

Football Association Regulatory Commission

In the Matter of Jesus Fernandez Saez of Liverpool FC

Reasons for Regulatory Commission Decision 17 December 2012

1. These are the written reasons for an FA Regulatory Commission decision made at a paper hearing on Monday 17 December 2012.
2. The Regulatory Commission members were Mr. Maurice Armstrong, Mrs. Elaine Oram and Mr. Frank Clark. Mr. R. Marsh, The Football Association Senior Disciplinary Assistant, acted as Secretary to the Regulatory Commission.
3. The charge against Mr. Fernandez Saez was for a breach of FA Rule E3 relating to a Twitter comment as detailed below:
 - a) It was alleged that Mr. Fernandez Saez acted in a way which was improper and/or brought the game into disrepute, in that the following comment was posted on Twitter: “What f*** is he doing? This guy is gay. He has some mental problems. He does everything except play football.
pic.twitter.com/eOtEU6nU”
 - b) It was further alleged that this breach included a reference to a person’s or persons’ sexual orientation and/or disability, within the meaning of FA Rule E3(2).
4. Mr. Fernandez Saez admitted the charge and did not request the opportunity to attend a Regulatory Commission for a personal hearing.

5. The members of the Regulatory Commission considered in detail all of the submissions by The Football Association and by Mr. Fernandez Saez.
6. We noted Mr. Fernandez Saez's letters dated 5th and 12th December 2012 and that he had apologized for his comments within one hour of posting the original tweet.
7. The members of the Regulatory Commission were of the belief that Mr. Fernandez Saez's comments were improper and brought the game into disrepute. Furthermore, they also included a reference to a person's or persons' sexual orientation and/or disability, within the meaning of FA Rule E3(2).
8. When considering an appropriate sanction we considered Mr. Fernandez Saez's previous disciplinary record and admittance of the charge. His net income from football was also noted as well as previous sanctions for cases involving Twitter comments.
9. The Regulatory Commission considered a warning as to the player's future conduct and a fine to be a reasonable and consistent course of action for this breach of FA Rules.
10. Since the offence was aggravated by reference to a person's or persons' disability and/or sexual orientation, the Commission noted that FA Rule E3(2) states that "a Regulatory Commission shall consider the imposition of an increased sanction, taking into account the following entry points: For a first offence, a sanction that is double that which the Regulatory Commission would have applied had the aggravating factor not been present".
11. Had the offence not have been aggravated by such a reference, then the Commission would have considered imposing a fine of £5,000 having given Mr. Fernandez Saez credit for his admittance and clean disciplinary record.

12. However, due to the reference to a person's or persons' disability and/or sexual orientation, we found no reason not to use the entry point under FA Rule E3(2) and therefore we fined Mr. Fernandez Saez the sum of £10,000 and warned him as to his future conduct.
13. There is a right of appeal against this decision as per the relevant appeal regulations at Schedule D of the Disciplinary Procedures – Standard Directions.

Mr. Maurice Armstrong (Chairman)

19 December 2012