



Real Madrid:
CHERYSHEV *inelegibility*
and the exclusion
from the Copa del Rey

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→ Spanish Football Federation (RFEF) – National Regulations –
Disciplinary litigation

On 2 December 2015, Real Madrid and Cadiz CF played a match corresponding to the Copa del Rey competition. The match finished 3-1 for the capital Club but the result was overruled by the Competition Judge just two day after, on 4 December, because a non-eligible player was fielded by the “Blancos”, granting a victory 3-0 to Cadiz and sanctioning Real Madrid with the elimination of the Cup.

Spanish Sports Court (TAQ), no. 241/2015 BIS, 28 December 2015

Facts

During the 2014/2015 season, Denis CHERYSHEV was playing on loan with Villarreal. During one of the matches played by the latter in the *Copa del Rey*, the player received a yellow card that meant he was suspended for a match after having received 3 yellow cards during the whole competition. That sanction, not being able to be served in a different competition, should have been served during the next season.

At the beginning of 2015/16 season, *Real Madrid* decided to recover the player and on the 2 December 2015, decided to field him with the starting eleven in the match against *Cadiz*.

After 45 minutes and having scored the first goal, *Real Madrid's* technical staff realised that there was a possibility of an infringement of the regulations and decided to remove the player from the field.

Once Pandora's box was opened and the scandal made public, *Cadiz* did not have any other option but to present a claim against *Real Madrid* for the Infringement of the laws of the game.

In a first decision, the single Judge of the Spanish Football Association sanctioned *Real Madrid*, granted a result of 3-0 in favour of *Cadiz FC* and excluded the capital team from the competition, granting the qualification for the next round to *Cadiz*.

Real Madrid appealed the decision before the Appeal Committee first and then before the Spanish Sports Court (TAD) who rejected the appeal and uphold the first decision of the Single Judge.

Legal considerations
and Real Madrid's
defense

From the very first moment, the defense of *Real Madrid* was based in:

- Lack of knowledge from the club regarding the sanction that the player had to serve;
- Lack of notification from the Spanish Association or *Villarreal* about the existence of the sanction;
- Lack of legitimacy of *Cadiz* to claim for the illegally fielded of the player;
- “Good faith” of the club that allegedly removed the player from the field when realising he was not eligible.

All the arguments were rejected by both bodies, the Single Judge of the Competition and the Sports Court on appeal, particularly those referred to the lack of notification of the sanction.



Directed by Juan de Dios CRESPO PÉREZ

Regarding the lack of notification and therefore the lack of knowledge of *Real Madrid*, the latter relied the content of Article 41.2 of the Spanish Disciplinary Code, in this sense in a Public Statement the President of the capital club said: "The one-match ban for three yellow cards in our view is not effective because no one has notified the player as specified in item 41.2 of the disciplinary code of the RFEF."

Article 41.2 establishes: "the disciplinary decisions will not have any effect until their personal notification to the interested person."

Notwithstanding that, *Real Madrid* forgot, or decided to not do so, to consider the content of Article 41.3 of the same regulations: "The notifications to Players, Coaches, Staff, Delegates and Board Members can be done through the Club where they are playing at the moment. Such notification will be valid at all effects."

Using these last paragraph of Article 41.3 both the Single Judge and the Sports Court rejected the argument presented by *Real Madrid*, but not only that, both bodies once rejected the argument using objective criteria, accused the club of attempting a desperate defense using improper arguments for a professional club, even more considering that the sanctions pending to be served are published in the website of the Spanish National Association at the beginning of every season.

Regarding the lack of legitimacy of *Cádiz*, the arguments were also rejected because, even if the latter is playing in the 3rd Spanish division, the *Copa del Rey* is not under the Professional League's power and being a member of the Federation and a party directly involved on the facts, the legitimacy of the club cannot be denied.

After the rejection of the Appeal by the TAD, the capital club decided to follow with the procedure before the ordinary courts, but considering the evidences and the fact that the next round of the *Copa del Rey* was already played, decided to withdraw the appeal and accept the sanction received.

"The ghost goal"

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→ UEFA Regulations – FIFA Regulations – Referee – Disciplinary litigation



The penalty shot by the Valencia player Victor RUIZ ABRIL, crossed the goal line before striking a stanchion and bouncing out, namely, the ball hit the inside corner of the goal, hitting and bouncing in an inner tube of the football goal.

An amazing situation took place in the last edition of the UEFA Youth League 2015/2016, precisely in the match disputed between *Chelsea FC Youth* and *Valencia CF Youth* on February 2016. The match ended with a 1-1 draw after 90 minutes; so to define the quarterfinal qualifier, it was necessary to go to the penalties.

The incredible fact occurred during the penalty shootout. A "blue" player scored the first penalty and the following one, shot by the Valencia player Victor RUIZ ABRIL, crossed the goal line before striking a stanchion and bouncing out, namely, the ball hit the inside corner of the goal, hitting and bouncing in an inner tube of the football goal.

Indeed, the Swiss referee, Adrien JACCOTTET and his assistant believed the ball had struck the post and ruled out of the goal. Despite the claims from Valencia's players, the referee went to consult his linesman, whose job is to rule whether the ball passes the line, but did not change the decision made by the head referee. He did not score a charge in which the ball passed the line and then left.

It should be considered a goal in fact, as the ball was behind the goal line as it was even confirmed by *Chelsea FC Youth*, the UEFA match delegate and the UEFA referee observer and it is therefore undisputed that the penalty should have counted in favour of Valencia CF.

Chelsea scored the rest of penalties and went on to win the shootout 5-3.

In light of the above, *Valencia CF* lodged a complaint with the Control, Ethics and Disciplinary Body of UEFA according to the UEFA Youth League Regulations alleging an obvious violation of a rule by the referee that had a decisive influence on the final result of the match.

To summarize, the two main arguments put forward by the Spanish club were that the ball was clearly behind the goal line (Rule 10 of the FIFA Laws of the Game) and the fact that the football goal must only consist of three parts: two upright posts and a horizontal post without extra stanchions (Rule 1 of the FIFA Laws of the Game).

Despite the protest of the Spanish club, the Chairman of the Control, Ethics and Disciplinary Body came to the conclusion that the claim was to be declared inadmissible. Thus, said body held that the decisions taken by the referee on the field of play were final and could not be reviewed by UEFA disciplinary bodies.

Each match is controlled by a referee who has full authority to enforce the Law of the Game in connection with the match to which he has been appointed. The Chairman of the Control, Ethics and Disciplinary Body considered that the decisions taken by the referee are not subject to re-examination, prevailing by that the authority of match officials mainly over incidents sporting nature that may occur during the match.

The Chairman held that according to the UEFA Disciplinary Regulations, only protests that might have led to erroneous disciplinary consequences shall be declared admissible, i.e. disciplinary sanctions as they are provided for in the UEFA Disciplinary Regulations. Even if the referee would have committed such an obvious error, the legal consequence which is provided for the UEFA Disciplinary Regulations would only be directed at the disciplinary consequences of the error of the referee. This means that the only legal consequence of these regulations would be the retraction of a disciplinary sanction.

In this case, the erroneous decision of the referee on the field of play did quite evidently not lead to any disciplinary sanctions, as the only consequences of the denial of the penalty was that the club was not awarded a goal. For this reason, the UEFA Disciplinary Regulations are clearly not meant to deal with cases such as goals, which have not been given due to the mistake of the referee. Therefore, the said provisions cannot be applied to the present case.



Without any doubt, these types of errors fall within the manifest error of assessment or vision by referee that leads us to asking ourselves: when will FIFA and UEFA decide to use technology in order to prevent situations like this one? It seems that the International Board has finally passed that border and those events would not be anymore a question of luck but of technology which will brings the truth to football, at last...

Once again this kind of facts shows that football needs the help of technology, since even the same referees can make mistakes being cheated in their visual assessment of the facts and this is why the International Board has come to accept it.

So, assuming that FIFA and its continental bodies will accept the change of the IFAB, there will not be absurd situations, such as the present one where, despite a team having scored, they were eliminated of the Youth League, sending a wrong message to the young players that had made an effort to win since a mistake deprived them to progress to the following round.

Spanish FA President faces possible disqualification or removal from his position

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→ Spanish Football Federation (RFEF) – Sport entities – Insolvency



RFEF President Ángel Maria VILLAR.

According to the media, the Spanish Football Association (RFEF) has allegedly funded *Recreativo de Huelva*, the oldest football Club in Spain, for the 2015/2016 season in order to pay its debt to their former coach *Jose Luis OLTRA*. The loan, made through the National Coaching Committee, was even accredited in the

general ledger account that *Recreativo* has with the Federation.

Moreover, it seems that another club, *Marino Tenerife-Sur*, would have benefited from an irregular payment made through the Spanish Footballers Association (AFE) to cover for their players who were in the team during the 1992/1993 season. Without this payment *Marino* would not have been able to begin the competition in Second “B” Division in the 2012/2013 season.

In fact, eight players received nearly EUR 166,000 once the competition had begun, fact which is also totally irregular. It seems that this sum was previously deposited by RFEF but *Marino* did not pay the money.

Miguel CARDENAL, Spain's Secretary of Sport, has stated that “very serious” evidence suggest that RFEF President *Angel Maria VILLAR* infringed his own organisation's rules to help out *Recreativo*.

Spain's Superior Sport Council is investigating whether fraud took place in granting *Recreativo* a license to compete despite technically being in bankruptcy.

Reports also say that *Recreativo* received a direct EUR 200,000 loan, which was used to make the payment to its former coach, even though it has an unpaid tax bill of EUR 11 million and had been embargoed by the authorities.

In recent years, other Spanish clubs in similar difficulties, including *Elche* and *Huesca*, did not receive such favourable treatment and were relegated due to the lack of fulfilment of diverse financial requirements.

For his part, Mr *VILLAR* maintains that the responsibility should lie with *Jorge PEREZ*, Secretary General of the RFEF and candidate for President, and *José María CASTILLÓN*, General Manager. Mr *VILLAR* has detailed in his writings the functions assigned to him as president and those assigned to the secretary general and the general manager.

Angel Maria VILLAR further questions the Sports Council's power to investigate or audit transactions considering that the money for *Recreativo* did not come from public funds.

However, Article 76.2, d) of the Spanish Sport Act makes no difference between public and private money in the case of misuse of funds, stating: “very serious infringements are considered to be the

following ones by the presidents and the other managerial members of the organs of the Spanish sports federations and professional leagues: d) The improper utilization of private funds or the subsidies, loans, warranties and other assistance from the State, its autonomous bodies or those in any other way granted from the General State Budget.”

As per Article 79.2 of the same Act, infringements listed in Article 76.2 can be sanctioned with temporary disqualification from two months to one year or removal from a post.

Moreover, in the revelation of cases *Recreativo* and *Marino*, Mr *VILLAR* sees a media campaign to be unable to stand for election to lengthen his term to 32 years.

Nevertheless, Mr *VILLAR* even hinted in his writings that *Recreativo* was aided because is it the oldest club in Spanish football.

Recreativo executive *Pablo COMAS* has already resigned after the payments came to light at the club.

Angel Maria VILLAR has been Spanish FA President since 1988, but has clashed repeatedly through recent years with both *Miguel CARDENAL* and *La Liga* President *Javier TEBAS*. *VILLAR* is also a FIFA Vice President, and has been very close through recent years to *Sepp BLATTER* and *Michel PLATINI*. Late last year he was appointed as acting chairman of the Organising Committee for World Cup 2018.

Should the Administrative Court for Sport find that the support provided to *Huelva* was illegal, Mr *VILLAR* would not be allowed to run for re-election.

It is even possible that these facts could be prosecuted as an improper management or misappropriation of public funds crimes.