

Rewinding the Beautiful Game: Should VAR Errors Warrant Rematches?

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Abstract

The trend in football has traditionally been against allowing appeals to replay matches, primarily due to the “field-of-play doctrine”, which limits the reviewability of on-field decisions by match officials. However, in January 2024, the Belgian Disciplinary Committee broke this trend. Although this decision was later overturned by the Belgian Court of Arbitration for Sport, it marked a first-of-its-kind decision at the highest level of football, with potentially far-reaching consequences for the sport. This paper aims to explore whether appeals should be allowed for a rematch if there has been a misapplication of the rules by VAR, a ground-breaking piece of technology that enables unprecedented precision in decision-making. It first examines the overall impact of VAR accuracy on in-match decision-making. It then discusses the problems that come with allowing such rematch appeals, such as the floodgates issue, the undermining of respect for decisions, and the increased fixture congestion caused by rematches. Ultimately, the paper concludes that the best option is to maintain the status quo—keeping the high threshold of the “field-of-play” doctrine in deciding these appeals, even with the advent of VAR, due to its inconsistent accuracy with rule-based and standard-based decisions as well as the various problems that come with allowing such rematch appeals.

Keywords

Football, sports arbitration, Video Assistant Referees (VAR), field-of-play doctrine, rematch appeals.

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1. Introduction

When it comes to allowing appeals to replay matches in football, the trend has traditionally been against the appellant, with very few cases given the green light for a rematch. This is mainly due to the observance of the “field-of-play doctrine” that has formed a core of the principles of sports since time immemorial. However, a recent decision by the Belgian Disciplinary Committee in January 2024 went against this norm. The incident took place in the 23rd minute of the match when Genk forward, Yira Sor scored on the rebound of a saved penalty taken by his teammate, Bryan Heynan. This goal was reviewed by the VAR which took note of the fact that Sor was inside the penalty area when Heynan struck the ball.² However, the replays also shockingly revealed that two Anderlecht players had also encroached into the penalty box at that time. This according to the rules of the game would have prompted the VAR and consequently, the referee to order a retake of the penalty. Instead, however, the VAR seemed to take notice of only the first encroachment resulting in the referee giving a free kick to Anderlecht who subsequently went on to secure a late victory in the match. Initially, Belgium’s refereeing body refused to allow a replay of the fixture. However, on appeal, the Belgian Disciplinary Committee overturned the refereeing body’s decision ordering a full rematch of the Jupiler Pro League game between Genk and Anderlecht due to misapplication of the rules by the match officials, which resulted in the goal being disallowed.³ Now, although this decision was later overturned by the Belgian Court of Arbitration for Sport, it was a first-of-its-kind decision at the highest level of football,⁴ with potentially far-reaching consequences for the sport as we know it. This paper aims to explore whether appeals such as these should be allowed for a rematch if there has been a misapplication of the rules by the VAR, a ground-breaking piece of technology that allows for greater precision in decision-making than ever seen before.

² ESPN (2024).

³ Ibid.

⁴ RSC Anderlecht (2024).

2. Understanding the “Field-of-Play” Doctrine

One of the main reasons the Belgian Court of Arbitration for Sport is likely to have reversed the decision of the Belgian Disciplinary Committee is likely to observe what is commonly known as the “Field-of-Play” doctrine in sports. The Field-of-Play doctrine is a longstanding legal principle in sports which limits the reviewability of the decisions on the playing field made by referees, judges, umpires and other match officials.⁵ It also allows reviewing “field-of-play” decisions if the game rules permit review and the rules allow for review “immediately after, or even proximate to the competition”.⁶ It aims to uphold the authority of such match officials and extends a “qualified immunity” to the decisions made by them. From the perspective of appellate sporting bodies, it acts as a judicial restraint of sorts on their ability to substitute their own judgment for that of match officials who are specially trained to deal with such on-field decisions.

Now, it is to be noted that the “qualified immunity”⁷ extended by the doctrine is not one without exception. In the case of the Court of Arbitration for Sport (CAS), it was held that CAS may only review such field-of-play decisions if the same is characterised by fraud, bad faith, bias, arbitrariness or corruption. The burden of proving any claims made under these grounds falls on the party making such allegation, which must be supplemented with strong evidence of the same. The threshold for proving these exceptions, as a result, is extremely high with sporting bodies most of the time opting to rebuff any appeals made purely regarding seemingly erroneous decisions by match officials. As a result, the threshold for proving these exceptions is extremely high, with sporting bodies often opting to rebuff appeals made purely regarding seemingly erroneous decisions by match officials. For instance, in the Japanese Triathlon Union case,⁸ where an athlete was disqualified on the grounds of “unfair contact”, the Field-of-Play doctrine was applied. It was determined that since the athlete’s arm was extended and it may have reasonably appeared to the referee that this constituted unfair contact, the absolute

⁵ *Japan Triathlon Union (JTU) v. International Triathlon Union*, CAS 2017/A/5373.

⁶ *Ibid.*

⁷ *Horse Sport Ireland (HSI) & Cian O’Connor v. Fédération Equestre Internationale (FEI)*, CAS 2015/A/4208.

⁸ *Japan Triathlon Union (JTU) v. International Triathlon Union*, CAS 2017/A/5373.

certainty of the actual contact being made was irrelevant in considering whether the decision was arbitrary.

In football, too, the Field-of-Play doctrine operates similarly to protect the authority of the referee's decisions. This is evident in the fact that no Premier League game has ever been replayed due to a refereeing error. However, there have been instances where the right to a replay has been granted. For example, during a 2006 Spartan South Midlands League clash between Edgware Town and Harefield United, a blatant misapplication of the Laws of the Game was seen. Here, the referee made an error similar to the one in the Genk-Anderlecht game by ruling out a penalty scored by Edgware and, instead, awarding a free kick to Harefield due to an encroachment infringement, whereas the rules demanded that the penalty be retaken.⁹ Initially, there were fears that this might set a precedent of undermining the referee's decisions, but that proved not to be the case. The tide still rests very much in favour of the Field-of-Play Doctrine, maintaining the authority of referees' decisions.

So, the question arises: Should the Field-of-Play doctrine maintain its high threshold in light of ground-breaking technological developments like VAR that enable much better decision-making? Or should the threshold remain the same, with any errors made by VAR still being covered by the traditionally high threshold of the principle? The next section will explore this debate, examining the overall foolproofness of VAR.

3. Examining the Accuracy of VAR: Rule-Based Decisions vs Standard-Based Decisions

The Video Assistant Referee (VAR) system is a recent technology introduced in football that helps referees make more accurate decisions during football games, in a bid to decrease human error that could affect the game's outcome. Here, a team of VAR officials in a separate room examines specific incidents such as goals (checking for violations such as offside or handball), penalty decisions (confirming whether a penalty should or should not be awarded), red card decisions (determining whether a direct red

⁹ Ross-Murray (2023).

card should or should not be issued), and cases of mistaken identity (correcting instances where the wrong player is penalized). When an incident happens, the on-field referee consults with the VAR crew, which reviews video footage of the action.¹⁰ The referee can then either follow the VAR team's suggestion or check the film on a pitch side monitor.

To assess whether football rematches should be allowed for VAR errors, one must first look at the overall accuracy of the decisions made by VAR. Jan Zglinski, in his article, “The Rules, Standards and the Video Assistant Referee”, aims to focus on just this. He separates decisions made by match officials into two categories: those based on rule-like laws and those based on standard-like laws. He argues that while VAR has largely improved the officiating of rule-based football decisions, the same cannot be said for its interpretation of standard-like offences.

3.1. VAR and Standard-based Decisions

Zglinski categorises standard-based laws as those where the referee must make a “judgment call”.¹¹ This according to him involves a two-step process. Firstly, a factual assessment is needed to determine if an event occurred. This is usually straightforward, such as determining if there was physical contact in accessing a potential red card situation. The second, and more crucial, step is an evaluative judgment. This, when assessing the severity of the foul to see if it constitutes “careless, excessive or reckless force”, for instance, requires considering factors like the “force of the contact, the speed of the action, and its impact on the opponent’s scoring opportunity”.¹² Here, the Laws of the Game do not provide a definitive line between permissible and punishable fouls, instead leaving it to the referee’s discretion to interpret the law. Thus, Zglinski argues that while VAR has significantly improved decision-making in rule-based scenarios, its effectiveness in standard-based decisions is less pronounced. This discrepancy arises from the dual nature of VAR’s role in standard-based situations: it is required to not only adjudicate the occurrence of a fact but also make an evaluative judgment of the same.

¹⁰ Video Assistant Referee (VAR) protocol | IFAB.

¹¹ Zglinski (2022), p. 8.

¹² Ibid.

This evaluative judgment can vary due to both a lack of precedential value of previous standard-based decisions and the weighing up of several factors to decide if a certain offence matches the “clear and obvious error” standard. Furthermore, VAR also has trouble accessing standard-based decisions with consistent accuracy as it is simply the second opinion of another referee who is “epistemically better equipped” than the on-field one.¹³ As the evaluative judgment of decisions is still to be taken by a referee in the VAR room who then has to communicate it to the main referee, the evaluation of such decisions thus produces inconsistent results with there are no objective criteria to determine what constitutes an offence. This is especially true when it comes to major incidents in a football match like red card and penalty decisions. For example, in a match between Arsenal and AFC Bournemouth saw Gunners defender, William Saliba, get a straight red card for a last-man challenge near the halfway line. Ironically, the following day, Chelsea defender Tosin Adarabioyo committed a similar foul but only received a yellow card, even after VAR review.¹⁴ In penalty incidents, too, the same inconsistency is seen where a referee awards a penalty for select infringements while turning a blind eye to others. For instance, Tottenham defender Cristian Romero’s handball incident against Manchester United, where he blocked Alejandro Garnacho’s shot with a raised hand, was not deemed intentional or unnatural by the referee or VAR.¹⁵ However, just a month later, a similar incident involving Romero against Arsenal took place, with a similarly raised hand closer to the goal. This time, however, the decision by the referee prompted by the VAR check was to give the penalty.

This inconsistency in decision-making highlights the subjectivity of refereeing decisions. This inconsistency is further exacerbated by the limits placed on VAR, which is only permitted to intervene in such incidents after the referee has made a decision characterized by the ambiguous “clear and obvious error” standard. As a result, we can conclude that, for standard-based decisions, as Zgliniski claims, the VAR is less effective in assisting the referee in making consistently accurate decisions, undermining the overall accuracy of the technology.

¹³ Ibid, 13.

¹⁴ Daily Cannon (2024).

¹⁵ ‘Sky Sports (2023).

3.2. VAR and Rule-based decisions

Zgliniski terms rule-based laws as those which are structured in a way that “if a specific fact occurs (or a set of facts), this triggers a certain pre-defined legal response”.¹⁶ In the football context, it could refer to rules such as the whole of the ball must pass the goal line for a team to score successfully and be awarded a goal and to an extent, the offside rule. Another example would be the rule that stipulates that a throw-in is awarded if the ball goes out of play on the touchline. In such cases, the main focus of the decision is the occurrence of the given situation or prohibited action which would then trigger the enforcement of the award or sanction by the referee. It is here that Zgliniski says VAR has brought the maximum improvements.¹⁷ A study on the impact of VAR in the overall decision-making in association football referees further confirms this fact. The study, analysing 2195 matches across 13 national football associations, revealed a significant increase in the accuracy of clear-cut rule-based decisions from 92.1% to 98.3% post-VAR implementation.¹⁸ This improvement also surpasses the findings of previous studies, which indicated referee accuracy rates in real-time ranging from 64% to 77% for specific incidents during games.¹⁹ Thus, it can be concluded that Zgliniski is right in his assertion that VAR has provided significant improvements.

However, such improvements do not entail that VAR has ensured a fool-proof enforcement of rule-based laws. For example, a high-profile Premier League clash between Tottenham Hotspur and Liverpool saw an incident where Liverpool winger, Luis Diaz, was initially wrongly flagged for offside by the linesman.²⁰ The incident then went on to be scanned by VAR which manually placed the lines and controversially declared that the on-field decision was indeed correct. However, an audio release of the VAR communications by the Professional Game Match Officials Limited (PGMOL) showed that the referee in the VAR room had thought that the decision was onside and had told the on-field referee that the check was complete and no alteration needed to be made to the initial decision. It was only moments later when the relay operator pointed out this

¹⁶ Zgliniski (2022), p. 6.

¹⁷ Ibid, 11.

¹⁸ Spitz et al. (2021), p. 150.

¹⁹ Ibid.

²⁰ Minassian (2023).

error that the VAR official, Darren England, realised he had made a grave mistake. However, as the match had already been allowed to continue, England stated that he “can’t do anything” and ended up not reversing the erroneous decision. A lengthy apology from the PGMOL including the aforementioned audio release followed along with a suspension for both officials operating the VAR room on that day.²¹ What this incident proves is that even if the accuracy is increased by the introduction of the VAR, it is still not a technology that can guarantee 100% accuracy even when it comes to enforcing rule-like laws. This mix-up between the VAR officials and the referee shows that a human element is still involved even in making decisions that seem clear-cut, like offside calls, where communication between the match officials plays a crucial role. The manual drawing of lines by VAR officials is also something where seemingly the rule-based law of offside can face a possibility of human error. An example of this occurred in the Brighton and Hove Albion vs. Crystal Palace match, where left-back Pervis Estupiñan’s goal was controversially ruled out. Here, the VAR officials failed to accurately draw the offside line from the last defender back, leading to an incorrect decision.²²

Now, to mitigate the impact of such human errors in offside decisions, Semi-Automated Offside Technology (SAOT) has been introduced in select leagues and competitions. This technology uses cameras and ball-tracking technology to automatically detect offside incidents in football, aiming to improve the accuracy, speed, and transparency of offside decisions.²³ However, like VAR, even the SAOT is not free from error. This was seen in a recent match between Barcelona and Real Sociedad where Barcelona frontman Robert Lewandowski’s goal seemed to be incorrectly ruled out due to a technical error where the system mistakenly identified a defender’s foot as Lewandowski’s, leading to a controversial offside call.²⁴

3.3. The Subjective Offside: Blurring the Lines between Rules and Standards

The offside rule has recently seen yet another development with the appearance of what was called a “subjective offside” call. Zgliniski has noted in his article that, over time,

²¹ Ibid.

²² Stone (2023).

²³ FIFA (2022).

²⁴ Ballús (2024).

some rules can partially or wholly crystallize into standards.²⁵ That may have been the case when Manchester United took on Fulham and had a goal ruled out for offside.²⁶ What was interesting about this case was that the VAR found that the actual scorer of the goal was not offside. Instead, it was Manchester United defender, Harry Maguire who had possibly disturbed play. Thus, the VAR asked the referee to review whether it was a “subjective offside”. Instead of determining whether either player was offside, the referee was simply asked by VAR to see if Maguire was interfering with the play. If he had done so, it would be ruled offside, as the England international was in an offside position. If he had not interfered, according to the referee, the goal would be given since the scorer, Scott McTominay, was clearly onside. In the end, the referee adjudged that Maguire had interfered with play, thus making a never-before-seen “subjective offside” What this incident demonstrates is that even among rule-based decisions, there may be times when the application of standards becomes necessary. The offside rule, in itself, is a concrete rule applied when a certain set of facts occurs. However, in this case, VAR recommended the referee to adjudge whether the player was “interfering with play”. Unlike the general offside rule, this determination cannot be derived from objective criteria and requires the referee to make an evaluative judgment. Thus, as seen in other decisions based on standard-based laws, VAR’s assistance is limited to supplementing the referee’s decision-making authority with better knowledge.

It is thus concluded that errors made by VAR should not lead to rematch appeals being accepted, similar to the Belgian Disciplinary Committee’s judgment. While it is true that VAR has improved overall decision-making in the sport by enforcing both rules and standards, the epistemic advantage provided by VAR does not equate to a Herculean judge in the Dworkinian vision, who has unlimited access to legal and worldly knowledge and can arrive at a singularly correct decision every time. Instead, as mentioned earlier, VAR serves merely as a second referee with better knowledge, enabling them to view incidents again from different angles and more closely.

²⁵ Zglinski (2022), p. 6-7.

²⁶ Husband B (2023).

4. The Problem with Allowing Appeals for Rematches

In the previous section, it has been extensively discussed that the introduction of VAR technology alone does not guarantee full accuracy of its decisions. Decisions especially those based on standards, tend to be inconsistent, subjective and not feasible to allow appeals on rematches. But what about where mistakes have been admitted by the refereeing bodies themselves regarding VAR? For example, take the previously mentioned Luis Diaz incident where PGMOL themselves admitted fault. Should the threshold be decreased for cases such as this, in allowing replay appeals? This section explores the various consequences that come attached to the dilution of the Field-of-Play doctrine to allow rematches.

4.1 The Floodgates Principle

The floodgates principle refers to a situation where enabling a party to succeed in a dispute could open the metaphorical “floodgates” to a whole host of other litigation – a lot of which has the potential to be frivolous. That is the exact situation which is feared by sporting appellate bodies when upholding the field-of-play doctrine and denying replays for rematches on incidents. Now, if that trend changes, it is still likely to be problematic as then every other club is likely to pursue litigation for any and every error committed by match officials as it is likely to increase the workload on these institutions with a lot of claims likely being of frivolous nature. As clubs would now be given an opening to challenge any minute decision that they deem an error it would lead to a flood of appeals at the Court’s doorstep. It is as the Korean Olympic Committee Case rightly remarked:

“Every participant in a sport in which referees have to make decisions about events on the field of play must accept that the referee sees an incident from a particular position, and makes his decision on the basis of what he or she sees. Sometimes mistakes are made by referees, as they are by players. That is an inevitable fact of life and one that all participants in sporting events must accept. But not every mistake can be reviewed. It is for that reason that CAS jurisprudence makes it clear that it is not open to a player to

*complain about a “field of play” decision simply because he or she disagrees with that decision”.*²⁷

4.2 Respect for Referee’s In-Match Decisions

Secondly, it would significantly undermine the authority of referee decisions, which would be challenged at every minor disagreement by a club. One of the primary reasons for the continued use of the Field-of-Play doctrine is to promote respect for the decisions made by professional referees with the necessary skills. If rematches were awarded for every error, whether admitted by the refereeing association or not, the referee’s autonomy to make final and binding decisions on the field would be undermined and those decisions would be subject to constant review and scrutiny even after the match was over. Furthermore, constantly questioning and overturning referee decisions may disrupt the flow and continuity of competitions, opening the door to an endless stream of appeals and rematches. This would not only impose excessive administrative burdens on governing bodies, but it would also undermine the essence of sportsmanship, which emphasizes respect for the referee’s role.

4.3 Fixture Congestion and Increased Player Injury

Former Bayern Munich CEO and player, Karl-Heinz Rummenigge said the following about the current scenario of fixture congestion across European football: *“Players and their agents have fallen into this calendar trap. By demanding ever-higher salaries, they force clubs to generate ever-higher revenues. And how do they generate this revenue? Through more games”*. While the complete veracity of this claim cannot be fully verified, football has indeed become increasingly lucrative, prompting organizing bodies such as UEFA to amp up the number of games in recent years. This is evident with the introduction of new competitions like the UEFA Conference League and Nations League, as well as the overhauled formats of traditional competitions such as the UEFA Champions League and Europa League,²⁸ all of which require more games.

²⁷ Korean Olympic Committee (KOC) / International Skating Union (ISU), CAS OG 02/007.

²⁸ UEFA (2024).

Additionally, the increase in match time due to high stoppage times, seen throughout the 2023-24 Premier League season and the 2022 World Cup in an attempt to prevent time wasting, has made matches longer.²⁹ Although this rule has been revised and the overall number of stoppage minutes has consequently decreased in the current 2024-25 season,³⁰ the volatile nature of rule changes means that such rules could be reinstated at any time. Coupled with the intense match intensity of the modern game, especially at the top level, this has led to an increase in fixture congestion. Now, with the rise of fixture congestion, studies show that player injury risk consequently increases.³¹ This is evidenced by the large number of injuries in recent times, particularly in the 2023-24 season, where injury crises in the Premier League were rampant, with an 11% increase in total injuries from the previous season.³² Now, allowing rematches for refereeing errors would only exacerbate this issue, adding even more matches to an already overcrowded fixture list. While adding one or two more matches might not seem significant, if this trend were to become common, it could make football seasons unbearably congested, detrimentally impacting players, coaching staff, and medical staff who have to deal with harsher conditions as the years go by.

5. Conclusion

From this paper, it is clear that the Belgian Court of Arbitration for Sport was correct in deciding that the Belgian Disciplinary Committee was not right to order a replay of the match due to a VAR error. This article illustrates that VAR is not a technology that guarantees 100% accurate decision-making. Nor is it just an additional referee with more knowledge due to access to footage that the on-field referee would not normally have in real-time. The introduction of VAR has undoubtedly improved the accuracy of decision-making in football, particularly in rule-based scenarios. However, its effectiveness in standard-based decisions remains less certain due to the subjective nature of such judgments and the “clear and obvious error” threshold. While VAR has the potential to

²⁹ Burlaga and Buckingham (2023).

³⁰ Johnson (2024).

³¹ Page et al. (2023).

³² McKenna (2024).

reduce human error, it is not infallible, as evidenced by incidents like the Luis Diaz offside controversy and the recent Barcelona-Real Sociedad match.

Allowing rematch appeals for VAR errors might seem appealing, but it carries significant risks. The floodgates principle suggests that it could lead to a surge in frivolous appeals, undermining the authority of match officials and disrupting the flow of competitions. Additionally, increasing the number of matches due to rematches would exacerbate fixture congestion and potentially increase player injury risks.

Therefore, it can be concluded that the best course of action is to maintain the status quo and not entertain appeals for refereeing errors, even with the advent of VAR. Instead, football authorities should prioritize improving decision-making by match officials by refining VAR rules, such as better clarifying the problematically vague “clear and obvious error” threshold.

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