

## Background paper

### FIFA Appeal Committee on the lodged appeal by Michael J. Garcia

The investigatory chamber of the Ethics Committee, upon its own initiative, conducted an investigation into the bidding and award process related to the 2018 and 2022 FIFA World Cups™. The investigation was led by the chairman and the deputy chairman of the independent investigatory chamber, and resulted in a Report on the Inquiry into the 2018/2022 World Cup™ Bidding Process (hereinafter also: “the Report”).

The Report was then submitted to the chairman and deputy chairman of the adjudicatory chamber of the Ethics Committee. Subsequently, on 13 November 2014, the chairman of the adjudicatory chamber of the Ethics Committee published a [Statement on the Report on the Inquiry into the 2018/2022 FIFA World Cup™ Bidding Process](#) (hereinafter also: “the Statement”), accompanied by a [cover letter](#) of the same day.

On 14 November 2014, the chairman of the investigatory chamber of the Ethics Committee informed the FIFA Appeal Committee of his intention to appeal against the Statement issued by the chairman of the adjudicatory chamber.

On 24 November 2014, the chairman of the investigatory chamber of the Ethics Committee submitted his reasons of appeal.

In its assessment of the matter, the FIFA Appeal Committee pointed out that the chairman of the adjudicatory chamber of the Ethics Committee (and not the adjudicatory chamber as such) had released a statement on the Report prepared by the investigatory chamber. In doing so, the chairman had merely commented on the Report of the investigatory chamber on a voluntary basis.

In the Statement, the chairman of the adjudicatory chamber did not and could not assess the conduct of any accused persons based on a (non-existent) final report of the investigatory chamber. Rather, he pointed out that “the adjudicatory chamber of the Ethics Committee is prepared to examine specific cases if the investigatory chamber opens ethics proceedings against officials...”. Moreover, the Statement did not contain any kind of sanction against individuals.

According to the FIFA Code of Ethics (FCE), at the end of an investigation against a person bound by the FCE regarding breaches of provisions of the FCE, the chief of the investigation shall produce a final report containing, beside the facts and the gathered evidence, the possible rule violation and a recommendation to the adjudicatory chamber of the Ethics Committee for the appropriate sanctions to be taken (art. 68 and art. 28 par. 5 FCE).

The FIFA Appeal Committee further noted that the adjudicatory chamber of the Ethics Committee is entitled to judge the conduct of persons bound by the FCE (art. 27 FCE). The adjudicatory chamber has this competence after receiving a final report in accordance with art. 68 of the FCE. Subsequently, the adjudicatory chamber has to decide whether the accused person has breached the FCE and therefore has to be sanctioned accordingly.

# FIFA<sup>®</sup> APPEAL COMMITTEE

As long as the adjudicatory chamber does not receive a final report from the investigatory chamber pursuant to art. 68 of the FCE (report directed against an accused person, mentioning the possible rule violation and containing a recommendation for taking appropriate sanctions), there is no room and competence for the adjudicatory chamber to exercise the adjudicatory powers that the FCE provides it with.

In any case, the FIFA Appeal Committee noted that the Report, as transmitted by the chairmen of the investigatory chamber to the chairmen of the adjudicatory chamber, is as such not foreseen under the FIFA Code of Ethics.