

IN THE MATTER OF A FOOTBALL ASSOCIATION
INDEPENDENT REGULATORY COMMISSION

BETWEEN:

THE FOOTBALL ASSOCIATION

and

MR RALPH HASENHUTTL

WRITTEN REASONS AND DECISION OF
THE INDEPENDENT REGULATORY COMMISSION FOLLOWING THE
HEARING
ON 22 OCTOBER 2021

Background

1. These are the written reasons for a decision made by an Independent Regulatory Commission which sat by video conference on 22 October 2021 to consider the charges against Mr Ralph Hasenhuttl.
2. The Regulatory Commission members were Mr Gareth Farrelly, Chairman and Independent Football Panel Member, Mr Brian Talbot, Independent Football Panel Member and Mr Martin Allen, Independent Football Panel Member.
3. Mr Michael O'Connor, Lead Judicial Services Officer, acted as Secretary to the Regulatory Commission.

Charges and Replies

4. By letter dated 14 October 2021, The Football Association ("The FA") charged Mr Ralph Hasenhuttl with misconduct for two breaches of Rule E3 in respect of comments that he made following the Chelsea FC v Southampton FC Premier League fixture on Saturday 2 October 2021.

Charge 1

5. It was alleged that Mr Hasenhuttl's comments set out below were improper in contravention of Rule E3(1), in that they questioned the integrity of the VAR Match Official and/or implied bias and/or brought the game into disrepute.
6. The following comments were taken from the BBC Radio Solent post-match interview on 2 October 2021:

"I haven't seen it so far. I've always, a little bit, eh, a problem when we know that Mike Dean is VAR, because we have not a good history to be honest. So I was relatively clear when he was checking it that it is, will be, difficult for us".

Charge 2

7. It was alleged that the comments set out below were improper in contravention of Rule E3(1), in that they questioned the integrity of the VAR Match Official and/or implied bias and/or brought the game into disrepute.
8. The following comments were taken from the BBC Sport post-match interview on 2 October 2021:

"I haven't seen it. I think they spoke about the red card from VAR, Mike Dean. I think he, that's the third time he gives us a red card as the VAR since I am here, when it was one, then it was one, okay",

9. The FA included the following evidence it intended to rely on in support of the

Charge:

- (i) An audio clip of the BBC Radio Solent post-match interview with Ralph Hasenhuttl;
 - (ii) A video clip of the BBC Sport post-match interview with Ralph Hasenhuttl;
 - (iii) Article reporting Ralph Hasenhuttl's post-match comments on the BBC website;
 - (iv) Article reporting Ralph Hasenhuttl's post-match comments on The Sun's website;
 - (v) Article reporting Ralph Hasenhuttl's post-match comments on the Daily Mail's website;
 - (vi) Letter from Chris Hall, Integrity Investigator at The FA, to Ralph Hasenhuttl, dated 6 October 2021;
 - (vii) Letter from Ralph Hasenhuttl to Chris Hall, dated 11 October 2021;
 - (viii) Extract of FA Rule E3 Season 2021-22 (page 124-125 of The FA Handbook 2021-22); and
 - (ix) Extract of 'Essential Information For Managers, Owners and Directors - 2021-22'.
10. On 19 October 2021, The FA informed Mr Hasenhuttl's representatives and the Club that following a review, the second charge was formally withdrawn.
11. On the same day, Mr Hasenhuttl admitted the remaining charge and requested a personal hearing. He submitted a detailed witness statement, that had been prepared before the second charge was formally withdrawn, the contents of which were read and noted.
12. For completeness, the Rule E3 (1) states that –

“A Participant shall at all times act in the best interests of the game and shall not act in any manner which is improper or brings the game into disrepute or use any one, or a combination of, violent conduct, serious foul play, threatening, abusive, indecent or insulting words or behaviour”.

Hearing

13. Mr Sam Shurey represented The FA. Mr Craig Harris represented Mr Hasenhuttl, who was also in attendance.
14. The following is a summary of the principal submissions provided to the Commission. It does not purport to contain reference to all the points made, however the absence of a point, or submission, in these reasons should not imply that the Commission did not take such point, or submission, into consideration when the members determined the matter. For the avoidance of doubt, the Commission has carefully considered all written, video and oral evidence in respect of this case.

15. Mr Shurey opened the case for The FA and led the Regulatory Commission through the main points of the case.
16. He led the Commission through the comments made in the interview. It was submitted that submissions or comments comparing the decisiveness of a Referee to other Referees were close to questioning the integrity of a Match Official and bring the game into disrepute. It was not accepted that the fact that the interview was given to a local radio station, amounted to mitigation, as it was reported to a narrower audience. It was evident that this had been picked up the wider press. This was unsurprising given that it was a Premier League fixture. There was limited mitigation as the listener did not have the benefit of knowing what was meant. The comments, were clearly, objectively about the Official personally. It was submitted that the Commission had a discretion with regard to any sanction. This was not a case that warranted a sporting sanction and any financial penalty should reflect the aggravating and mitigating factors submitted.
17. Mr Hasenhuttl apologised for the comments made, stating that he was required to give a number of interviews after the game. He did not remember every word, whilst dealing with the same questions. It was his position that he had used the wrong word, it was not his intention and it shouldn't have happened. This was not his first language and despite his proficiency there were still occasions where he found the wrong wording. This was the first time in three years where this situation had presented itself. He accepted it was his fault and what he said was far from what he sought to articulate. The point he was seeking to make was that the Official was known as being very decisive, and would not have an issue with making a given decision when required to do so. He, himself had seen the incident in question live, but had not seen it after the game and before he undertook his media obligations. This was something he would seek to remedy given the situation he has found himself in.
18. Mr Harris sought to re-affirm Mr Hasenhuttl's position. There was genuine credibility and contrition in his submissions. The FA had determined that he had not breached with the earlier interview he had given. This charge had been withdrawn (charge 2). He would like to have repeated the same answers with the other interviews he conducted, but this had not been the case. It was submitted that this case was far removed from other cases of this nature, he was of exemplary good character and had admitted the Charge at the earliest opportunity.
19. The Commission were informed that Mr Hasenhuttl had no previous disciplinary issues of a similar nature. They were also informed of his weekly net football income. A Premier League manager is constantly under incredible scrutiny. Therefore, it is imperative that they are precise in their speech when challenged by an insatiable media. The FA provides guidance to the managers, directors and owners. It is commonly known that any commentary about the Match Officials, positive or negative, could lead to investigation and charge. In this regard, Mr Hasenhuttl is a very experienced and capable manager, and he had named that Official. It was agreed

that this incident was at the lower end of the range, and therefore a financial sanction was appropriate.

Conclusion

20. Having considered all of the evidence in great detail and the submissions of the parties, the Regulatory Commission unanimously have imposed the following sanction on Mr Hasenhuttl:

- (i) He is fined the sum of £20,000; and
- (ii) Ordered to pay £900 towards the cost of the Regulatory Commission.

21. This decision is subject to the relevant Appeal Regulations.

Mr Gareth Farrelly, Chairman and Independent Football Panel Member

Mr Brian Talbot, Independent Football Panel Member

Mr Martin Allen, Independent Football Panel Member

27 October 2021

