

Cristiano Ronaldo's two-match ban: a case analysis

Ex-officio use of video footage in disciplinary proceedings

The incident

The on-field incident involving Cristiano Ronaldo occurred during the late stages of a league game between Real Madrid and Cordoba. Relevantly, the recent Ballon d'Or winner was shown a straight red card for kicking out at Cordoba player Edimar Fraga.

Referee Alejandro Jose Hernandez went on to describe the incident in his match report as follows: 'In the 83rd minute Cristiano Ronaldo was sent off for the following reason: kicking an opponent when the ball was out of reach.'

However, Hernandez's match report failed to make reference to two other noteworthy incidents which had occurred during the fixture and which had been captured on video, the footage revealing that Ronaldo had also struck Edimar in the face and had thrown an attempted punch at Jose Angel Crespo. When prompted, the referee suggested that he had not seen these particular incidents.

Ultimately, on 28 January 2015, the Real Federación Española de Fútbol ('RFEF') Disciplinary Committee (the 'Committee') issued Ronaldo with a two-match ban, which did not factor in these additional incidents - a decision which was met with some controversy at the time.

For this reason, we take a brief look at what evidence is considered in these types of proceedings.

The match report and the treatment of other evidence in disciplinary proceedings

According to Spanish law, disciplinary power exercised by sporting federations is an administrative role delegated by public authorities and, as such, is subject to the same legal requirements of any ordinary administrative disciplinary proceedings. Consequently, any party involved has the inherent right to rely upon any form of legal evidence, including an image or video footage.

However, in the context of these types of disciplinary proceedings, the wording of the match report is vital in terms of the ban to be applied because the Committee relies primarily on the information contained in it, which according to the RFEF Disciplinary Code (the 'Code') is to be deemed an interim truth (*iuris tantum* or a rebuttable presumption).

This effectively means that the match report provides the facts that are to be relied upon by the Committee unless and until proof is supplied which could demonstrate that such a report contains a manifest error of fact. In this regard, this evidence to the contrary needs to be extremely clear to be taken into account. Otherwise, the facts that are contained in the match report are presumed to be accurate and those facts as they are described in the match report shall prevail such that the Committee must dismiss other possible interpretations or plausible versions of the facts.

Use of video to act ex officio

It was widely reported in the media that the 'unreported' incidents were not capable of consideration by the Committee and that this was determinative in the two-match ban imposed on Ronaldo. With respect, this may not be technically correct, although in practice it essentially is.

In other words, if the question is can the Committee use video footage in order to act *ex officio* in respect of disciplinary incidents? - The answer is yes, but it does so very rarely.

According to Article 22 of the Code, a disciplinary proceeding can be initiated *ex officio* by disciplinary bodies, on their own initiative or by virtue of a complaint. Moreover, Article 22 allows disciplinary bodies to request *ex officio* evidence which they deem appropriate to clarify the facts. In this context, disciplinary committees have a wide margin of discretion.

That said, it is easy to understand its reluctance to use such a power. This is because, in practice, it might open a Pandora's box, where they should be compelled to review every video match in order to look for and punish any infringement which went undetected by the referee.

As such, there is essentially an unwritten rule about the extremely restricted use of these *ex officio* powers, only reserved for very severe infringements which are completely omitted from the match report.

Evidently, the Committee did not regard these as such circumstances and founded its decision exclusively on the wording of the match report. Naturally, non-use of the footage was not disputed by the Club, and, for obvious reasons, they did not provide the Committee with any video footage.

The aftermath

Despite Los Blancos' initial fears that Ronaldo would face a three-match ban and be suspended for the derby against Atletico Madrid, a critical fixture in the title race, the Committee only banned Ronaldo for the two matches, meaning he only missed games against Real Sociedad and Sevilla and was free to play against Atletico.

As it turned out (rather ironically), Real Madrid were victorious in the two fixtures without their star talisman, but eventually lost the derby even with Ronaldo back for the fixture.

Juan De Dios Crespo Head of Sports Law Department
Agustin Amorós Lawyer
 Ruiz-Huerta & Crespo Sports Lawyers, Valencia
 jddcrespo@ruizcrespo.com
 aamoros@ruizcrespo.com

An extended version of the article, which also discusses the Committee's consideration of how to label the conduct, is available on the online version of World Sports Law Report, at <http://www.e-comlaw.com/wslr/>