and the sanctions they contain, are not arbitrary and, therefore, do not constitute a denial of justice on the part of FIFA. Therefore, the Appellant's request that additional sanctions should be imposed is ill-founded and must be dismissed.

The Court of Arbitration for Sport rules that:

1. The Court of Arbitration for Sport ("CAS") has jurisdiction to decide on the appeal filed on 28 July 2005 by FC Aris Thessaloniki against FIFA.
2. The appeal filed on 28 July 2005 by FC Aris Thessaloniki against FIFA is dismissed, to the extent that it is admissible.

(...).