Back to the DisCo!

FIFA

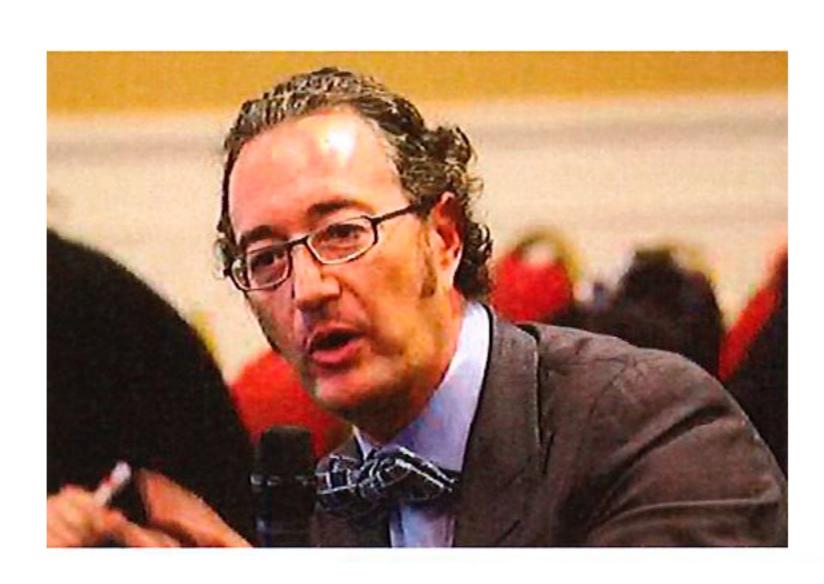
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by Juan de Dios CRESPO PEREZ

Subject to FIFA Council approval, the FIFA Disciplinary Committee will again have standing to enforce CAS Ordinary Arbitration Awards taken from 19 July 2019.

This is not about partying, but many of us - football lawyers - are happy that FIFA has finally decided that its Disciplinary Committee will again have standing to enforce CAS Ordinary Arbitration Awards, and we might be dancing soon in Zurich due to such a much needed change.

You surely remember that this was the case until August 2011 when, in a very unexpected move, FIFA decided that it will no longer use its disciplinary proceedings and power to sanction the decision breakers, for such ordinary awards.

This was received with some concern by the legal football family as there were a lot of contracts, mostly transfers and agencies' ones, that had a direct jurisdiction clause to the CAS. But, it became more important when in 2015 FIFA got rid of the agents (thereafter named as "intermediaries"), so most of their contracts were therefore directed to CAS in order to remain within sports-deciding bodies, even though without the umbrella of FIFA's DisCo.

And thus we had to execute the ordinary awards through civil courts (as very few federations were still enforcing ordinary CAS decisions) with the legal difficulties that an exequatur has, mostly in countries where courts were not used to see such requests. I personally had, and am still, been trying to enforce some of them...

Most of the cases were, as I said, transfers between clubs or agency contracts between intermediaries and clubs or players, thus all football stakeholders and it was just a necessary step to take by FIFA to restore the previous statu quo.

So, the news is more than welcomed by football lawyers and it clearly shows a change of mentality at FIFA. It seems evident now that FIFA's new legal direction understands that we are all of the same family and that you cannot reject part of it, even if you do not like some of it (too much). It reminds us of the Parable of the Prodigal Son, which you can read in the Bible, but it is not only a religious issue as it happens in all families.

The lost son is thus returning to the father, and now ordinary proceedings have been retrieved by "Papa" FIFA, which gives a real joy to us all. It was a request that we were asking since the very same day of 2011 when it disappeared, and we only have to appreciate and thank the new legal apparatus of FIFA, with the leadership of Spaniard Emilio García Silvero, Chief Legal Officer, well supported by another co-citizen, Carlos Schneider Salvadores, Head of Disciplinary.

Now we just have to wait for the FIFA Council to give the floor to such change and to wait for it to become (quite) immediately in force. The news is that decisions taken in ordinary proceedings of CAS after 19 July 2019 are going to be the first ones to regain the possibility of disciplinary sanctions in case of non-fulfillment by a party.

When a sporting body is not only talking about changes but makes them for real, we can only be happy and take off our hats, but there is more to do. So, congratulations FIFA for this improvement but we will be seeking for other legal steps to achieve for "the good of the (legal) game"!