



Porto Football Club's acceptable criticism of referees subject to unjust disciplinary proceedings and disproportionate fine

Today's **Chamber judgment**¹ in the case of [de Carvalho Marques and Others v. Portugal](#) (applications nos. 29703/19, 29978/19, 34185/19, 37235/19, 47902/20 and 3708/22) concerned disciplinary proceedings brought by the Disciplinary Board of the Portuguese Football Federation against Porto Football Club (Futebol Clube do Porto SAD – Futebol SAD), its Director of Communication, and its President. They were fined between 459 and 15,300 euros (EUR) following statements they had made in the media criticising referees' performances and the refereeing system as a whole. The Director of Communication and the President were also temporarily suspended from their duties (application no. 29703/19).

The European Court of Human Rights held, unanimously, that there had been:

a violation of Article 10 (freedom of expression) of the European Convention on Human Rights in respect of Porto Football Club in application no. 47902/20, and

no violation of Article 10 in respect of the other applications.

The Court considered that the applicants had not provided any evidence to substantiate their accusations of corruption and match manipulation in the cases in applications 29978/19, 37235/19, 34185/19, 29703/19 and 3708/22. The statements had amounted to value judgments devoid of a sufficient factual basis. By contrast, as regards application no. 47902/20, the Court considered that the statements had remained within the limits of acceptable criticism.

Principal facts

The applicants are two Portuguese nationals, Francisco José de Carvalho Marques (applications nos. 29703/19, 29978/19 and 34185/19) and Jorge Nuno Lima Pinto da Costa (application no. 3708/22), born in 1966 and 1937 respectively, and a company, the Futebol Clube do Porto SAD – Futebol SAD (applications nos. 34185/19, 37235/19 and 47902/20). Mr Lima Pinto da Costa died in the course of the proceedings in February 2025, and his widow pursued the application in his stead.

At the time of the events, Mr de Carvalho Marques was the Communications director and Mr Lima Pinto da Costa the President of the applicant company, which is owned by Porto Football Club (FC Porto). The company owns FCP Media, S.A., which has a majority shareholding in another company which, in turn, owns Porto Canal, a television channel. The applicant company also publishes *Dragões Diário*, a daily newsletter which covers the latest news pertaining to FC Porto and is free and accessible to subscribers.

At the time, doubts about the performance and impartiality of football referees were being repeatedly raised in the media by journalists, commentators, former referees and football club staff.

In articles published in various media outlets and remarks made in television programmes broadcast by Porto Canal and then published elsewhere including in FC Porto's daily newsletter *Dragões Diário*,

1. Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day.

Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution.

the applicants, on varying occasions, implied that certain referees had been corrupted by a rival club and had deliberately manipulated the outcome of certain matches to benefit a given football club (notably Benfica), further suggesting that the Refereeing Council might have been complicit in the scheme.

In view of the various remarks made, the President of the Disciplinary Board of the Portuguese Football Federation ordered:

- three sets of disciplinary proceedings against the Communications Director, Mr de Carvalho Marques, and the Futebol Clube do Porto SAD – Futebol SAD (for remarks made on 4-6 January 2017 and on 25-27 February 2017);
- disciplinary proceedings against Mr de Carvalho Marques (for remarks made on 28 February 2017 during a television programme);
- disciplinary proceedings against the applicant company (for comments made in an article in the 8 April 2019 daily edition of *Dragões Diário*);
- disciplinary proceedings against the President of the company, Mr Lima Pinto da Costa (for an editorial published in *Dragões Diário* on 6 May 2019 and widely quoted in sports newspapers, and for an interview published in the sports newspaper *O Jogo* on 14 May 2019).

The Disciplinary Board found the applicants guilty on various counts under the Disciplinary Regulations of the Portuguese Professional Football League, mainly that the allegations made against the Refereeing Council and referees had overstepped the mark, in breach of the latter's honour and reputation.

The applicants applied for mandatory arbitration proceedings in the Sports Arbitration Court, which upheld the decisions adopted by the Disciplinary Board, except in the case of the applicant company in application no. 47902/20. In that case the comments had gone no further than simple criticism of the technical performance of the referee. A subsequent appeal by the Portuguese Football Federation against that decision was dismissed, but the Supreme Court ultimately confirmed the Disciplinary Board's judgment finding all the applicants guilty.

The applicants lodged appeals with the Central Administrative Court for the South (CACs), arguing that the Sports Arbitration Court had failed to properly consider the climate of doubt and suspicion surrounding referees at the time and which provided a factual basis for their public criticism. The Portuguese Football Federation argued that that documentary evidence corresponded to news articles and opinions that had been conveyed by people who were not subject to the special duties of restraint and discretion that specifically applied to sports officials, football clubs and their staff. By suggesting that referees had deliberately favoured a particular team, the applicants had offended the honour and reputation of referees, undermined the credibility of refereeing, compromised the integrity of football competitions, and had overstepped the limits of their freedom of expression. The appeals were dismissed.

The applicants sought leave to lodge extraordinary applications for review with the Supreme Administrative Court, which rejected those requests.

Complaints, procedure and composition of the Court

Relying on Article 10 (freedom of expression), the applicants complained that the sanctions imposed on them had entailed a breach of their right to freedom of expression, arguing that they had confined themselves to expressing or imparting a view based on facts, on a matter of wide public interest and in a context of intense controversy.

Three of the applications were lodged with the European Court of Human Rights on 24 May 2019; the three others were lodged on 11 June 2019, 7 October 2020 and 10 January 2022.

Judgment was given by a Chamber of seven judges, composed as follows:

Lado **Chanturia** (Georgia), *President*,
Lorraine **Schembri Orland** (Malta),
Faris **Vehabović** (Bosnia and Herzegovina),
Anja **Seibert-Fohr** (Germany),
Ana Maria **Guerra Martins** (Portugal),
Anne Louise **Bormann** (Denmark),
Sebastian **Rădulețu** (Romania),

and also Hasan **Bakırcı**, *Section Registrar*.

Decision of the Court

In light of the similar subject matter of the applications, the Court examined them jointly in a single judgment. Its task was to ascertain whether the Portuguese authorities had struck a fair balance between the applicants' freedom of expression and the right to respect for reputation of the referees concerned and of the Refereeing Council.

The Court was of the opinion that referees participating in high-ranking football competitions were indeed subject to a degree of public exposure, in the light of their central role in football matches, the effect of their decisions and the high level of public attention they received. Consequently, referees and refereeing bodies might be subject to wider limits of acceptable criticism than ordinary citizens and might therefore be expected to endure harsh criticism, even if hostile in tone. It observed that the statements did not appear to relate directly to the referees' private lives, but rather to their professional conduct and public performance as referees.

The Court noted that almost all of the applicants' statements had been made in the aftermath of football matches between Portuguese clubs, including FC Porto and Benfica; they had been made in media affiliated with FC Porto and had been reproduced or reiterated in other football newspapers. The applicants had started by criticising the technical performance of the referees involved and what they perceived to be blatant mistakes. The Court acknowledged that such critical remarks were commonly made in the context of football, where incidents during a match often gave rise to varying and contested interpretations and opinions, often influenced by club affiliations. However, the applicants had not been sanctioned for that criticism, but for the allegations they had made about corruption and match manipulation and, as regards application no. 47902/20, for allegations about a lack of impartiality.

The Court observed that after conducting a detailed assessment of the facts and the context in which the statements had been made, the national courts had taken the view that those allegations were value judgments that had gone beyond acceptable criticism of the performance of the referees concerned and could therefore harm their honour and reputation because of their gratuitous and offensive character and the lack of an underlying minimal factual basis. The CACS, in application no. 29703/19, had identified what constituted admissible criticism and what did not; criticising the performance of referees, even with harsh words, was one thing, but instilling in the community, through conspiracy theories, the general idea of bias was something else. The Court agreed that, in view of the hyperbolic, exaggerated, metaphorical and speculative language used in the statements in the context of applications nos. 29978/19, 37235/19, 34185/19, 29703/19 and 3708/22, they could be analysed as value judgments without sufficient factual basis to substantiate the accusations of corruption and match manipulation. The Court concluded that the national authorities had carried out an appropriate balancing exercise between the competing interests at stake, in accordance with the criteria derived from national case-law. Accordingly, there had been no violation of Article 10 of the Convention in respect of the applicants in these applications.

