



LEGAL DIVISION
DISCIPLINARY AND INTEGRITY UNIT

Case Law

Control, Ethics and Disciplinary Body & Appeals Body

Season 2015/2016
July 2015 - December 2015

CONTENT

| | |
|--|-----------|
| FOREWORD | 4 |
| CONTROL, ETHICS AND DISCIPLINARY BODY | 7 |
| Decision of 8 July 2015 | 8 |
| VPS Vaasa | 8 |
| (racist behavior and crowd disturbances) | 8 |
| Decision of 13 July 2015 | 13 |
| Valletta FC | 13 |
| (direct red card)..... | 13 |
| Decision of 15 July 2015 | 16 |
| Neftçi PFK | 16 |
| (red card and mass confrontation) | 16 |
| Decision of 23 July 2015 | 20 |
| Beitar Jerusalem FC..... | 20 |
| (racist behavior, improper conduct of supporters and improper conduct of the team).... | 20 |
| APPEALS BODY | 31 |
| Decision of 17 June 2015 | 32 |
| Danish Football Association | 32 |
| (throwing of objects)..... | 32 |
| Decision of 17 June 2015 | 36 |
| Portuguese Football Federation | 36 |
| (rough play- red card)..... | 36 |
| Decision of 23 July 2015 | 41 |
| Olympiacos FC | 41 |
| (rough play-red card)..... | 41 |
| Decision of 27 August 2015 | 47 |
| Fenerbahçe SK | 47 |
| (improper conduct of coach; throwing of objects)..... | 47 |
| Decision of 11 September 2015 | 56 |
| FC Midtjylland | 56 |
| (homophobic chants)..... | 56 |

| | |
|--|------------|
| Decision of 17 September 2015 | 62 |
| Feyenoord | 62 |
| (racist behaviour/throwing of an inflatable banana) | 62 |
| Decision of 17 September 2015 | 70 |
| Football Club Zenit | 70 |
| (illicit banners) | 70 |
| Decision of 17 September 2015 | 78 |
| Croatian Football Federation | 78 |
| (racist behaviour) | 78 |
| Decision of 17 September 2015 | 86 |
| FK Budućnost Podgorica..... | 86 |
| (no internet connection/no WIFI; admissibility)..... | 86 |
| Decision of 17 September 2015 | 90 |
| KKS Lech Poznań | 90 |
| (propaganda; illicit banner)..... | 90 |
| Decision of 17 September 2015 | 97 |
| FK Kukësi..... | 97 |
| (match not taken place in full; fireworks; illicit banners) | 97 |
| Decision of 25 September 2015 | 110 |
| Sporting Clube de Portugal, Portugal | 110 |
| (assault; red card) | 110 |
| Decision of 9 October 2015 | 117 |
| Bulgarian Football Union..... | 117 |
| (red card; assault) | 117 |
| Decision of 26 November 2015 | 122 |
| Hapoel Beer-Sheva | 122 |
| (direct red card)..... | 122 |
| Decision of 26 November 2015 | 129 |
| WKS Śląsk Wrocław SA..... | 129 |
| (racist behaviour) | 129 |
| Decision of 26 November 2015 | 134 |
| Hungarian Football Federation | 134 |
| (racist behavior and improper conduct of supporters)..... | 134 |

| | |
|--|------------|
| Decision of 26 November 2015 | 142 |
| Croatian Football Federation | 142 |
| (serious foul play; red card) | 142 |
| Decision of 26 November 2015 | 148 |
| FC Lokomotiv Moskva | 148 |
| (red card- unsporting conduct; crowd disturbances) | 148 |
| Decision of 26 November 2015 | 158 |
| Fenerbahçe SK | 158 |
| (protest)..... | 158 |
| Decision of 16 December 2015 | 170 |
| FC Barcelona..... | 170 |
| (illicit banners and chants) | 170 |
| Decision of 16 December 2015 | 180 |
| Football Association of Serbia | 180 |
| (assault – red card)..... | 180 |
| Decision of 16 December 2015 | 186 |
| Legia Warszawa..... | 186 |
| (illicit banner) | 186 |
| Decision of 16 December 2015 | 193 |
| Football Federation of FYR Macedonia..... | 193 |
| (direct red card)..... | 193 |
| Decision of 16 December 2015 | 197 |
| KKS Lech Poznań | 197 |
| (illicit banner) | 197 |
| Decision of 16 December 2015 | 206 |
| S.S. Lazio | 206 |
| (red card; inadmissibility)..... | 206 |
| Decision of 16 December 2015 | 211 |
| Austrian Football Association | 211 |
| (assault) | 211 |
| Decision of 16 December 2015 | 216 |
| Borussia Dortmund | 216 |
| (illicit banner) | 216 |



Foreword

Dear Sir or Madam,

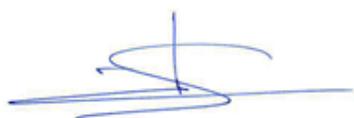
I am pleased to provide you with the case law of the UEFA Control, Ethics and Disciplinary Body and the UEFA Appeals Body for the period July to December 2015.

According to Article 45 of the UEFA Disciplinary Regulations: "The UEFA administration publishes decisions issued by the disciplinary bodies. Where such a decision contains confidential information, the UEFA administration may decide, ex officio or at the request of either one of the parties or the disciplinary inspector, to publish an anonymised version."

This document contains the leading cases from the UEFA Control, Ethics and Disciplinary Body, as well as all of the decisions of the UEFA Appeals Body during this time period.

Yours faithfully,

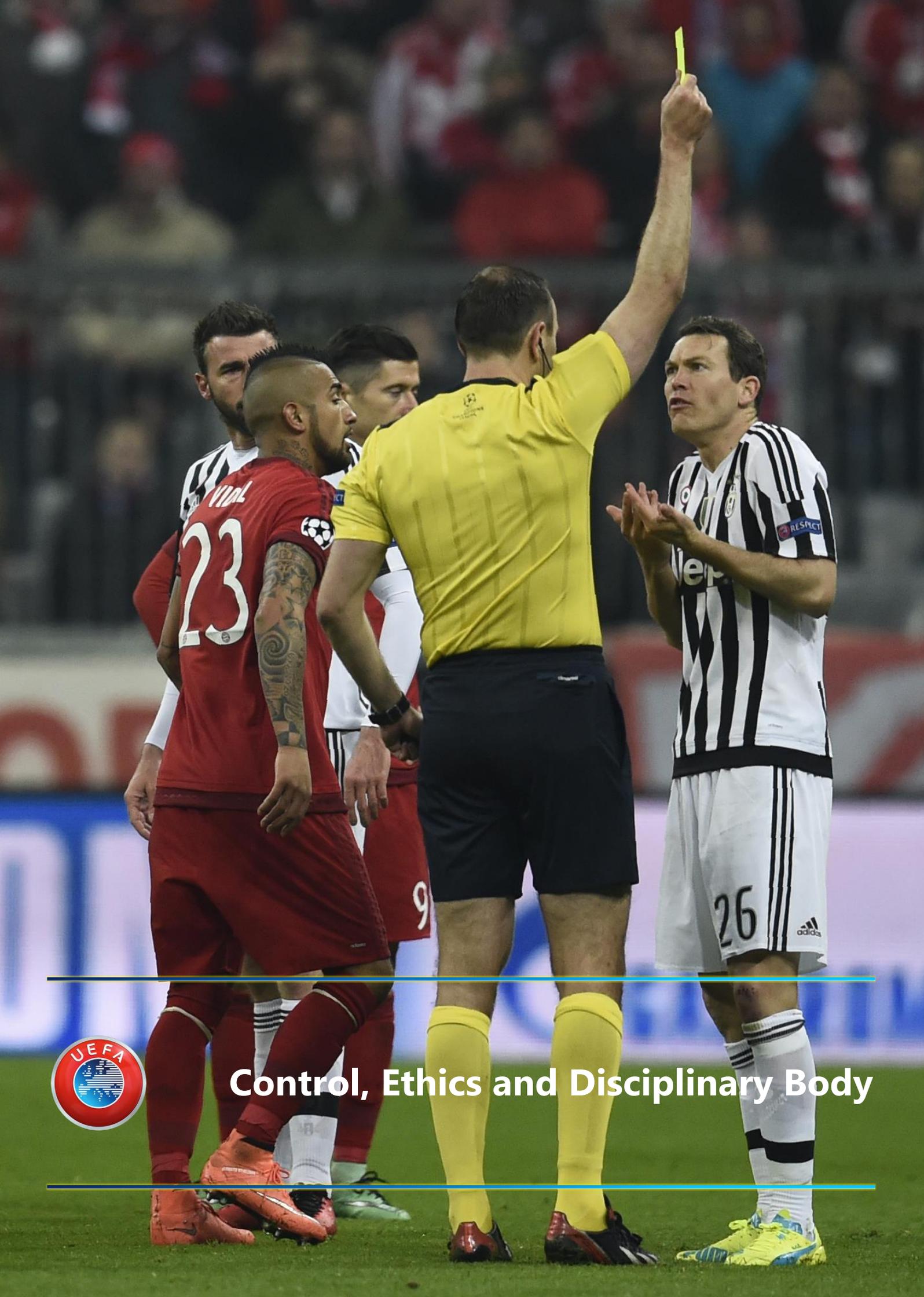
UEFA

A handwritten signature in blue ink, appearing to read 'Emilio García', with a horizontal line underneath.

Emilio García
Head of Disciplinary and Integrity

While you are looking through the document, if you wish to return to the contents page, please click on the 'Case Law' heading at the top of each page. Also, if you would like to skip to a specific case, please click on the name of the case in the table of contents and you will be taken directly to the case.

I hope this document is helpful for you and we remain at your disposal should you have any questions.



Control, Ethics and Disciplinary Body

Decision of 8 July 2015

VPS Vaasa

(racist behavior and crowd disturbances)

Circumstances of the case:

After warm-up, around 18.48 away team players left the pitch and when they came close to the stand home fans located above the entrance, started to abuse them. Their target were especially away team coloured players. They chanted "Swedish gypsies" booing and also try to spat on the players.

Same kind of incidents happened again after the match, when away players left the pitch. Home fans again booing coloured away team players and again chanted Swedish gypsies.

Legal framework: Article 14 and 16 (2) DR

Decision

To order the partial closure of the VPS Vaasa Stadium during the next (1) UEFA competition match in which VPS Vaasa would play as the host club. VPS Vaasa shall inform at least 4 days prior to the match, the sector(s) to be closed, which shall at least comprehend 500 seats. To fine VPS Vaasa € 5'000 for the crowd disturbances.

Chairman: Thomas Partl (Austria)

Vice-Chairmen: Jim Hansen (Denmark)
Sandor Berzi (Hungary)

I. Facts Of The Case

1. The elements set out below are a summary of the main relevant facts, as established by the Control, Ethics and Disciplinary Body on the basis of the official reports, the written submissions, the exhibits filed and the statements produced in the course of the Control, Ethics and Disciplinary Body proceedings. While this UEFA disciplinary body has considered all the facts, allegations, legal arguments and evidence submitted by the club in these proceedings, it refers in the present decision only to the submissions and evidence it considers necessary to explain its reasoning.
2. Briefly, the most relevant facts of this case can be summarized as follows:
 - After warm-up, around 18.48 away team players left the pitch and when they came close to the stand home fans located above the entrance, started to abuse them.

Their target were especially away team coloured players. They chanted “Swedish gypsies” booing and also try to spat on the players.

- Same kind of incidents happened again after the match, when away players left the pitch. Home fans again booing coloured away team players and again chanted Swedish gypsies.

II. The Respondent’s position

3. The Club in its statements dated on 7 July 2015 argues that the chant is the one used from other Fan clubs in Sweden, which are AIK rivals. The chant goes on like “Solna Tattare” which is a common nickname for all AIK fans.
4. Further the Club states that the supporters did not know what the chant possibly meant and by no means this chant was used against coloured people alone, but against AIK supporters and all AIK players in common.
5. Fans have no reason whatsoever to have coloured players as a target, being the Club very international club and the city of Vaasa living over 100 different nationalities.
6. Regarding the crowd disturbances, the Club stresses that the referred attitude of supporters is quite usual after a game.
7. The more detailed arguments made by the club in support of its written submissions are set out below in as far as they are relevant.

III. Merits of the Case

A. UEFA’s competence.

8. Pursuant to Article 52 of the UEFA Statutes, as well as Article 23 of the UEFA Disciplinary Regulations (DR), the Control, Ethics and Disciplinary Body is competent to deal with the case.
9. In light of the above, the UEFA Statutes, rules and regulations, in particular the UEFA Disciplinary Regulations are applicable to these proceedings.

B. The crowd disturbances

a) Applicable legal framework and general remarks

10. According to Article 16 (2) DR:

However, all associations and clubs are liable for the following inappropriate behaviour on the part of their supporters and may be subject to disciplinary measures and directives

even if they can prove the absence of any negligence in relation to the organisation of the match:

- a) *the invasion or attempted invasion of the field of play;*
- b) *the throwing of objects;*
- c) *the lighting of fireworks or any other objects;*
- d) *the use of laser pointers or similar electronic devices;*
- e) *the use of gestures, words, objects or any other means to transmit any message that is not fit for a sports event, particularly messages that are of a political, ideological, religious, offensive or provocative nature;*
- f) *acts of damage;*
- g) *the disruption of national or competition anthems;*
- h) *any other lack of order or discipline observed inside or around the stadium.*

11. According to Article 8 DR, which stipulates the principle of “strict liability”, and Article 16 (2) DR, which picks up on such, the club is to be held responsible for the improper conduct of its supporters, even if it might not be at fault itself.
12. According to Article 38 DR, facts contained in official UEFA reports are presumed to be accurate. Proof of their inaccuracy may, however, be provided.

b) The responsibility of the club

13. In the case in hand, before and after the match home fans abused and spat on some of the away team players when they were returning to the dressing room.
14. The above described incidents involving spitting and abusing of the opponent players can only be qualified as an act of hooliganism, which is considered as a particular serious offence. Such behaviours are all the more unacceptable as they tarnish the image of football and UEFA.
15. The Control, Ethics and Disciplinary Body recalls that according to Article 8 DR, which stipulates the principle of strict liability, clubs and member associations are to be held liable for the conduct of their supporters, even if they are themselves not at fault. Art. 16 (2) (h) DR picks up on this principle.
16. The arguments put forward by the Club are not enough to breach the accuracy of the UEFA official report which explicitly and comprehensively referred to this incident in both his UEFA delegate and additional report.
17. Bearing the above in mind, the Club is to be held responsible for the improper conduct of its supporters in accordance with Article 16 (2) (h) DR and must be punished accordingly.

C. The racist behaviour

a) Applicable legal framework and general remarks

18. According to Article 8 DR, a member association or club that is bound by a rule of conduct laid down in UEFA's Statutes or regulations may be subject to disciplinary measures and directives if such a rule is violated as a result of the conduct of one of its members, players, officials or supporters and any other person exercising a function on behalf of the member association or club concerned, even if the member association or the club concerned can prove the absence of any fault or negligence.
19. According to Article 14 (1) DR, any person under the scope of Article 3 who insults the human dignity of a person or group of persons on whatever grounds, including skin colour, race, religion or ethnic origin, incurs a suspension lasting at least ten matches or a specified period of time, or any other appropriate sanction.
20. According to Article 38 DR, facts contained in official UEFA reports are presumed to be accurate. Proof of their inaccuracy may, however, be provided.

b) The responsibility of the club

21. Article 14 DR is a special rule taking over the principle set out in Article 8 DR which stipulates that member associations and clubs are responsible for racist conducts of their supporters. This responsibility is given for offences committed by any person supporting the team before, during or after the match, irrespective of the fault of the club or association in question (strict liability).
22. The fight against racism is a high priority for UEFA. UEFA has a policy of zero tolerance towards racism and discrimination on the pitch and in the stands. All racist misbehaviours shall be considered as serious offences against the disciplinary regulations and shall be punished regarding the circumstances and the previous records with the utmost severe sanctions.
23. In the case in hand, before and after the game the Club's supporters chanted Swedish gypsies booing. As per the delegate's report their target were especially away team coloured players.
24. It shall be recalled that according to Article 38 DR, facts contained in official UEFA reports are presumed to be accurate. Proof of their inaccuracy may, however, be provided.
25. The Club stresses, first, that its supporters chanted a chant given to the AIK by their Swedish opponents in Sweden, secondly, that it has no racist or discriminatory content, thirdly, its supporters did not knew what they were chanting, and, finally, it stresses that both the Club and city are very international, being no reason for the supporters to act in a racist manner.

26. The Control, Ethics and Disciplinary Body cannot comply with the assertions of the Club. The fact that the chant is given by other fan groups to AIK or that the VPS Vaasa did not understand the content of the chant is irrelevant since the content of the chant is indistinctly discriminatory as it tries to insult the AIK supporters by calling them “gypsies” and hereby denigrating an ethnic group whilst using them for insulting purposes, a shameful and disgusting conduct which stands within the definition provided by Article 14 DR (CAS 2013/A/3324 and 3369)
27. In this regard, this UEFA disciplinary body is convinced that the description provided by the UEFA delegate reflect a racist conduct emanating from a VPS Vaasa supporter and falls under the scope of Article 14 (1) DR.
28. Consequently, as the racist behaviour of the VPS Vaasa supporter has been established, the Club shall be held responsible for its supporter’s racist behaviour and must be sanctioned accordingly.

IV. The determination of the appropriate disciplinary measure

29. As regards to the racist behaviour, the Control, Ethics and Disciplinary Body draws the attention to the fact that after the enforcement of the Disciplinary Regulations Edition 2013, confirmed again in the UEFA Disciplinary Regulations Edition 2014, the fight against racist behaviour has entered into a new stage. It has resulted in more severe sanctions towards racist behaviours. As such, if one or more of a member association or club’s supporters engage in the behaviour described in Article 14 (1), the member association or club responsible is punished with a minimum of a partial stadium closure (Article 14 (2) DR). Only in exceptional circumstances the related sanctions concerning this misbehaviour, which are contained in Article 14 (2) and (3) DR, are to be modified.
30. Bearing in mind the above, the Control, Ethics and Disciplinary Body decides to order the partial closure of VPS Vaasa Stadium during the next (1) UEFA competition match in which VPS Vaasa would play as the host club. VPS Vaasa shall inform at least four days prior to the match, the sector(s) to be closed, which shall at least comprehend 500 seats.
31. Regarding the improper conduct of supporters, based on Article 17 DR the Control, Ethics and Disciplinary Body determines the type and extent of the disciplinary measures to impose according to the objective and subjective elements of the case, taking into account any aggravating and mitigating circumstances. In the case of multiple offences, the punishment shall correspond to the most serious offence and be increased depending on the specific circumstances.
32. In the present case, the Control, Ethics and Disciplinary Body identified and took into account the seriousness the offences.
33. In the light of the above considerations, the Control, Ethics and Disciplinary Body deems that a fine 5’000 for the improper conduct of the supporters is the adequate disciplinary measure.

Decision of 13 July 2015

Valletta FC

(direct red card)

Circumstances of the case

In the 74th minute of the game the Valletta FC player Ryan Camilleri made a sliding tackle from the front of his opponent using his studs. The ball was not there and out of a playable distance and the tackle was committed with a high intensity. He kicked his opponent with his studs and with sole on his leg and therefore endangered the safety of the opponent.

Legal framework: Article 15 DR

Decision

To suspend the Valletta FC player Ryan Camilleri for four (4) UEFA competition matches for which he would be otherwise eligible.

Ad-hoc Chairman: Jim Hansen (Denmark)

Vice-Chairman: Sandor Berzi (Hungary)

Members: Jacques Antenen (Switzerland)
Hans Lorenz (Germany)
Tomàs Gea (Andorra)
Kepa Larumbe (Spain)

I. Facts Of The Case

1. The elements set out below are a summary of the main relevant facts, as established by the Control, Ethics and Disciplinary Body on the basis of the official reports, the written submissions, the exhibits filed and the statements produced in the course of the Control, Ethics and Disciplinary Body proceedings. While this UEFA disciplinary body has considered all the facts, allegations, legal arguments and evidence submitted by the club in these proceedings, it refers in the present decision only to the submissions and evidence it considers necessary to explain its reasoning.
2. Briefly, the most relevant facts of this case can be summarized as follows:
 - In the 74th minute of the game the Valletta FC player Ryan Camilleri made a sliding tackle from the front of his opponent using his studs. The ball was not there and out of a playable distance and the tackle was committed with a high intensity. He kicked his opponent with his studs and with sole on his leg and therefore endangered the safety of the opponent.

II. Merits of the Case

A. UEFA's competence.

3. Pursuant to Article 52 of the UEFA Statutes, as well as Article 23 of the UEFA Disciplinary Regulations (DR), the Control, Ethics and Disciplinary Body is competent to deal with the case.
4. In light of the above, the UEFA Statutes, rules and regulations, in particular the UEFA Disciplinary Regulations are applicable to these proceedings.

B. The red card

a) Applicable legal framework and general remarks

5. According to Article 15 (1) (e) DR, suspension for three competition matches or a specified period for assaulting another player or another person present at the match.
6. According to Article 38 DR, facts contained in official UEFA reports are presumed to be accurate. Proof of their inaccuracy may, however, be provided.

b) The responsibility of the player

7. The UEFA disciplinary bodies have stipulated a number of times that any act committed with direct or oblique intention through which the physical or psychological well-being of the referee, a player or any other person present at a match is harmed or threatened, before, during or after the game, constitutes serious unsporting conduct classified under the general term "assault" in accordance with Article 15 (1) (e) DR. In the case of a particularly serious attack on a person's physical or psychological well-being, we therefore talk of "serious assault" in the sense of letter g) of this same provision.
8. According to the constant practice of the UEFA disciplinary bodies, assault in the sense of the above provision consists of any act committed not only intentionally but also recklessly by which the opponent's physical or psychological well-being is interfered with. Such an act would involve aggressive contact such as slapping, head butted, kicking, punching, shaking, pushing, pinching, hitting, spitting.
9. It shall be noted that important elements to infer the existence of an assault are the presence of a challenge for the ball and the dangerousness of the action.
10. In the case in hand, Valletta FC player Ryan Camilleri made a sliding tackle from the front of his opponent using his studs. The ball was not there and out of a playable distance and the tackle was committed with a high intensity.

11. According to Article 38 DR: “Facts contained in official UEFA reports are presumed to be accurate. Proof of their inaccuracy may, however, be provided”.
12. Consequently, to tackle an opponent with high intensity, endangering the safety of the latter, and without the ball in playing distance as described by the referee above constitutes assault under the terms of Article 15 (1) (e) DR.

III. The determination of the appropriate disciplinary measure

13. As regards the fixing of the sanction, the existence of both aggravating and exonerating circumstances must be examined (article 17 DR).
14. Tackling an opponent without challenging the ball, endangering, hereby the opponent’s safety, is an act of assault, which, as a matter of principle, does not allow a plea of mitigation.
15. The Control, Ethics and Disciplinary Body has taken into consideration the fact that the player has previous record from the last five years, i.e. UEFA Champions League match Valletta FC vs Qarabag FK played on 15 July 2014, being the case in hand an act of recidivism in accordance with Article 19 DR that justifies an increase of the standard punishment.
16. By tackling without challenging the ball the Valletta FC player Ryan Camilleri placed the physical well-being of his opponent in danger. It could have caused serious injuries and pain. It is to be considered a particular brutal behaviour.
17. In view of the above considerations, a four-match suspension is therefore considered to be the adequate sanction regarding the circumstances and the previous records of the player.

Decision of 15 July 2015

Neftçi PFK

(red card and mass confrontation)

Circumstances of the case:

At the end of the match, the full time whistle was blown, there was a mass confrontation between the players of both FK Mladost Podgorica and Neftci PFK on the halfway line, near to the technical areas, around 10 meters inside the field of play

During the same incident, the number 53 for Neftci run up and violently stroke an opponent.

During the same incident, the number 6 for Neftci was also guilty of striking an opponent.

During the mentioned match four Neftçi PFK players were cautioned and two dismissed by the referee.

Legal framework: Article 15 and 11 DR

Decision

To suspend the Neftçi PFK player Vailo Maksym for three (3) UEFA competition matches for which he would be otherwise eligible.

To suspend the Neftçi PFK player Ferreira Silva Ailton for three (3) UEFA competition matches for which he would be otherwise eligible

To fine Neftçi PFK € 5'000 for the improper conduct of the players after the final whistle

Chairman: Thomas Partl (Austria)

I. Facts Of The Case

1. The elements set out below are a summary of the main relevant facts, as established by the Control, Ethics and Disciplinary Body on the basis of the official reports, the written submissions, the exhibits filed and the statements produced in the course of the Control, Ethics and Disciplinary Body proceedings. While this UEFA disciplinary body has considered all the facts, allegations, legal arguments and evidence submitted by the club in these proceedings, it refers in the present decision only to the submissions and evidence it considers necessary to explain its reasoning.
2. Briefly, the most relevant facts of this case can be summarized as follows:
 - At the end of the match, the full time whistle was blown, there was a mass confrontation between the players of both FK Mladost Podgorica and Neftci PFK on the halfway line, near to the technical areas, around 10 metres inside the field of play
 - During the same incident, the number 53 for Neftci run up and violently stroke an opponent.
 - During the same incident, the number 6 for Neftci was also guilty of striking an opponent.

- During the mentioned match four Neftçi PFK players were cautioned and two dismissed by the referee.

II. Merits of the Case

A. UEFA's competence.

3. Pursuant to Article 52 of the UEFA Statutes, as well as Article 23 of the UEFA Disciplinary Regulations (DR), the Control, Ethics and Disciplinary Body is competent to deal with the case.
4. In light of the above, the UEFA Statutes, rules and regulations, in particular the UEFA Disciplinary Regulations are applicable to these proceedings.

B. The violent conduct

a) Applicable legal framework and general remarks

5. According to Article 15 (1) (e) DR, suspension for three competition matches or a specified period for assaulting another player or another person present at the match.
6. According to Article 38 DR, facts contained in official UEFA reports are presumed to be accurate. Proof of their inaccuracy may, however, be provided.

b) The responsibility of the player

7. The UEFA disciplinary bodies have stipulated a number of times that any act committed with direct or oblique intention through which the physical or psychological well-being of the referee, a player or any other person present at a match is harmed or threatened, before, during or after the game, constitutes serious unsporting conduct classified under the general term "assault" in accordance with Article 15 (1) (e) DR. In the case of a particularly serious attack on a person's physical or psychological well-being, we therefore talk of "serious assault" in the sense of letter g) of this same provision.
8. According to the constant practice of the UEFA disciplinary bodies, assault in the sense of the above provision consists of any act committed not only intentionally but also recklessly by which the opponent's physical or psychological well-being is interfered with. Such an act would involve aggressive contact such as slapping, head butted, kicking, punching, shaking, pushing, pinching, hitting, spitting.
9. In the case in hand, both the Neftçi PFK player Vailo Maksym and the Neftçi PFK player Ferreira Silva Ailton stroke respectively an opponent.
10. According to Article 38 DR: "Facts contained in official UEFA reports are presumed to be accurate. Proof of their inaccuracy may, however, be provided".

11. Consequently, the act of both players of Neftçi PFK, as described by the referee above constitute assault under the terms of Article 15 (1) (e) DR.

C. The mass confrontation

a) Applicable legal framework and general remarks

12. According to Article 11 (1) DR, member associations and clubs, as well as their players, officials and members, must respect the Laws of the Game, as well as UEFA's Statutes, regulations, directives and decisions, and comply with the principles of loyalty, integrity and sportsmanship.
13. According to Article 11 (2) (b) DR, a breach of these principles is committed by anyone whose conduct is insulting or otherwise violates the basic rules of decent conduct.
14. According to Article 8 DR, which stipulates the principle of "strict liability", and Article 16 (2) DR, which picks up on such, the club is to be held responsible for the improper conduct of its supporters, even if it might not be at fault itself.
15. According to Article 38 DR, facts contained in official UEFA reports are presumed to be accurate. Proof of their inaccuracy may, however, be provided.

b) The responsibility of the club

16. According to Article 8 DR, which stipulates the principle of "strict liability", and Article 16 (2) DR, which picks up on such, the club is to be held responsible for the improper conduct of its supporters, even if it might not be at fault itself.
17. It has long been established in case law that strict liability applies regardless of fault. As a matter of fact, the Club cannot therefore argue that it is not liable on the grounds that it did not commit any fault (see CAS 2002/A/423 PSV Eindhoven, page 12).
18. The above described incidents involving a mass confrontation between players including the above described acts of assault committed by the latter can only be qualified as disrespectful conducts violating the expected principles of conduct contemplated in Article 11 (1) and 11 (2) (b) DR, and have to be considered as particular serious offences. Such behaviours are all the more unacceptable as they tarnish the image of football and UEFA.
19. Bearing the above in mind, the Club is to be held responsible for the improper conduct of its supporters in accordance with Article 11 (1) and 11 (2) (b) DR and must be punished accordingly.

D. Improper conduct of the team: five or more cautions during the match

a) Applicable legal framework

20. According to Article 15 (4) DR a sanction can be taken against an association or a club, if individual disciplinary sanctions have been imposed by the referee on at least five players during the match.

b) The responsibility of the club

21. In the present case, four Neftçi PFK players were cautioned and two dismissed by the referee.
22. This UEFA Disciplinary Body recalls, here again, that according to Article 38 DR, facts contained in official UEFA reports are presumed to be accurate. Proof of their inaccuracy may, however, be provided.
23. Referring to the above provision, the Club is to be held responsible for the misconduct of their players and must be punished accordingly.

III. The determination of the appropriate disciplinary measure

24. As regards the fixing of the sanction, the existence of both aggravating and exonerating circumstances must be examined (article 17 DR).
25. Striking an opponent is an act of assault, which, as a matter of principle, does not allow a plea of mitigation. The Control, Ethics and Disciplinary Body has taken into consideration the fact that both players have no previous record from the last five years, but given the nature of the act committed, this is not enough to justify a reduction in the standard punishment.
26. By striking their opponents the Neftçi PFK players placed the physical well-being of their opponents in danger. It could have caused serious injuries and pain. It is to be considered a particular brutal behavior.
27. In view of the above considerations, a three-match suspension for each player is therefore considered to be the minimum sanction regarding the circumstances.
28. Regarding the appropriate disciplinary measure deriving from the mass confrontation between the players the Control, Ethics and Disciplinary Body has taken into account the seriousness the case, and, in particular, the regretful and reproachable attitude of the players putting hereby the image of the UEFA competition and UEFA itself in a undesired situation.
29. Regarding the improper conduct of the team during the match, the Control, Ethics and Disciplinary Body has taken into account the seriousness of the case and deemed that a warning shall be the appropriate disciplinary measure.

Decision of 23 July 2015

Beitar Jerusalem FC

(racist behavior, improper conduct of supporters and improper conduct of the team)

Circumstances of the case

Before kick-off, supporters of Beitar Jerusalem FC inside the stadium displayed three flags of the far-right racist organisation Kach. The flags featured the logo of the organisation with Jewish star of David and a fist inside on yellow background. Some Beitar supporters tried to remove the flags but they remained on display throughout the match until the final whistle.

80 minutes prior to kick-off, the UEFA match delegate was approached by a team member of Beitar Jerusalem FC and asked if a banner proclaiming "We are the Jewish Nation" could be displayed by the Beitar Jerusalem supporters. After such request was denied, the said banner was nonetheless displayed frequently during the game.

After 21 seconds the game had to be stopped as a multiple number of flares were thrown into the field of play from behind the goal which was the away team Beitar Jerusalem FC end of the stadium. The game was held up for 2 minutes until the field of play had been cleared of all the flares.

In the 10th minute of the game, two water bottles were thrown into the field of play from the Beitar Jerusalem end of the stadium.

In the 35th minute of the game, more flares were thrown into the field of play from the Beitar Jerusalem FC spectators' end of stadium.

At minute 45+2, the Beitar Jerusalem FC player, Dasa Eliezer, went in for a challenge with excessive force which endangered the safety of his opponent. The player received a red card for serious foul play. In the 76th minute of the game, the Beitar Jerusalem FC player, Pablo De Lucas Torres, went in for a challenge on his opponent in a manner which endangered the safety of his opponent using excessive force. The player received a red card for serious foul play.

At minute 90 + 3 of the game, the goalkeeper of the home team, R. Charleroi SC, was struck by a metal screw on his head, thrown from the Beitar Jerusalem FC spectators' end of the stadium.

During the match, seven Beitar Jerusalem players were cautioned by the referee.

Legal framework: Articles 14, 15 and 16 DR

Decision

To order the partial closure of the Beitar Jerusalem FC Stadium during the next (1) UEFA competition match in which Beitar Jerusalem FC would play as the host club. Beitar Jerusalem FC shall inform at least 15 days prior to the match, the sector(s) to be closed, which shall at least comprehend 500 seats.

To fine Beitar Jerusalem FC €95,000.

To suspend the Beitar Jerusalem FC player Eliezer Dasa for two (2) UEFA competition matches for which he would be otherwise eligible. To suspend the Beitar Jerusalem FC player Pablo De Lucas Torres for two (2) UEFA competition matches for which he would be otherwise eligible.

To warn Beitar Jerusalem FC with regard to the improper conduct of its team.

| | |
|-----------------------|---|
| <u>Chairman:</u> | Jim Hansen (Denmark) |
| <u>Vice-Chairman:</u> | Sandor Berzi (Hungary) |
| <u>Members:</u> | Jacques Antenen (Switzerland) Hans Lorenz (Germany) Tomàs Gea (Andorra) Chris Bonett (Malta) Kepa Larumbe (Spain) |

I. Facts Of The Case

1. The elements set out below are a summary of the main relevant facts, as established by the Control, Ethics and Disciplinary Body on the basis of the official reports, the written submissions, the exhibits filed and the statements produced in the course of the Control, Ethics and Disciplinary Body proceedings. While this UEFA disciplinary body has considered all the facts, allegations, legal arguments and evidence submitted by the club in these proceedings, it refers in the present decision only to the submissions and evidence it considers necessary to explain its reasoning.
2. Briefly, the most relevant facts of this case can be summarized as follows:
 - Before kick-off, supporters of Beitar Jerusalem FC inside the stadium displayed three flags of the far-right racist organisation Kach. The flags featured the logo of the organisation with Jewish star of David and a fist inside on yellow background. Some Beitar supporters tried to remove the flags but they remained on display throughout the match until the final whistle.
 - 80 minutes prior to kick-off, the UEFA match delegate was approached by a team member of Beitar Jerusalem FC and asked if a banner proclaiming "We are the Jewish Nation" could be displayed by the Beitar Jerusalem supporters. After such request was denied, the said banner was nonetheless displayed frequently during the game.
 - After 21 seconds the game had to be stopped as a multiple number of flares were thrown into the field of play from behind the goal which was the away team Beitar Jerusalem FC end of the stadium. The game was held up for 2 minutes until the field of play had been cleared of all the flares.
 - In the 10th minute of the game, two water bottles were thrown into the field of play from the Beitar Jerusalem end of the stadium.
 - In the 35th minute of the game, more flares were thrown into the field of play from the Beitar Jerusalem FC spectators' end of stadium.
 - At minute 45+2, the Beitar Jerusalem FC player, Dasa Eliezer, went in for a challenge with excessive force which endangered the safety of his opponent. The player received a red card for serious foul play.
 - In the 76th minute of the game, the Beitar Jerusalem FC player, Pablo De Lucas Torres, went in for a challenge on his opponent in a manner which endangered the safety of

his opponent using excessive force. The player received a red card for serious foul play.

- At minute 90 + 3 of the game, the goalkeeper of the home team, R. Charleroi SC, was struck by a metal screw on his head, thrown from the Beitar Jerusalem FC spectators' end of the stadium.
- During the match, seven Beitar Jerusalem players were cautioned by the referee.

II. The Respondent's position

3. The Club in its statements dated on 22 July 2015 stated that it is only the first time that the club finds itself involved in a disciplinary procedure before the Control, Ethics and Disciplinary Body, despite its numerous participations in UEFA qualification matches.
4. The Club further noted that due to the fact that it was the away team, it should not be taken accountable for the security measures which were taken during and before the match.
5. Moreover, the Club emphasized that not only its supporters, but also the supporters of the home team managed to bring fireworks into the stadium.
6. In addition to the above, the Club argued that despite the fact that the behaviour of some of its supports can obviously not be tolerated, it was nonetheless also provoked by violent and racist acts in the local and foreign media directed against the Club and its supporters.
7. Finally, the Club stressed that the majority of its supporters did not participate in the relevant actions, but even prevented them from occurring.
8. The more detailed arguments made by the club in support of its written submissions are set out below in as far as they are relevant.

III. Merits of the Case

A. UEFA's competence.

9. Pursuant to Article 52 of the UEFA Statutes, as well as Article 23 of the UEFA Disciplinary Regulations (DR), the Control, Ethics and Disciplinary Body is competent to deal with the case.
10. In light of the above, the UEFA Statutes, rules and regulations, in particular the UEFA Disciplinary Regulations are applicable to these proceedings.

B. Racist behaviour (banners and chants)

a) Applicable legal framework and general remarks

11. According to Article 14 (1) DR, any person under the scope of Article 3 who insults the human dignity of a person or group of persons on whatever grounds, including skin colour, race, religion or ethnic origin, incurs a suspension lasting at least ten matches or a specified period of time, or any other appropriate sanction.
12. According to Article 14 (2) DR, if one or more of a member association or club's supporters engage in the behaviour described above, the member association or club responsible is punished with a minimum of a partial stadium closure.
13. According to Article 8 DR, a member association or club that is bound by a rule of conduct laid down in UEFA's Statutes or regulations may be subject to disciplinary measures and directives if such a rule is violated as a result of the conduct of one of its members, players, officials or supporters and any other person exercising a function on behalf of the member association or club concerned, even if the member association or the club concerned can prove the absence of any fault or negligence.
14. According to Article 38 DR, facts contained in official UEFA reports are presumed to be accurate. Proof of their inaccuracy may, however, be provided.

b) The responsibility of the club

15. Article 14 DR is a special rule taking over the principle set out in Article 8 DR which stipulates that member associations and clubs are responsible for racist conducts of their supporters. This responsibility is given for offences committed by any person supporting the team before, during or after the match, irrespective of the fault of the club or association in question (strict liability).
16. The fight against racism is a high priority for UEFA. UEFA has a policy of zero tolerance towards racism and discrimination on the pitch and in the stands. All racist misbehaviours shall be considered as serious offences against the disciplinary regulations and shall be punished regarding the circumstances and the previous records with the utmost severe sanctions.
17. In the present case, the Beitar Jerusalem FC supporters displayed three flags of the far-right racist organisation "Kach" which is banned in Israel and declared a terrorist organisation. The flags featured logo of the organisation with the Jewish Star of David and a fist inside on yellow background. Some Beitar supporters tried to remove the flags but they remained on display throughout the match until the final whistle.
18. It shall be recalled that according to Article 38 DR, facts contained in official UEFA reports are presumed to be accurate. Proof of their inaccuracy may, however, be provided

19. The Control, Ethics and Disciplinary Body, after having examined the arguments forwarded by the Club and the information provided by the case file, deems that the aforementioned flags and the associated behaviour of the supporters displaying such flags reflect a racist conduct emanating from the Beitar Jerusalem FC supporters, which consequently falls under the scope of Article 14 (1) DR. In this regard, the Club did not provide any evidence that could justify the displaying of such a banner during a sport's event. The Club merely stated that on the one hand it was only the away team and therefore not responsible for the conduct of appropriate security measures, and that on the other hand the majority of the supporters was even trying to remove the said flags. The Control, Ethics and Disciplinary Body considers that the arguments forwarded by the Club are irrelevant, as these conducts are expressly prohibited by the above mentioned provisions, irrespective of the lack of fault of the Club, as the principle of strict liability applies.
20. Consequently, as both the UEFA delegate and the UEFA match official's reports have established the racist behaviour of the Beitar Jerusalem FC supporters comprehensively, and given that the abovementioned facts have not been contested by the Club and confirmed by pictures, the Club shall be held responsible for its supporter's racist behaviour and must be sanctioned accordingly.

C. Direct red card (player Dasa Eliezer)

a) Applicable legal framework and general remarks

21. According to Article 15 (1) (a) DR, suspension for one competition match or a specified period for rough play.

b) The responsibility of the player

22. Action taken by the referee (in this case sending off the player) does not prevent the Control, Ethics and Disciplinary Body from taking additional action (i.e. increasing the standard punishment) if the circumstances warrant it.
23. It has been the UEFA disciplinary bodies' long lasting practice to qualify as rough play in the sense of article 15 (1) (a) DR any act committed, by which the offending player tackles carelessly and tolerates injuring or endangering the opponent.
24. In the case in hand, the Beitar Jerusalem FC player Dasa Eliezer committed a tackle against his opponent with excessive force, with which he endangered the safety of the opponent.
25. In the light of the above, and in view of the fact that the player did not provide any statement in the matter at hand, the act of the Beitar Jerusalem FC player Dasa Eliezer as described above constitutes a rough play, which is punishable under the terms of Article 15 (1) (a) DR.

D. Direct red card (player De Lucas Torres Pablo)

a) *Applicable legal framework and general remarks*

26. According to Article 15 (1) (a) DR, suspension for one competition match or a specified period for rough play.

b) *The responsibility of the player*

27. Action taken by the referee (in this case sending off the player) does not prevent the Control, Ethics and Disciplinary Body from taking additional action (i.e. increasing the standard punishment) if the circumstances warrant it.

28. It has been the UEFA disciplinary bodies' long lasting practice to qualify as rough play in the sense of article 15 (1) (a) DR any act committed, by which the offending player tackles carelessly and tolerates injuring or endangering the opponent.

29. In the case in hand, the Beitar Jerusalem FC player De Lucas Torres Pablo committed a tackle against his opponent with excessive force, with which he endangered the safety of the opponent.

30. In the light of the above, in view of the fact that the player did not provide any statement in the matter at hand, the act of the Beitar Jerusalem FC player De Lucas Torres Pablo, as described above constitutes a rough play, which is punishable under the terms of Article 15 (1) (a) DR.

E. Illicit banners, crowd disturbances and setting off of fireworks and throwing of objects

a) *Applicable legal framework and general remarks*

31. According to Article 16 (2) DR:

However, all associations and clubs are liable for the following inappropriate behaviour on the part of their supporters and may be subject to disciplinary measures and directives even if they can prove the absence of any negligence in relation to the organisation of the match:

- a) *the invasion or attempted invasion of the field of play;*
- b) *the throwing of objects;*
- c) *the lighting of fireworks or any other objects;*
- d) *the use of laser pointers or similar electronic devices;*
- e) *the use of gestures, words, objects or any other means to transmit any message that is not fit for a sports event, particularly messages that are of a political, ideological, religious, offensive or provocative nature;*
- f) *acts of damage;*

- g) the disruption of national or competition anthems;*
- h) any other lack of order or discipline observed inside or around the stadium.*

32. According to Article 8 DR, a member association or club that is bound by a rule of conduct laid down in UEFA's Statutes or regulations may be subject to disciplinary measures and directives if such a rule is violated as a result of the conduct of one of its members, players, officials or supporters and any other person exercising a function on behalf of the member association or club concerned, even if the member association or the club concerned can prove the absence of any fault or negligence.
33. According to Article 38 DR, facts contained in official UEFA reports are presumed to be accurate. Proof of their inaccuracy may, however, be provided.

b) The responsibility of the club

Illicit banners

34. The Control, Ethics and Disciplinary Body takes this opportunity to recall, that it cannot allow football matches organised by UEFA to become forums for people who want to abuse the game's popularity to publicise their political or religious opinions. This is the reason why Article 16 (2) (e) DR expressly forbids the transmission of any message which is not fit for football during football matches.
35. In the present case, a flag indicating "We are the Jewish nation" was displayed in in the supporters' area of Beitar Jerusalem FC, despite the fact that the request to display the banner was explicitly denied by the UEFA match delegate.
36. The Control, Ethics and Disciplinary Body, after evaluating the information provided by the UEFA delegate concerning the banner in question, deems that this is obviously not fit for a sport's event as it has a highly political and ideological nature.
37. It has long been established in case law that strict liability applies regardless of fault. As a matter of fact, the Club cannot therefore argue that it is not liable on the grounds that it did not commit any fault (see CAS 2002/A/423 PSV Eindhoven, page 12).
38. Consequently, such a message violates article 16 (2) (e) DR. The Club shall therefore be held responsible and punished accordingly.

Crowd disturbances, improper conduct of supporters (breaking down fences)

39. In the case at hand, the away fans, *i.e.* the Beitar Jerusalem FC supporters, charged towards the home team supporters' stand, and in the process of doing so simultaneously broke the fences that had been raised to keep the away fans pooled together in the middle section of their stand.

40. The above-described incidents involving a provocation against opponent supporters can only be qualified as an act of hooliganism, which is considered as a particular serious offence. Such behaviours, especially in combination with the damage done to the stadium fences, are all the more unacceptable as they tarnish the image of football and UEFA.
41. The Control, Ethics and Disciplinary Body recalls that according to Article 8 DR, which stipulates the principle of strict liability, clubs and member associations are to be held liable for the conduct of their supporters, even if they are themselves not at fault. Art. 16 (2) (f) DR picks up on this principle.
42. Regarding the responsibility of the club, bearing the above in mind, Beitar Jerusalem FC do not dispute the facts. Therefore, and according to the principle of strict liability, the Control, Ethics and Disciplinary Body decides that the Club is to be held responsible for the improper conduct of its supporters in accordance with Article 16 (2) (f) DR and must be punished accordingly.

Setting off and throwing of fireworks and objects

43. Setting off fireworks is a serious offence in that it cannot only disrupt the orderly running of the match but also, and more importantly, endanger the physical integrity of those lighting the fireworks, of other spectators, officials and even the players on the pitch. For this reason, the use of pyrotechnic devices and the throwing of objects in stadiums is strictly forbidden.
44. According to Article 8 DR, which stipulates the principle of “strict liability”, and Article 16 (2) DR, which picks up on such, the club is to be held responsible for the improper conduct of its supporters, even if it might not be at fault itself.
45. It has long been established in case law that strict liability applies regardless of fault. As a matter of fact, the Club cannot therefore argue that it is not liable on the grounds that it did not commit any fault (see CAS 2002/A/423 PSV Eindhoven).
46. In the case at hand, the game had to be stopped due to a multiple number of flares being thrown into the field of play from behind the goal, which was the away team Beitar Jerusalem FC end of the stadium. Also throughout the process of the game, the throwing of objects like bottles the and setting off of fireworks continued from the supports’ side of Beitar Jerusalem FC, thereby even hitting the goalkeeper for the home team R. Charleroi SC on his head and endangering his physical health and security.
47. The Club argued that it was not involved in the security measures as it was only the ay team and that also the home team supporters managed to bring fireworks into the stadium.

48. The Control, Ethics and Disciplinary Body considers that the arguments forwarded by the Club are irrelevant, as these conducts are expressly prohibited by the above mentioned provisions, irrespective of the lack of fault of the Club, as the principle of strict liability applies.
49. Consequently, according to Article 16 (2) (b) and (c) DR above, Beitar Jerusalem FC is to be held responsible for the misconduct of its supporters and must be penalised accordingly.

F. Improper conduct of the team (5 cards or more).

a) Applicable legal framework

50. According to Article 15 (4) DR a sanction can be taken against an association or a club, if individual disciplinary sanctions have been imposed by the referee on at least five players during the match.

b) The responsibility of the club

51. In the present case, seven Beitar Jerusalem FC players were cautioned by the referee.
52. This UEFA Disciplinary Body recalls that according to Article 38 DR, facts contained in official UEFA reports are presumed to be accurate. Proof of their inaccuracy may, however, be provided. Consequently, the burden of proof relies on the Respondent in order to prove contrary, which has not been the case in hand.
53. Referring to the above provision, the Club is to be held responsible for the misconduct of their players and must be punished accordingly

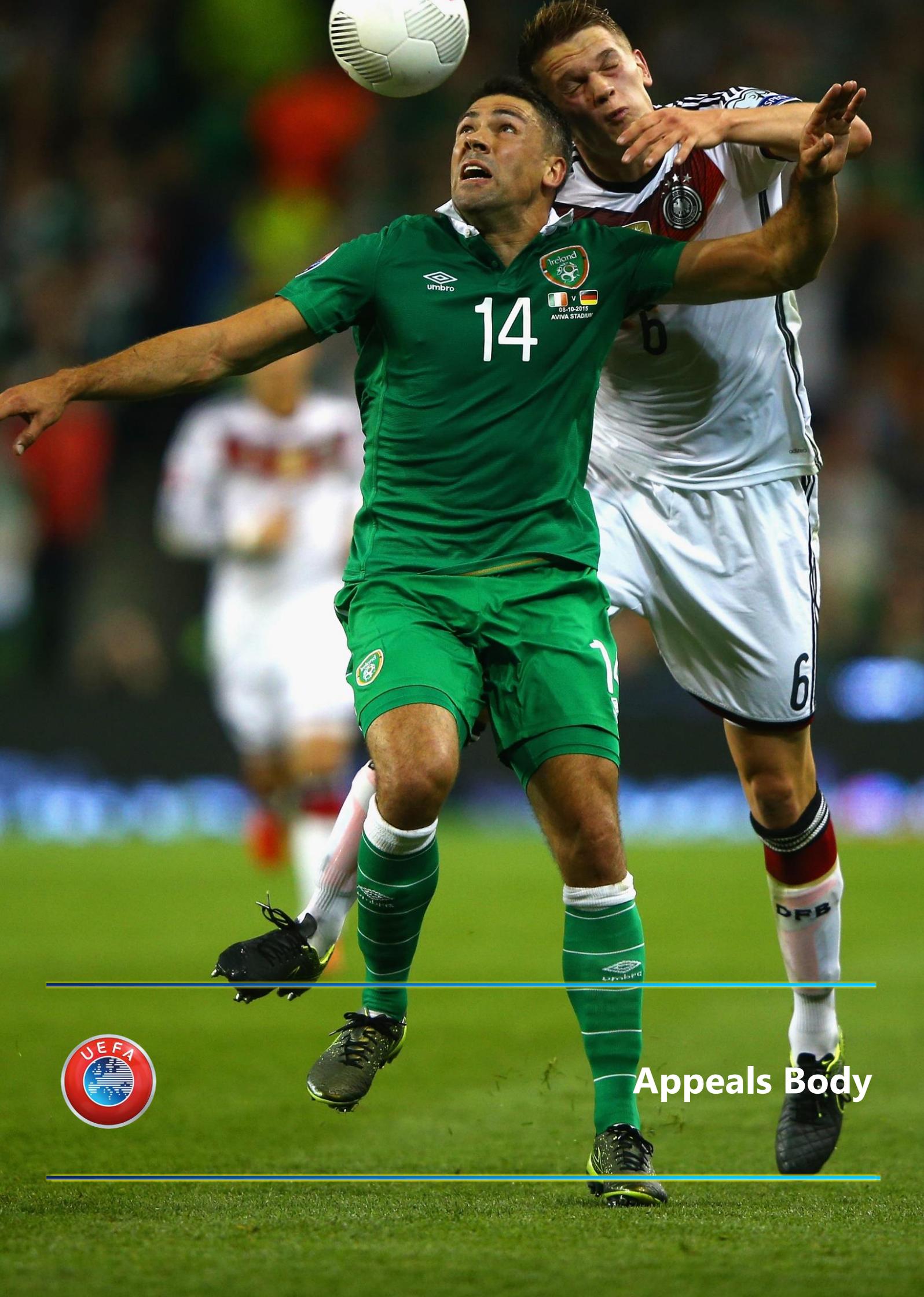
IV. The determination of the appropriate disciplinary measure

54. As regards to the racist behaviour, the Control, Ethics and Disciplinary Body draws the attention to the fact that after the enforcement of the Disciplinary Regulations Edition 2013, confirmed again in the UEFA Disciplinary Regulations Edition 2014, the fight against racist behaviour has entered into a new stage. It has resulted in more severe sanctions towards racist behaviours. As such, if one or more of a member association or club's supporters engage in the behaviour described in Article 14 (1), the member association or club responsible is punished with a minimum of a partial stadium closure (Article 14 (2) DR). Only in exceptional circumstances the related sanctions concerning this misbehaviour, which are contained in Article 14 (2) and (3) DR, are to be modified.
55. Bearing in mind the above, the Control, Ethics and Disciplinary Body decides to order the partial closure of Beitar Jerusalem FC Stadium during the next (1) UEFA competition match in which Beitar Jerusalem FC would play as the host club. Beitar Jerusalem FC shall

inform at least 15 days prior to the match, the sector(s) to be closed, which shall at least comprehend 500 seats.

56. Regarding the rough play infringement in connection with the Beitar Jerusalem FC player Eliezer Dasa, the existence of both aggravating and exonerating circumstances must be examined (article 17 DR). It must also be noted that the one-match ban provided for by article 15 (1) (a) DR is a minimum penalty that can be increased in particular circumstances.
57. Challenging an opponent player with excessive force, endangering the opponent's safety as described by the match official is a particularly rough play and thus a serious threat for the integrity of the opponent. There are no exceptional circumstances that would allow a plea of mitigation. In this regard and in compliance with the constant practice of the UEFA disciplinary bodies, a two-match suspension shall be considered the minimum punishment.
58. Regarding the rough play infringement in connection with the Beitar Jerusalem FC player Pablo de Lucas Torres, the existence of both aggravating and exonerating circumstances must be examined (article 17 DR). It must also be noted that the one-match ban provided for by article 15 (1) (a) DR is a minimum penalty that can be increased in particular circumstances.
59. Challenging an opponent player with excessive force, endangering the opponent's safety as described by the match official is a particularly rough play and thus a serious threat for the integrity of the opponent. There are no exceptional circumstances that would allow a plea of mitigation. In this regard and in compliance with the constant practice of the UEFA disciplinary bodies, a two-match suspension shall be considered the minimum punishment.
60. Regarding the illicit flag which was displayed by the supports of Beitar Jerusalem FC and regarding the further incidents involving the supporters of Beitar Jerusalem FC, such as the setting off of fireworks, the throwing of objects and the crowd disturbances and improper conduct of the Beitar Jerusalem supporters, the following is to be noted: Based on Article 17 DR the Control, Ethics and Disciplinary Body determines the type and extent of the disciplinary measures to impose according to the objective and subjective elements of the case, taking account of any aggravating and mitigating circumstances. In the case of multiple offences, the punishment shall correspond to the most serious offence and be increased depending on the specific circumstances.
61. In the present case, the Control, Ethics and Disciplinary Body identified and took into account the following concrete circumstances:
 - the seriousness and multiplicity of the offences committed;
 - the fact the a player of the home team was hit on the head with a metal screw which severely endangered the physical health of the player;
 - the overall picture given by the Beitar Jerusalem supporters which tarnishes the image of UEFA and football.

62. The Control, Ethics and Disciplinary Body deems that behaviours as those described by the UEFA official reports are completely contrary to the main values of football. It shall be insisted that UEFA cannot allow such incidents to happen inside stadiums hosting its competitions.
63. In the light of the above considerations, as far as the crowd incidents are concerned, the Control, Ethics and Disciplinary Body deems that a fine of €95,000 shall be deemed as the adequate disciplinary measure.
64. With regard to the improper conduct of the team of Beitar Jerusalem FC, the Control, Ethics and Disciplinary Body has taken into consideration the seriousness of the offence and deems it appropriate to warn Beitar Jerusalem FC



Appeals Body

Decision of 17 June 2015

Danish Football Association

(throwing of objects)

Circumstances of the case: In the 38.minute a supporter threw an empty plastic bottle onto the pitch from the stand. It landed in front of the Danish substitute bench.

Legal framework: Article 2 (b) UEFA Statutes, Article 8 DR, Article 16 (2), Article 38 DR

Decision: The identical request between the Danish Football Association and the UEFA Ethics and Disciplinary Inspector is accepted. Consequently, the UEFA Control, Ethics and Disciplinary Body's decision of 21 May 2015 is overturned and the Danish Football Association is declared free from any disciplinary measure.

Chairman: Pedro Tomas (Spain)

Vice-chairmen: Goetz Eilers (Germany)

Michael Maessen (Netherlands)

I. Facts Of The Case

1. The elements set out below are a summary of the main relevant facts, as established by the Appeals Body on the basis of the decision rendered by the Control, Ethics and Disciplinary Body on 21 May 2015 (the "Decision"), the official reports, the written submissions of the parties, the exhibits filed and the statements produced in the course of the Appeals Body proceedings. While the Appeals Body has considered all the facts, allegations, legal arguments and evidence submitted by the parties in these proceedings, it refers in the present decision only to the submissions and evidence it considers necessary to explain its reasoning.
2. In substance, the UEFA match delegate at European Futsal Championship 2016 match between Azerbaijan vs. Denmark of 19 March 2015, reported the following incidents:

"In the 38.minute a supporter threw an empty plastic bottle onto the pitch from the stand. It landed in front of the Danish substitute bench."
3. In its decision of 21 May 2015, the UEFA Control, Ethics and Disciplinary Body considered that the Danish Football Association had violated Article 16 (2) of the UEFA Disciplinary Regulations and decided as follows:
 1. To fine Danish Football Association € 3'000.
 2. The above fine must be paid into the bank account indicated below within 90 days of communication of this decision.

4. The decision with grounds was notified to the appellant on 6 July 2015.

II. Summary of the proceedings before the Appeals Body

5. On 10 July 2015, the Danish Football Association announced its intention to appeal against the Decision.
6. The grounds for appeal, submitted with the declaration of intention to appeal, can be summarized as follows:
 - The plastic bottle which was thrown on the pitch was not thrown by a supporter of the Danish Football Association, given that no Danish away-team supporters were present at the match. Therefore, the Danish Football Association did not violate Article 16 (2) of the UEFA Disciplinary Regulations.
7. In his response to the appeal, the Ethics and Disciplinary Inspector, after a close examination of the Delegates report and the e-mail exchange between UEFA, the Danish Football Association and the UEFA match Delegate, agreed with the appellant and concurred in the conclusion that sufficient proof was provided that the plastic bottle was not thrown by a supporter of the team of the Danish Football Association. Therefore, UEFA admitted that the Danish Football Association did not commit any disciplinary violation and shall not be imposed any sanction.

III. Hearing

8. No hearing was held as neither the appellant nor the UEFA Ethics and Disciplinary Inspector requested one.
9. The Appeals Body examined the entire case file on 17 June 2015, in particular the challenged decision, the grounds for appeal and the Ethics and Disciplinary Inspector's reply to the appeal.
10. The parties' arguments are set out and examined below, in so far as they are relevant to the decision.

IV. Jurisdiction of the Appeals Body and admissibility of the appeal

11. The Appeals Body has jurisdiction to deal with the case in question under Articles 24(4) and 54 of the UEFA Disciplinary Regulations. The Danish Football Association lodged its appeal by the deadline set and in the form required. The grounds for appeal were submitted and the appeal fee paid on time. The appeal is therefore admissible under the terms of Article 53 of the Disciplinary Regulations.

12. According to Article 58(2) of the Disciplinary Regulations, the Appeals Body can re-examine the case in full, both factually and legally.

V. Legal Considerations Of The Appeals Body

A. The legal framework.

13. Pursuant to Article 52 of the UEFA Statutes, as well as Article 23 of the UEFA Disciplinary Regulations (DR), the Control, Ethics and Disciplinary Body is competent to deal with the case.
14. In light of the above, the UEFA Statutes, rules and regulations, in particular the UEFA Disciplinary Regulations are applicable to these proceedings.
15. According to Article 16 (2) DR:

However, all associations and clubs are liable for the following inappropriate behaviour on the part of their supporters and may be subject to disciplinary measures and directives even if they can prove the absence of any negligence in relation to the organisation of the match:

- a) *the invasion or attempted invasion of the field of play;*
 - b) *the throwing of objects;*
 - c) *the lighting of fireworks or any other objects;*
 - d) *the use of laser pointers or similar electronic devices;*
 - e) *the use of gestures, words, objects or any other means to transmit any message that is not fit for a sports event, particularly messages that are of a political, ideological, religious, offensive or provocative nature;*
 - f) *acts of damage;*
 - g) *the disruption of national or competition anthems;*
 - h) *any other lack of order or discipline observed inside or around the stadium.*
16. According to Article 8 DR, which stipulates the principle of “strict liability”, and Article 16 (2) DR, which picks up on such, the club is to be held responsible for the improper conduct of its supporters, even if it might not be at fault itself.
 17. Under Article 34 (5) of the UEFA Disciplinary Regulations, if the requests of the parties and the Ethics and Disciplinary Inspector are identical, the disciplinary bodies may consider ruling in accordance with those requests

B. In the case in hand

18. On the basis of the explanation and evidences brought by the appellant, and in particular in view of the e-mail of the UEFA match delegate dated 13 July 2015 in which the latter

clarified the content of his report, both the appellant and UEFA agree that no offence was committed as the plastic bottle was clearly not thrown by a supporter of the team of the Danish Football Association, given that no supporters of the team of the Danish Football Association were present at the game.

C. Determination of the disciplinary measure

19. Under Article 34 (5) of the UEFA Disciplinary Regulations, if the requests of the parties and the Ethics and Disciplinary Inspector are identical, the disciplinary bodies may consider ruling in accordance with those requests.
20. Given that the Appeals Body has no objection to overrule the identical findings of the parties, he complies with their requests in application of Article 34 (5) DR. It emerges from this that the plastic bottle was clearly not thrown by a supporter of the team of the Danish Football Association, hence meaning that the latter Association had not violated the Article 16 (2) of the UEFA Disciplinary Regulations.
21. In this respect, the provision of Article 8 of the UEFA Disciplinary Regulation cannot be applied to the Danish Football Association, therefore it cannot be punished and is free from disciplinary measure.

VI. Costs

22. The costs of proceedings, which include all expenses of the Appeals Body, are shared among the parties in accordance with the outcome of the proceedings. The Appeals Body decides at its own discretion how these costs are to be allocated (Article 44(2) of the UEFA Disciplinary Regulations).
23. In the present case, and in due consideration of the outcome of the proceedings, the costs (€1,000 in total) are charged to UEFA and the appeal fee already paid must be reimbursed to the appellant.

Decision of 17 June 2015

Portuguese Football Federation

(rough play- red card)

Circumstances of the case

In substance, the referee reported that in the 19th minute of the game, the Portuguese player Dos Santos Cardinal Fernando Alberto kicked his opponent Kazakh player Leonardo Mendonça Da Rosa while the ball was out of play and the latter player was down on the floor. Moreover, the referee cautioned three players and, as it was mentioned before, showed one red card to a player of the Portuguese Football Federation team during the match.

Legal framework: Article 15 (1) DR

Decision

The appeal of Portuguese Football Federation is rejected. Consequently, the UEFA Control, Ethics and Disciplinary Body's decision of 21 May 2015 is confirmed.

The Control, Ethics and Disciplinary Body considered that the Portuguese player Dos Santos Cardinal Fernando Alberto had kicked his opponent while the ball was out of play and while the opponent was down on the floor, thus violating Article 15 (1) (e) of the UEFA Disciplinary Regulations. The player was therefore sanctioned with a suspension for three UEFA competition matches for which he would be otherwise eligible.

Chairman: Pedro Tomas (Spain)

Members: Goetz Eilers (Germany)
Michael Maessen (Netherlands)

I. Facts Of The Case

1. The elements set out below are a summary of the main relevant facts, as established by the Appeals Body on the basis of the decision rendered by the Control, Ethics and Disciplinary Body on 21 May 2015 (the "Decision"), the official reports, the written submissions of the parties, the exhibits filed and the statements produced in the course of the Appeals Body proceedings. While the Appeals Body has considered all the facts, allegations, legal arguments and evidence submitted by the parties in these proceedings, it refers in the present decision only to the submissions and evidence it considers necessary to explain its reasoning.
2. In substance, the referee reported that in the 19th minute of the game, the Portuguese player Dos Santos Cardinal Fernando Alberto (hereinafter: "the player Cardinal") kicked his opponent Kazakh player Leonardo Mendonça Da Rosa (hereinafter: "the player Mendonça") while the ball was out of play and the latter player was down on the floor.

Moreover, the referee cautioned three players and, as it was mentioned before, showed one red card to a player of the Portuguese Football Federation team during the match.

3. In its decision of 21 May 2015, the Control, Ethics and Disciplinary Body considered that the Portuguese player Dos Santos Cardinal Fernando Alberto had kicked his opponent while the ball was out of play and while the opponent was down on the floor, thus violating Article 15 (1) (e) of the UEFA Disciplinary Regulations. The player was therefore sanctioned with a suspension for three UEFA competition matches for which he would be otherwise eligible.
4. The Decision with grounds was notified to the appellant on 2 July 2015.

II. Summary of the proceedings before the Appeals Body

5. On 7 July 2015, the Appellant submitted its declaration of intention to appeal against the decision of the Control, Ethics and Disciplinary Body of 21 May 2015.
6. The grounds for appeal, submitted with the declaration of intention to appeal, can be summarized as follows:
 - The Appellant admitted in general that there was contact between the players, however stressing that the player Cardinal never intended to harm the opponent Kazakh player Mendonça.
 - The player Cardinal jumped over his teammate who had just tackled the ball away from Mendonça, which made the latter player fall to the ground.
 - As the player Mendonça was trying to get up again and as the player Cardinal was just jumping over his teammate in order to avoid contact, the contact between the two players Cardinal and Mendonça was inevitable and can therefore not be considered an assault in the sense of the UEFA Disciplinary Regulations. Consequently, the sanction should be reduced to a one-match suspension.
7. On 14 July 2015, the UEFA ethics and disciplinary inspector submitted his reply to the appeal, requesting that it be rejected and the costs charged accordingly.

III. Hearing

8. No hearing was held, since the appellant requested that the proceedings be conducted in writing only and the chairman of the Appeals Body did not raise any objection to this request.

9. The Appeals Body examined the entire case file, in particular the challenged decision, the grounds for appeal and the Ethics and Disciplinary Inspector’s reply to the appeal, on 14 July 2015.
10. The parties' arguments are set out and examined below, in so far as they are relevant to the decision.

IV. Jurisdiction of the Appeals Body and admissibility of the Appeal

11. Article 24.4 DR states as follows: “The Appeals Body has jurisdiction to hear appeals against decisions by the Control, Ethics and Disciplinary Body and to rule on particular urgent cases referred to it directly by the chairman of the Control, Ethics and Disciplinary Body.”
12. On 7 July 2015, the Appellant lodged its grounds for appeal by the set deadline and in the form required. The appeals fee was paid on time.
13. It follows that the Appeals Body has competence to decide on the present Appeal and that the Appeal is admissible. The Appeals Body may therefore consider its merits and can therefore re-examine the case in full, both factually and legally (Article 58.2 DR).
14. Pursuant to Article 52 of the UEFA Statutes, as well as Article 23 of the UEFA Disciplinary Regulations (DR), the Control, Ethics and Disciplinary Body is competent to deal with the case.
15. In light of the above, the UEFA Statutes, rules and regulations, in particular the UEFA Disciplinary Regulations are applicable to these proceedings.

V. Legal Considerations Of The Appeals Body

A. The legal framework.

16. Under Article 52 of the UEFA Statutes, disciplinary measures may be imposed for unsportsmanlike conduct, violations of the Laws of the Game and contravention of UEFA’s Statutes, regulations, decisions and directives.
17. Under Article 8 of the UEFA Disciplinary Regulations, member associations and clubs are responsible for the conduct of their players, officials, members, supporters and any other persons exercising a function at a match on their behalf. This rule also applies to the European Futsal Championship 2016 matches, as expressly stated in paragraph 6.02 of the competition regulations. Article 8 of the UEFA Disciplinary Regulations forms the legal basis on which UEFA can ensure that its objectives and the constraints imposed on

its members are respected not only by its members, but also by third parties for whom they are answerable.

18. According to Article 15 (1) (e) DR, a suspension for three competition matches or a specified period applies for assaulting another player or another person present at the match.
19. According to Article 15 (4) DR a sanction can be taken against an association or a club, if individual disciplinary sanctions have been imposed by the referee on at least five players during the match.
20. According to Article 38 DR, facts contained in official UEFA reports are presumed to be accurate. Proof of their inaccuracy may, however, be provided.

B. In the case in hand

The red card

21. As it was stated in the report of the Referee and in the following remained undisputed by the Appellant, the player Cardinal ran into the player Mendonça, while the latter player was down on the floor and the ball was out of play. The appeal of the Appellant and the argumentation in this regard however only concerned the question whether said incident had to be considered a violent conduct and as an assault in accordance with Article 15 (1) (e) of the UEFA Disciplinary regulations, or if said incident should be considered as an inevitable event which should only be sanctioned with a one game suspension, as stated by the Appellant.
22. The Appellant argued that the player Cardinal tried to avoid the contact with his own teammate who was just down on the floor following a tackle, by jumping over said teammate, hence arguing that the player Cardinal inevitably had to crash into the player Mendonça who was in the player Cardinal's way.
23. However, after careful review of the video footage, bearing in mind the explanation of the Appellant, the Appeals Body came to the conclusion that the player Cardinal deliberately kicked the player Mendonça when the latter player was just about to stand up from the ground. The Appeals Body is convinced that the player Cardinal could have easily avoided the contact with the player Mendonça, which already indicates that the kick of the Portuguese player was intentional and aimed at recklessly endangering the opponent player's physical well-being, qualifying as violent conduct, i.e. as an assault as stipulated in Article 15 (1) (e) of the UEFA Disciplinary Regulations. Consequently, the Appeals Body had no reason to put the accuracy and the content of the Referee's report in doubt, hence sharing the conclusions of as they were drawn in the decision of the Control, Ethics and Disciplinary Body in its decision from 21 May 2015.
24. Consequently, the only point that the Appeals Body must re-examine is whether the factors provided by the Appellant are to be considered as mitigating circumstances that

justify an amendment of the decision taken by the Control, Ethics and Disciplinary Body on 21 May 2015.

C. Determination of the disciplinary measure

25. It is the Appeals Body's constant practice to consider the Control, Ethics and Disciplinary Body's power of discretion to have been abused or exceeded if the first-instance body bases its decision on untrue or erroneous elements, does not apply fundamental legal principles, considers irrelevant facts or does not consider essential circumstances whose evaluation is compelling. In the opinion of the Chairman of the Appeals Body, none of this applies here.
26. Article 15 (1) (e) of the UEFA Disciplinary Regulations stipulates a minimum sanction of three competition matches or a specific period, i.e. giving the disciplinary bodies broad powers of discretion when it comes to determining disciplinary measures and particularly giving the disciplinary bodies the discretion to stipulate higher sanctions than the minimum sanctions.
27. Given that the player Cardinal received a sanction of three competition matches, i.e. the minimum sanction for an assault in the sense of Article 15 (1) (e) of the UEFA Disciplinary Regulations, the Chairman of the Appeals Body is of the opinion that the Control, Ethics and Disciplinary Body neither abused nor exceeded its broad powers of discretion. Its decision complies with the principles of legality – to the extent of its power of appreciation – and proportionality.
28. On the basis of the above, the Chairman of the Appeals Body has no option but to uphold the initial decision and reject the appeal.

VI. Costs

29. The allocation of the costs of proceedings before the Appeals Body depends on the outcome of those proceedings. The Appeals Body decides at its own discretion how these costs are to be allocated to the various parties or borne by UEFA. The appeal fee is either deducted from the costs of proceedings or reimbursed (Article 44.2 DR).
30. It is considered justified to charge all of the costs of this case to the Appellant, whose appeal is rejected on all counts.
31. In this case, since these proceedings were conducted by the Appeals Body, the costs of the proceedings are € 2'000.

Decision of 23 July 2015

Olympiacos FC

(rough play-red card)

Circumstances of the case

According to the referee's report for the UEFA Europa League match between the Appellant and FC Dnipro Dnipropetrovsk on 26 February 2015, in the 51st minute of the match, the Appellant's player, Luka Milivojevic, committed a "tackle from behind his opponent with excessive force" and in doing so "endangered the safety of the opponent". As a consequence, the player was shown the red card by the referee.

Legal framework: Article 15 (1) DR

Decision

The UEFA Control, Ethics and Disciplinary Body concluded that Luka Milivojevic's behaviour constituted "rough play", which is punishable under Article 15 (1) (a) of the UEFA Disciplinary Regulations. In deciding on the disciplinary measure to apply, the Control, Ethics and Disciplinary Body noted that, although a one match suspension applies for incidents of rough play under Article 15 (1) (a), this is a minimum penalty and can be increased in certain circumstances. In this regard, applying Article 17 DR, the Control, Ethics and Disciplinary Body concluded that tackling an opponent from behind constitutes a serious threat to his physical integrity and therefore decided to impose a two match suspension on Luka Milivojevic.

The appeal of Olympiacos FC is rejected. Consequently, the UEFA Control, Ethics and Disciplinary Body's decision of 19 March 2015, is confirmed.

Chairman: Pedro Tomas (Spain)

I. Facts Of The Case

1. The elements set out below are a summary of the main relevant facts, as established by the Appeals Body on the basis of the decision rendered by the Control, Ethics and Disciplinary Body on 19 March 2015 (the "**Decision**"), the official reports, the written submissions of the parties, the exhibits filed and the statements produced in the course of the Appeals Body proceedings. While the Appeals Body has considered all the facts, allegations, legal arguments and evidence submitted by the parties in these proceedings, it refers in the present decision only to the submissions and evidence it considers necessary to explain its reasoning.
2. According to the referee's report for the UEFA Europa League match between the Appellant and FC Dnipro Dnipropetrovsk on 26 February 2015, in the 51st minute of the match, the Appellant's player, Luka Milivojevic, committed a "tackle from behind his

opponent with excessive force” and in doing so *“endangered the safety of the opponent”*. As a consequence, the player was shown the red card by the referee.

3. In the Decision, the UEFA Control, Ethics and Disciplinary Body concluded that Luka Milivojevic’s behaviour constituted *“rough play”*, which is punishable under Article 15 (1) (a) of the UEFA Disciplinary Regulations (the **“DR”**). In deciding on the disciplinary measure to apply, the Control, Ethics and Disciplinary Body noted that, although a one match suspension applies for incidents of rough play under Article 15 (1) (a), this is a minimum penalty and can be increased in certain circumstances. In this regard, applying Article 17 DR, the Control, Ethics and Disciplinary Body concluded that tackling an opponent from behind constitutes a serious threat to his physical integrity and therefore decided to impose a two match suspension on Luka Milivojevic.
4. The Decision with grounds was notified to the appellant on 2 April 2015.

II. Summary of the proceedings before the Appeals Body

5. On 4 April 2015, the Appellant announced its intention to appeal against the Decision.
6. On 9 April 2015, the Appellant filed its grounds for appeal. In its statement, the Appellant argues that:
 - Luka Milivojevic hardly touches the opponent and the tackle from behind was the unintentional result of the player *“losing stability and falling down while extending his leg”* in a futile attempt to get the ball, rather than being an intentional attempt to kick the opponent;
 - Luka Milivojevic’s tackle did not result in any real contact with the opponent and the opponent did not suffer any harm as a result of the tackle;
 - Based on the foregoing, Luka Milivojevic’s tackle should not be considered to be rough play which endangers the physical integrity of the opponent; and
 - The Control, Ethics and Disciplinary Body did not examine the videos of the incident and therefore didn’t examine the case properly.
7. It is noted that, in the Decision, the Control, Ethics and Disciplinary Body also imposed a sanction on the Appellant in respect of the setting off of fireworks, however, this element of the Decision has not been appealed by the Appellant.
8. On 28 April 2015, the UEFA Ethics and Disciplinary Inspector (the **“Disciplinary Inspector”**) submitted his reply to the appeal, requesting that it be rejected and the costs charged accordingly.

III. Hearing

9. Neither the Appellant nor the Disciplinary Inspector requested a hearing. Consequently, the Appeals Body rendered its decision based on the written statements submitted by the parties.
10. The Appeals Body examined the entire case file, in particular the Decision, the grounds for appeal and the Disciplinary Inspector's reply to the appeal, on 28 April 2015.
11. The parties' arguments are set out and examined below, in so far as they are relevant to the decision.

IV. Appeals Body Competence and Admissibility of the Appeal

12. Pursuant to Article 24 (3 (b) DR:

"The Chairman of the Appeals Body (...) may take a decision as a judge sitting alone:

...

(b) in cases where the sanction imposed by the Control, Ethics and Disciplinary Body is ... a suspension from playing or carrying out a function for up to three matches".

13. Article 24 (4) DR states as follows:

"The Appeals Body has jurisdiction to hear appeals against decisions by the Control, Ethics and Disciplinary Body and to rule on particular urgent cases referred to it directly by the chairman of the Control, Ethics and Disciplinary Body."

14. The sanction imposed by the Control, Ethics and Disciplinary Body in the Decision was a two match suspension. Therefore, the Chairman of the Appeals Body, acting as judge sitting alone, is entitled to examine the merits of the case and reach a decision.
15. The Appellant lodged its grounds for appeal by the set deadline and in the form required. The appeals fee was paid on time.
16. It follows that the Appeals Body has competence to decide on the present Appeal and that the Appeal is admissible. The Appeals Body may therefore consider its merits and can therefore re-examine the case in full, both factually and legally (Article 58 (2) DR).

V. Legal Considerations Of The Appeals Body

A. The legal framework.

17. Pursuant to Article 52 of the UEFA Statutes, as well as Article 23 DR, the Control, Ethics and Disciplinary Body is competent to deal with the case.

18. In light of the above, the UEFA Statutes, rules and regulations, in particular the DR are applicable to these proceedings.
19. According to Article 15 (1) (a) DR, a one match suspension applies in cases of “*rough play*”.
20. Under Article 17 DR:

“(1) The competent disciplinary body determines the type and extent of the disciplinary measures to be imposed in accordance with the objective and subjective elements of the offence, taking account of both aggravating and mitigating circumstances.

...

(4) The disciplinary measures enumerated in Article 15 of these regulations are standard measures. Unless stipulated otherwise in these regulations, disciplinary measures can be reduced or increased by the competent disciplinary body on the basis of the circumstances of the specific case.”

21. The Appeals Body also notes that, under Article 38 DR, facts contained in official UEFA reports are presumed to be accurate. Proof of their inaccuracy may, however, be provided.

B. In the case in hand

22. According to the referee’s report, Luka Milivojevic committed a “*tackle from behind his opponent with excessive force*” and in doing so “*endangered the safety of the opponent*”.
23. In this regard, the Appeals Body notes that under Article 38 DR, the facts contained in official UEFA reports are presumed to be accurate. Proof of their inaccuracy may, however, be provided. Accordingly, in the present case, it fell on the Appellant to prove the contrary.
24. To summarise, the Appellant argues that that Luka Milivojevic’s challenge did not constitute rough play since it was unintentional, did not result in any real contact with the opponent and did not cause any harm to the opponent.
25. In the opinion of the Appeals Body, such arguments are irrelevant, since they do not breach the accuracy of the UEFA official’s report which, as stated above, is very clear on the dangerous nature of the tackle. None of the arguments put forward by the club prove otherwise.
26. In particular, the Appeals Body notes that tackles from behind are, by their very nature, dangerous and threaten the physical integrity of the opponent - as acknowledged in The Laws of the Game. It is irrelevant whether or not the opponent is actually injured or suffers

harm as a result of such a challenge. Clearly, there can be rough play without injury. This is common sense and is not in doubt.

27. In considering the present case, the Appeals Body has of course considered all evidence in the case file. The Appeals Body stresses that nothing in such evidence breaches the accuracy of the UEFA official's report.
28. Consequently, the Appeals Body has no reason to call into question the accuracy of the referee's report and shares the conclusion of the Control, Ethics and Disciplinary Body in the Decision that the tackle constituted rough play.

C. Determination of the disciplinary measure

29. It is the Appeals Body's consistent practice to consider the Control, Ethics and Disciplinary Body's power of discretion to have been abused or exceeded if the first-instance body bases its decision on untrue or erroneous elements, does not apply fundamental legal principles, considers irrelevant facts or does not consider essential circumstances whose evaluation is compelling. In the opinion of the Chairman of the Appeals Body, none of these apply here.
30. In the opinion of the Appeals Body, the Control, Ethics and Disciplinary Body was correct to determine that tackles from behind are particularly serious offences and to use its discretion under Article 17 DR to increase the minimum sanction of one match to two matches. Indeed, this is clearly based upon the established practice of the Control, Ethics and Disciplinary Body and is consistent with the approach taken in other cases. The nature of the challenge, the excessive force behind it and its potential impact on the physical integrity of the opponent are all aggravating factors that the Control, Ethics and Disciplinary Body was entitled to take into account.
31. The Chairman of the Appeals Body is therefore of the opinion that the Control, Ethics and Disciplinary Body neither abused nor exceeded its broad powers of discretion. Its decision complies with the principles of legality – to the extent of its power of appreciation – and proportionality.
32. On the basis of the above, the Chairman of the Appeals Body has no option but to uphold the initial decision and reject the appeal.

VI. Costs

33. The allocation of the costs of proceedings before the Appeals Body depends on the outcome of those proceedings. The Appeals Body decides at its own discretion how these costs are to be allocated to the various parties or borne by UEFA. The appeal fee is either deducted from the costs of proceedings or reimbursed (Article 44 (2) DR).
34. It is considered justified to charge all of the costs of this case to the Appellant, whose appeal is rejected on all counts.

35. In this case, since these proceedings were conducted by the Chairman of the Appeals Body, as judge sitting alone, the costs will be lower than if a Panel with three or five members is constituted. Consequently, the costs of the proceedings are €2,000.

Decision of 27 August 2015

Fenerbahçe SK

(improper conduct of coach; throwing of objects)

Circumstances of the case

In substance, the UEFA official reports submitted the following factual circumstances: due to the behaviour of the coach of Fenerbahçe, which resulted in gesturing and leaving the coaching zone, he had to be warned from the fourth official. These warnings happened in the 6 and 11 minute. Also the team manager had to be warned in the 25 minute. After a free kick decision right in front of the coaching zone of Fenerbahçe, the Shakhtar player, which had been fouled, stayed on the ground. The coach of Fenerbahçe left his coaching zone, in order to pull the player from the ground. He grabbed his arm to do so. This unsporting behaviour resulted in a mass confrontation between members of both teams. Due to this unsporting behaviour the coach of Fenerbahçe was sent to the stands. He did hesitate before he left the interior of the stadium; plastic bottle has been thrown to the FC Shakhtar players when they celebrated the second goal. One Ukrainian player was hit by this bottle but not injured

Legal framework: Article 15 (1) DR and Article 16 (2) (c) DR

Decision

In its decision of 13 August 2015, the Control, Ethics and Disciplinary Body considered that, regarding the conduct of the official shall be considered as a violation of Article 15 (1) (a) DR and decided to suspend the Fenerbahçe SK official Vitor Manuel De Oliveira Lopes Pereira with two (2) UEFA competition matches in which he would otherwise participate. In addition, it deemed to its comfortable satisfaction that the object thrown against the FC Shakhtar players was indeed thrown by the Fenerbahçe supporters and imposed a fine of 20'000.

The appeal of Fenerbahçe SK is partially admitted. Consequently, the UEFA Control, Ethics and Disciplinary Body's decision of 13 August 2015 is modified as follows: the Fenerbahçe SK official Vitor Manuel De Oliveira Lopes Pereira is suspended for one(1) UEFA competition match in which he would otherwise participate. As the official did not participate in the UEFA Europa League 2015/2016 match Atromitos FC vs. Fenerbahçe SK played on 20 August 2015, the official is now free from disciplinary measures; the fine Fenerbahçe SK € 20'000 for the improper conduct of supporter's incident is confirmed.

Chairman: Pedro Tomás (Spain)

I. Facts Of The Case

1. The elements set out below are a summary of the main relevant facts, as established by the Appeals Body on the basis of the decision rendered by the Control, Ethics and Disciplinary Body on 13 August 2015 (the "Decision"), the official reports, the written submissions of the parties, the exhibits filed and the statements produced in the course of the Appeals Body proceedings. While the Appeals Body has considered all the facts, allegations, legal arguments and evidence submitted by the parties in these proceedings,

it refers in the present decision only to the submissions and evidence it considers necessary to explain its reasoning.

2. In substance, the UEFA official reports submitted the following factual circumstances:
 - Due to the behaviour of the coach of Fenerbahçe, which resulted in gesturing and leaving the coaching zone, he had to be warned from the fourth official. These warnings happened in the 6 and 11 minute. Also the team manager had to be warned in the 25 minute. After a free kick decision right in front of the coaching zone of Fenerbahçe, the Shakhtar player, which had been fouled, stayed on the ground. The coach of Fenerbahçe left his coaching zone, in order to pull the player from the ground. He grabbed his arm to do so. This unsporting behaviour resulted in a mass confrontation between members of both teams. Due to this unsporting behaviour the coach of Fenerbahçe was sent to the stands. He did hesitate before he left the interior of the stadium.
 - Plastic bottle has been thrown to the FC Shakhtar players when they celebrated the second goal. One Ukrainian player was hit by this bottle but not injured.
3. In its decision of 13 August 2015, the Control, Ethics and Disciplinary Body considered that, regarding the conduct of the official shall be considered as a violation of Article 15 (1) (a) DR and decided to suspend the Fenerbahçe SK official Vitor Manuel De Oliveira Lopes Pereira with two (2) UEFA competition matches in which he would otherwise participate. In addition, it deemed to its comfortable satisfaction that the object thrown against the FC Shakhtar players was indeed thrown by the Fenerbahçe supporters and imposed a fine of 20'000.
4. The Decision with grounds was notified to the appellant on 24 August 2015.

II. Summary of the proceedings before the Appeals Body

5. As regards the incident of De Oliveira Lopes Pereira, on 24 August 2015, Fenerbahçe SK announced its intention to appeal against the Decision, providing hereby the grounds of the said appeal. In its statements, the Appellant, essentially, argued the following:
 - The coach has absolutely not intended to dissent against the referee. He only tried to help the player and gave the ball at his disposal in the excitement of the game in order that the game continues without losing any time since the match had an important meaning for the team to qualify. He didn't want to misconduct and regrets his reaction. The referee's report is also verifying the coach statement.
 - The Club also refers to a letter sent by the coach on 10 August 2015 in which he insists on the fact that his intention was to help the player to stand up and give him the ball, as he wanted the game to continue.

6. As regards the incident of the object, on 25 August 2015, Fenerbahçe SK announced as well its intention to appeal against the Decision, providing here as well the grounds of the appeal. In its statements, the Appellant, essentially, argued the following:
 - The Club refers to the statements submitted before the Control, Ethics and Disciplinary Body by means of which it stresses that it is not clear and certain the sector from which the bottle was thrown. It is reported that in the referred sectors home and away fans are mixed, being those supporters located in sector 29 VIP guests. Consequently, since the location of the plastic bottle is unclear and no evidence of the perpetrator was found and taking into account the principle in dubio pro reo and that the player was not injured the Club demands no sanction to be imposed.
 - In addition, the Club submitted by means of its statements of appeal that although there is a presumption that the bottle was thrown by Fenerbahçe supporters, the liability does not reverse the burden of proof. Taking into consideration the UEFA official reports in which they clearly state that the location of the plastic bottle is unclear and no evidence has been found after UEFA Security Officer consulted CCTV and provided that as a rule, the Control, Ethics and Disciplinary Body clarifies the facts of the case in a summary manner, on the basis of official reports.
7. On 26 August 2015, the UEFA ethics and disciplinary inspector submitted his reply to the appeal, requesting that it be rejected and the costs charged accordingly.

III. Hearing

8. No hearing was held, since the appellant requested that the proceedings be conducted in writing only and the chairman of the Appeals Body did not raise any objection to this request.
9. The Appeals Body examined the entire case file, in particular the challenged decision, the grounds for appeal and the Ethics and Disciplinary Inspector's reply to the appeal.
10. The parties' arguments are set out and examined below, insofar as they are relevant to the decision.

IV. Appeals Body Competence and Admissibility of the Appeal

11. Pursuant to Article 24 (3) (a) of the UEFA Disciplinary Regulations ("DR"): "The Chairman of the Appeals Body (...) may take decision as judge sitting alone: in urgent cases". The next match affected by this case is scheduled for 27 August 2015. Accordingly, and in order to clarify the disciplinary situation of the club and guarantee the smooth running of the competition, it is appropriate to deal with the case urgently. The factual and legal circumstances also permit this solution. Therefore, the Chairman of the Appeals Body,

acting as judge sitting alone, is entitled to examine the merits of the case and reach a decision.

12. Fenerbahçe SK lodged its grounds for appeal by the set deadline and in the form required. The appeals fee was paid on time.
13. It follows that the Appeals Body has competence to decide on the present Appeal and that the Appeal is admissible. The Appeals Body may therefore consider its merits and can therefore re-examine the case in full, both factually and legally (Article 58 (2) DR).

V. Legal Considerations Of The Appeals Body

A. The legal framework.

14. Regarding the incident involving the improper conduct of the official and according to Article 11 (1) DR, member associations and clubs, as well as their players, officials and members, must respect the Laws of the Game, as well as UEFA's Statutes, regulations, directives and decisions, and comply with the principles of loyalty, integrity and sportsmanship.
15. According to Article 15 (1) DR:

"The following suspensions apply for competition matches:

- a) suspension for one competition match or a specified period for:
 - 1) a second caution in the same match;
 - 2) rough play;
 - 3) repeated protests against or a failure to comply with the referee's orders;
 - 4) insulting players or others present at the match;
 - 5) unsporting conduct;
 - 6) provoking spectators;
 - 7) participating in a match when suspended or otherwise ineligible to play;"

16. Regarding the throwing of objects incident, according to Article 16 (2) DR:

However, all associations and clubs are liable for the following inappropriate behaviour on the part of their supporters and may be subject to disciplinary measures and directives even if they can prove the absence of any negligence in relation to the organisation of the match:

- a) *the invasion or attempted invasion of the field of play;*
- b) *the throwing of objects;*
- c) *the lighting of fireworks or any other objects;*
- d) *the use of laser pointers or similar electronic devices;*

- e) *the use of gestures, words, objects or any other means to transmit any message that is not fit for a sports event, particularly messages that are of a political, ideological, religious, offensive or provocative nature;*
 - f) *acts of damage;*
 - g) *the disruption of national or competition anthems;*
 - h) *any other lack of order or discipline observed inside or around the stadium.*
17. According to Article 8 DR, which stipulates the principle of “strict liability”, and Article 16 (2) DR, which picks up on such, the club is to be held responsible for the improper conduct of its supporters, even if it might not be at fault itself.
18. According to Article 38 DR, facts contained in official UEFA reports are presumed to be accurate. Proof of their inaccuracy may, however, be provided.

B. In the case in hand

19. Regarding the improper conduct of the coach and according to the UEFA referee’s report, due to the behaviour of the coach of Fenerbahce, which resulted in gesturing and leaving the coaching zone, he had to be warned from the fourth official. These warnings happened in the 6 and 11 minute. Also the team manager had to be warned in the 25 minute. After a free kick decision right in front of the coaching zone of Fenerbahce, the Shakhtar player, which had been fouled, stayed on the ground. The coach of Fenerbahce left his coaching zone, in order to pull the player from the ground. He grabbed his arm to do so. This unsporting behaviour resulted in a mass confrontation between members of both teams. Due to this unsporting behaviour the coach of Fenerbahce was send to the stands. He did hesitate before he left the interior of the stadium.
20. The Club holds that as it has been evidenced by the letter of Club’s official sent on 10 August 2015 that he only tried to help the player and gave the ball at his disposal in the excitement of the game in order that the game continues without losing any time since the match had an important meaning for the team to qualify. He didn't want to misconduct and regrets his reaction. The referee’s report is also verifying the coach statement
21. It shall be recalled that in accordance with Article 38 UEFA DR, facts contained in official UEFA reports are presumed to be accurate. Proof of their inaccuracy may, however, be provided. In this regard the Club confirms the fact that the coach behaved in an unsporting manner as does the coach in his letter whilst apologizing for his behaviour.
22. As the content of the referee’s report has not been contested and consequently the unsporting nature of the official’s conduct is confirmed both by the Club and the coach in his letter sent on 10 August 2015, this UEFA disciplinary body is comfortable satisfied with the conclusion of the Control, Ethics and Disciplinary Body insofar such attitude is to be allocated within the scope of Article 15 (1) (a) (5) DR, which contemplates a minimum sanction of one match suspension.

23. The discussion here is rather placed on the disciplinary consequences of the unsporting conduct of the coach which as a matter of fact goes beyond the one match suspension contemplated in the above mentioned provision. It is thus within this context and in the part reserved to the determination of the appropriate disciplinary measure that this UEFA Appeals Body will examine both the Club's and the disciplinary and ethics inspector's statements.
24. Regarding the throwing of objects incident and according to the UEFA delegate's report, a plastic bottle was thrown to the FC Shakhtar players when they celebrated the second goal. One Ukrainian player was hit by this bottle but not injured.
25. The Club refers first to its statements submitted before the Control, Ethics and Disciplinary Body, reproduced above and adds to those that, even admitting that there is a presumption that the bottle was thrown by Fenerbahce supporters, the liability does not reverse the burden of proof. Taking into consideration the UEFA official reports in which clearly state that the location of the plastic bottle is unclear and no evidence has been found after UEFA Security Officer consulted CCTV and provided that as a rule, the Control, Ethics and Disciplinary Body clarifies the facts of the case in a summary manner, on the basis of official reports.
26. As regards to the burden of proof, this UEFA disciplinary body recalls that due to the private nature of the present proceedings, to determine which party has the burden of proof, the Panel should follow the rule established in Article 8 of the Swiss Civil Code, according to which "unless the law provides otherwise, the burden of proving the existence of an alleged fact shall rest on the person who derives rights from that fact".
27. Here the question is rather to establish if the UEFA disciplinary bodies have sufficient elements to establish an infringement perpetrated by the Appellant's supporters. Briefly, it shall be established if the standard of proof is met. It is in this context that Appellant was required to submit its position as regards to possible violations against the UEFA DR.
28. The fact that an UEFA delegate report established that an object was thrown to the players of the opponent Club and the presumption of accuracy attached to these reports in accordance with Article 38 DR, as well as the fact that the delegate linked such behaviour to the Appellant supporters whilst including this information in the space left in the delegate's report in case such incidents are committed by the said supporters, have opened the current proceedings against the Appellant and, consequently, it is in this context in which the UEFA disciplinary bodies shall examine if the circumstances provide sufficient evidence as to fulfil the requirements of the standard of proof at disciplinary proceedings.
29. With respect to the standard of evidence, this UEFA disciplinary body recalls that CAS had already the opportunity to comment on the burden of proof and what is more important the standard of proof. Briefly, it is the Panel's opinion that the party bearing the burden of evidence, in order to satisfy it, does not need to establish "beyond any reasonable doubts" the facts that it alleges to have occurred. In some cases, mainly those

related to match fixing activities, it shall be recalled that only to convince the Panel that an allegation is true by a "balance of probability" was needed, i.e. that the occurrence of the circumstances on which it relies is more probable than their non-occurrence.)

30. In this context, as indicated by CAS in another case related to "integrity issues" (CAS 2009/A/1920, *Pobeda*), the Panel needs however to be comfortably satisfied that the relevant facts have been established, bearing in mind the seriousness of the allegation which is made.
31. Even considering that for some cases the standard of "balance of probabilities" might be more adequate, this UEFA Appeals Body deems that the standard of proof as regards UEFA disciplinary proceedings shall be the so called "comfortable satisfaction".
32. It is important at this point to clarify that clubs and associations are strictly liable for the misbehaviours of their supporters in accordance with Article 8 DR, which is picked up by Article 16 (2) (b) DR.
33. In this context, it needs to be recalled that CAS in an award involving Fenerbahce SK and analysing the throwing of objects by supporters at a UEFA competition match, already stressed that the only way to ensure the mentioned responsibility of the Club (or the association) is to leave the word "supporters" undefined so that clubs know that the Disciplinary Regulations apply to, and they are responsible for, any individual whose behaviour would lead a reasonable and objective observer to conclude that he or she was a supporter of that club. Furthermore, as confirmed by CAS jurisprudence, mainly CAS 2013/A/3139 and CAS 2015/A/3874, a club becomes responsible for its supporters' misbehaviours so long as the incident takes place at a match.
34. The cited jurisprudence is referred to cases in which the supporters were not even present in the stadium. It follows that the argument raised by the Appellant as regards the certainty needed as if the Club's supporters threw the said object is not relevant as far as it can be established that in the eyes of an objective and reasonable observer such misbehaviour is to be attached to the Club's supporters.
35. Bearing the above in mind, this UEFA disciplinary body shares the conclusion of the first instance decision whilst citing a recent CAS award in that "in law, context is everything" (CAS 2013/A/3324 and 3369). It is, thus, crucial the perception of the reasonable onlooker (CAS 2013/A/3139).
36. In this regard it needs to be emphasized that the incident occurred after having scored the home team a goal and whilst the players were celebrating the goal. Both elements obviously bring strong factual circumstances that shall lead an objective and reasonable observer to conclude that the only supporters who may have felt upset with the mentioned situation and could have a sort of "reason" to complain are those linked to Fenerbahce SK.

37. It shall be noted, here as well, that Appellant has not proven otherwise. Even it admitted that the said situation leads to presume that its supporters may have thrown the object as well as did not deny that at the conflictive sector some of their supporters were located.
38. Having analysed this case and also taking into account that the Club itself admits that a logical presumption would link such conduct to its supporters, this UEFA Appeals Body is comfortable satisfied that the perpetrators were in fact Fenerbahce SK supporters.

C. Determination of the disciplinary measure

39. It is the Appeals Body's constant practice to consider the Control, Ethics and Disciplinary Body's power of discretion to have been abused or exceeded if the first-instance body bases its decision on untrue or erroneous elements, does not apply fundamental legal principles, considers irrelevant facts or does not consider essential circumstances whose evaluation is compelling. In the opinion of the Chairman of the Appeals Body, none of this applies here.
40. Regarding the improper conduct of the coach, the Appeals Body is comfortable satisfied with the explanation given by both the Club and the coach in his letter dated 10 August 2015 which do not contradict the statements given by the UEFA referee appointed for that match. In this regard, appreciating that such conduct is to be allocated within the scope of Article 15 (1) (a) (5) DR, it finds that no aggravating circumstances exist in the extent that, under the circumstances of this case, the mass confrontation and the hesitations of the coach to leave the pitch do not *per se* trigger a situation in which the coach shall be punished with one additional match suspension as the one contemplated in the above mentioned provision.
41. It follows that the UEFA Appeals Body is not comfortable satisfied with the fact that the coach provoked the mass confrontation or that he participated from the latter, as well as that for the current case the hesitation is not of enough entity, at least under the description of the referee in this particular case, as to increase the standard sanction.
42. Consequently the appeal is admitted as regards the disciplinary situation of the coach and the Control, Ethics and Disciplinary decision of 13 August 2015 must be modified.
43. Regarding the throwing of objects and pursuant to Article 17(1) DR, the competent disciplinary body determines the type and extent of the disciplinary measures to be imposed according to the objective and subjective elements of the case, taking account of both aggravating and mitigating circumstances. Cases involving multiple offences are governed by Article 18 DR.
44. Article 53 of the UEFA Statutes and Article 6(1) DR contain a list of possible disciplinary measures, including a fine (c), the playing of matches behind closed doors (h), a full or a partial stadium closure (i), the playing of matches in a neutral country (j), and disqualification from competitions in progress and/or exclusion from future competitions

- (n). Article 6(3) DR fixes the minimum and maximum fines that can be imposed. These general provisions give the competent disciplinary body broad powers of discretion when it comes to determining what disciplinary measures to impose.
45. The objective and subjective elements of the offences appear particularly unfavourable in this case, especially the fact that Fenerbahce SK has extremely poor previous records envisaging the exact same incidents and is facing an exclusion of UEFA competitions sanction under a probationary period. Eventually, the referred attack against players by its supporters may be taken into account as a factual circumstance breaching the said probationary period and activating the suspended exclusion against the Club.
 46. It shall be highlighted that other associations and clubs with similar problems have managed to take measures to improve the situation. These have proven to be effective and the Appellant must follow suit.
 47. The Appeals Body notes that the Control, Ethics and Disciplinary Body has taken account of all the concrete circumstances, in particular the club's previous record, the seriousness of the offence committed, the fact that players of the home team were attacked by the Fenerbahce SK supporters and the fact that a player was hit by a bottle, being the integrity of the latter compromised and justifying a strong sanction, as players have to perform free from any interference, and, mainly, free of any risk as regards their own safety the fact that the image of UEFA has been tarnished by this attitude.
 48. Consequently, the Chairman of the Appeals Body is of the opinion that the Control, Ethics and Disciplinary Body neither abused nor exceeded its broad powers of discretion. Its decision complies with the principles of legality – to the extent of its power of appreciation – and proportionality.
 49. On the basis of the above, the Chairman of the Appeals Body has no option but to uphold the initial decision as regards the incident involving the throwing of objects and reject the appeal.

VI. Costs

50. The allocation of the costs of proceedings before the Appeals Body depends on the outcome of those proceedings. The Appeals Body decides at its own discretion how these costs are to be allocated to the various parties or borne by UEFA. The appeal fee is either deducted from the costs of proceedings or reimbursed (Article 44.2 DR).
51. It is considered justified to charge all of the costs of this case to the appellant, whose appeal is rejected on all counts.
52. In this case, since these proceedings were conducted by the Chairman of the Appeals Body, as judge sitting alone, the costs will be lower than if a Panel with three or five members is constituted. Consequently, the costs of the proceedings are € 2'000.

Decision of 11 September 2015

FC Midtjylland

(homophobic chants)

Circumstances of the case: The UEFA match delegate reported that in the first half of the game, the supporters of the appellant were standing on the stairs and blocking the passageways. Moreover, the relevant reports indicated that in the 68th minute of the game, the appellant's supporters were screaming "Fagot" to a player of the away team. Finally, the reports stipulated that both teams came late out of the dressing room before kick-off despite having been asked to hurry up twice by the 4th match official, causing the kick-off to be delayed for two minutes

Legal framework: Article 52 of the UEFA Statutes, Article 8 of the UEFA Disciplinary Regulations, Article 14 (1) DR, Article 14 (2) DR

Decision:

The Control, Ethics and Disciplinary Body on the basis of Article 14 DR for discriminatory conduct by the appellant's supporters (the order that the appellant should partially close its stadium in its next home UEFA competition match for the discriminatory behaviour of its supporters.

The appeal lodged by FC Midtjylland is rejected and the decision of the Control, Ethics and Disciplinary Body of 3 September 2015 is upheld.

Chairman: Pedro Tomás (Spain)

I. Facts Of The Case

1. The elements set out below are a summary of the main relevant facts, as established by the Appeals Body on the basis of the decision rendered by the Control, Ethics and Disciplinary Body on 3 September 2015 (the "Decision"), the official reports, the written submissions of the parties, the exhibits filed and the statements produced in the course of the Appeals Body proceedings. While the Appeals Body has considered all the facts, allegations, legal arguments and evidence submitted by the parties in these proceedings, it refers in the present decision only to the submissions and evidence it considers necessary to explain its reasoning.
1. In substance, the referee and the UEFA match delegate reported that in the first half of the game, the supporters of the appellant were standing on the stairs and blocking the passageways. Moreover, the relevant reports indicated that in the 68th minute of the game, the appellant's supporters were screaming "Fagot" to a player of the away team. Finally, the reports stipulated that both teams came late out of the dressing room before

kick-off despite having been asked to hurry up twice by the 4th match official, causing the kick-off to be delayed for two minutes.

2. In its decision of 3 September 2015, the Control, Ethics and Disciplinary Body considered that the appellant's supporters had shown discriminatory behaviour by insulting the away-team's player, calling him a "Fagot", thus violating Article 14 of the UEFA Disciplinary Regulations (hereinafter referred to as: "DR"). The Control, Ethics and Disciplinary Body had further considered that due to the appellant's supporters standing on the stairs throughout the game, thereby blocking the passageways in the relevant sections, the appellant violated Article 38 of the UEFA Safety and Security Regulations. Finally, the Control, Ethics and Disciplinary Body considered that by causing a late kick-off in the game of reference, the appellant, and standing representatively for his team, the appellant's coach Thorup Jess, have violated Article 11 (2) (g) DR. In view of all of the above, the appellant was held responsible for the conduct of its supporters and of its coach and consequently sentenced to the partial closure of its stadium in the next UEFA competition home match, comprehending at least 1'500 seats, to a fine of € 8'000 and to a warning for the team and for its coach.
3. The Decision with grounds was notified to the appellant on 10 September 2015.

II. Summary of the proceedings before the Appeals Body

4. On 10 September 2015, the appellant announced its intention to appeal against the decision.
5. On 11 September 2015, the appellant filed its grounds for appeal. In its statements, the appellant essentially acknowledged the decision of the Control, Ethics and Disciplinary Body while however stressing that it was only a small fraction of its supporters who participated in the discriminatory chants as well that as it was the clubs first ever violation of Article 14 DR.
6. Moreover, as to the sanction itself, the appellant argued that the exclusion of 1'500 spectators would constitute a disproportionate penalty for the club, given that its stadium has a capacity of 9'481 only and that all the tickets for the next UEFA competition home-match have already been sold.
7. The appellant asked the UEFA Appeals Body to take this into account, to reconsider the sanction and to turn the sanction of a partial stadium closure into a fine.
8. On 11 September 2015, the UEFA Ethics and Disciplinary Inspector submitted his reply to the appeal, requesting that it be rejected and the costs charged accordingly.

III. Hearing

9. No hearing was held, since the appellant requested that the proceedings be conducted in writing only and the chairman of the Appeals Body did not raise any objection to this request.
10. The Chairman of the Appeals Body examined the entire case file, in particular the challenged decision, the grounds for appeal and the Ethics and Disciplinary Inspector's reply to the appeal, on 14 July 2015.
11. The parties' arguments are set out and examined below, in so far as they are relevant to the decision.

IV. Jurisdiction of the Appeals Body and admissibility of the Appeal

12. Article 24.4 DR states as follows: "The Appeals Body has jurisdiction to hear appeals against decisions by the Control, Ethics and Disciplinary Body and to rule on particular urgent cases referred to it directly by the chairman of the Control, Ethics and Disciplinary Body."
13. On 7 July 2015, the Appellant lodged its grounds for appeal by the set deadline and in the form required. The appeals fee was paid on time.
14. It follows that the Appeals Body has competence to decide on the present appeal and that the appeal is admissible. The Appeals Body may therefore consider its merits and can therefore re-examine the case in full, both factually and legally (Article 58.2 DR).
15. Pursuant to Article 52 of the UEFA Statutes, as well as Article 23 of the UEFA Disciplinary Regulations (DR), the Control, Ethics and Disciplinary Body is competent to deal with the case.
16. In light of the above, the UEFA Statutes, rules and regulations, in particular the UEFA Disciplinary Regulations as well as the UEFA Safety and Security Regulations are applicable to these proceedings.
17. The appeal in this case is directed exclusively at the sanction imposed by the Control, Ethics and Disciplinary Body on the basis of Article 14 DR for discriminatory conduct by the appellant's supporters (the order that the appellant should partially close its stadium in its next home UEFA competition match for the discriminatory behaviour of its supporters).
18. The appellant does not contest the fine or the punishment for the blocking of the stairways and for causing the late kick-off, i.e. does not contest the violations of Article 11 DR and Article 38 of the UEFA Safety and Security Regulations. The uncontested

sanctions (fine of €8'000 for the blocking of stairways and the warnings for the improper conduct of the team and the head coach, Thorup Jess, in points 2, 3 and 4 of the contested decision respectively) shall therefore not be re-examined and remain in force.

V. Legal Considerations Of The Appeals Body

A. The legal framework.

19. Under Article 52 of the UEFA Statutes, disciplinary measures may be imposed for unsportsmanlike conduct, violations of the Laws of the Game and contravention of UEFA's Statutes, regulations, decisions and directives.
20. Under Article 8 of the UEFA Disciplinary Regulations, member associations and clubs are responsible for the conduct of their players, officials, members, supporters and any other persons exercising a function at a match on their behalf. This rule also applies to the UEFA Europa League 2015/2016 matches, as expressly stated in paragraph 7.01 of the competition regulations. Article 8 of the UEFA Disciplinary Regulations forms the legal basis on which UEFA can ensure that its objectives and the constraints imposed on its members are respected not only by its members, but also by third parties for whom they are answerable.
21. According to Article 14 (1) DR, any person under the scope of Article 3 who insults the human dignity of a person or group of persons on whatever grounds, including skin colour, race, religion or ethnic origin, incurs a suspension lasting at least ten matches or a specific period of time, or any other appropriate sanction.
22. According to Article 14 (2) DR, if one or more of the member association or club's supporters engage in the behaviour described in paragraph 1, the member association or club is punished with a minimum of a partial stadium closure.
23. According to Article 38 DR, facts contained in official UEFA reports are presumed to be accurate. Proof of their inaccuracy may, however, be provided.

B. In the case in hand

The discriminatory chants

24. As it was stated in the report of the referee and remained undisputed by the appellant in the following, in the 68th minute of the game, the home-team ultras were screaming "Fagot" to a player of the away team, as the player was about to take a corner-kick.
25. The appellant rightly admitted the infringement reported by the match official and the UEFA match delegate, for which the appellant is liable under the principle of strict liability, and did not contest the discriminatory nature of the chants performed by its supporters.

26. The facts established by the Control, Ethics and Disciplinary Body are contested neither by the Ethics and Disciplinary Inspector nor by the appellant, the latter only disputing the disciplinary measure related to the violation of Article 14 of the Disciplinary Regulations, i.e. the partial closure of the appellant's stadium during the next UEFA competition match in which the appellant would play as the host club, hence the question as to whether the partial closure of the stadium in the next match in an UEFA competition, comprehending at least 1'500 seats, should be deemed disproportionate.
27. It therefore remains for the Chairman of the Appeals Body to examine, firstly, whether the Control, Ethics and Disciplinary Body respected the regulations and legal principles, in particular those of legality and proportionality, or whether it abused its power of discretion by ordering the appellant to play its next home match partially behind closed doors, comprehending 1'500 seats, for the discriminatory conduct under Article 14 (2) of the Disciplinary Regulations. Secondly, it must decide whether the argument put forward by the appellant could be considered as an exceptional circumstance in the sense of Article 17 (3) of the Disciplinary Regulations.

C. Determination of the disciplinary measure

28. It is the Appeals Body's constant practice to consider the Control, Ethics and Disciplinary Body's power of discretion to have been abused or exceeded if the first-instance body bases its decision on untrue or erroneous elements, does not apply fundamental legal principles, considers irrelevant facts or does not consider essential circumstances whose evaluation is compelling. In the opinion of the Chairman of the Appeals Body, none of this applies here.
29. The Chairman of the Appeals Body is of the opinion that the Control, Ethics and Disciplinary Body neither abused nor exceeded its broad powers of discretion. His decision complies with the principles of legality – to the extent of its power of appreciation – and proportionality. In this regard, the Chairman of the Appeals Body particularly emphasized that the partial closure of the stadium is a standard sanction as per Article 14 (2) DR which can only be reduced under exceptional circumstances. Therefore, as to the appellant's request to turn the partial closure of the stadium into a fine, the Chairman of the Appeals Body acknowledged that appellant did not provide any arguments which would qualify as exceptional circumstances in the sense of Article 17 (3) DR.
30. In particular the appellant's argument, that the relevant tickets have already been sold and allocated to its supporters, has to be considered irrelevant as to the consideration of the violations of the principles which are stipulated in Article 14 DR, as said argument only concerns the organization of the next UEFA competition home match of the appellant and has no bearing as to the substance of the decision of the Control, Ethics and Disciplinary Body.
31. The Chairman of the Appeals Body further noted that the aforementioned consideration also applies as to the argumentation of the appellant that the violation of Article 14 DR

was the club's first violation of said Article 14 DR. The said Article 14 (3) DR explicitly stipulates the disciplinary consequences in the event a club is convicted of recidivism, i.e. the provision stipulates that in the presence of aggravating factors, more severe sanctions are applied. In this context, the Chairman of the Appeals Body noted that on the contrary, the absence of aggravating factors can by itself not be regarded as a mitigating factor. Therefore, the aforementioned argument of the appellant cannot neither be regarded as a mitigating circumstance nor much less as an exceptional circumstance in the sense of Article 17 (3) DR.

32. Finally, the Chairman of the Appeals Body recalled the content of the decision of the Control, Ethics and Disciplinary Body and in particular its par. 40, where the latter body particularly took into account the size and maximum capacity of the stadium and determined the appropriate scope of the partial stadium closure. Consequently, given that the Control, Ethics and Disciplinary Body did not only impose the standard sanction in the sense of Articles 14 (2) and 17 (3) of the UEFA Disciplinary Regulations, but also specifically took into account the concrete circumstances of the matter at hand such as the size of the stadium of the Appellant and the maximum capacity, the Chairman of the Appeals Body came to the conclusion that the Control, Ethics and Disciplinary Body neither abused nor exceeded its broad powers of discretion. Its decision complies with the principles of legality – to the extent of its power of appreciation – and proportionality.
33. On the basis of the above, the Chairman of the Appeals Body has no option but to uphold the initial decision and reject the appeal.

VI. Costs

34. The allocation of the costs of proceedings before the Appeals Body depends on the outcome of those proceedings. The Appeals Body decides at its own discretion how these costs are to be allocated to the various parties or borne by UEFA. The appeal fee is either deducted from the costs of proceedings or reimbursed (Article 44.2 DR).
35. It is considered justified to charge all of the costs of this case to the appellant, whose appeal is rejected on all counts.
36. In this case, since these proceedings were conducted by the Chairman of the Appeals Body, as judge sitting alone, the costs will be lower than if a Panel with three or five members is constituted. Consequently, the costs of the proceedings are € 1'000.

Decision of 17 September 2015

Feyenoord

(racist behaviour/throwing of an inflatable banana)

Circumstances of the case: The referee for the match between Feyenoord and AS Roma on 26 February 2015 reported that his assistant informed him that a “huge plastic banana” was thrown in the direction of the AS Roma player Yao Kouassi Gervais (who is known as Gervinho) during the 38th minute of the match and that he considered that this was “a gesture clearly racist in the direction of the black player of colour”. As a result of this behaviour, the referee requested that the ‘step one announcement’ be made over the stadium’s public address system warning of the consequences of any further racist behaviour. Both the Delegate and Security Officer also reported that an inflatable banana was thrown onto the pitch during the 38th minute of the match. A report was also prepared by the FARE Network in connection with the incident.

Legal framework: Article 14 DR

Decision:

The Control, Ethics and Disciplinary Body considered that Feyenoord should be held responsible for its supporter’s racist behaviour and must be sanctioned for a breach of Article 14(1) DR. As the case involved a second infringement of Article 14 (1) DR, the Control, Ethics and Disciplinary Body applied Article 14 (3) (a) DR and ordered Feyenoord to play its next UEFA competition match as a host club behind closed doors and to pay a fine of €50,000.

The appeal lodged by Feyenoord is rejected and the decision of the Control, Ethics and Disciplinary Body of 21 May 2015 is upheld

Chairman: Pedro Tomas (Spain)

Vice-Chairman: Levent Bıçakcı (Turkey)

Member: Björn Alberg (Sweden)

I. Facts Of The Case

1. The elements set out below are a summary of the main relevant facts, as established by the Appeals Body on the basis of the decision rendered by the Control, Ethics and Disciplinary Body on 21 May 2015 (the “**Decision**”), the official reports, the written submissions of the parties, the exhibits filed and the statements produced in the course of the Appeals Body proceedings. While the Appeals Body has considered all the facts,

allegations, legal arguments and evidence submitted by the parties in these proceedings, it refers in the present decision only to the submissions and evidence it considers necessary to explain its reasoning.

2. The main facts of the present case can be summarised as follows:
 - The referee for the match between Feyenoord and AS Roma on 26 February 2015 reported that his assistant informed him that a *"huge plastic banana"* was thrown in the direction of the AS Roma player Yao Kouassi Gervais (who is known as Gervinho) during the 38th minute of the match and that he considered that this was *"a gesture clearly racist in the direction of the black player of colour"*.
 - As a result of this behaviour, the referee requested that the 'step one announcement' be made over the stadium's public address system warning of the consequences of any further racist behaviour.
 - Both the Delegate and Security Officer also reported that an inflatable banana was thrown onto the pitch during the 38th minute of the match. A report was also prepared by the FARE Network in connection with the incident.
 - In the Decision with grounds, the Control, Ethics and Disciplinary Body concluded that Feyenoord had not disproved the content of the various official UEFA reports, which are presumed to be accurate under Article 38 of the UEFA Disciplinary Regulations (the **"DR"**). The Control, Ethics and Disciplinary Body stated that the club had not provided any convincing evidence to demonstrate that the inflatable banana was not thrown in the direction of Gervinho (in particular, the video footage submitted by the club was considered *"far from being conclusive"*) and, overall, suggested that the club's statements were *"confusing"* and *"sometimes contradictory"*.
 - Accordingly, the Control, Ethics and Disciplinary Body considered that Feyenoord should be held responsible for its supporter's racist behaviour and must be sanctioned for a breach of Article 14(1) DR.
 - As the case involved a second infringement of Article 14 (1) DR, the Control, Ethics and Disciplinary Body applied Article 14 (3) (a) DR and ordered Feyenoord to play its next UEFA competition match as a host club behind closed doors and to pay a fine of €50,000.
3. The Decision with grounds was notified to the Appellant on 28 May 2015.

II. Summary of the proceedings before the Appeals Body

4. On 8 July 2015, Feyenoord announced its intention to appeal against the Decision.
5. On 24 July 2015, the Appellant filed its grounds for appeal.

6. In its statement, the Appellant:

- States that the inflatable banana was not brought to the stadium for racist purposes, but is in fact a *"toy which is brought to the stadium for atmosphere"* as part of a tradition at Feyenoord (and in football generally).
- Suggests that an inflatable banana is not a *"throwing object"* due to its lightweight nature and therefore could not have been deliberately thrown at a particular target.
- Claims that, for these reasons, inflatable bananas have *"never been the subject of a racist act"*.
- Suggests that the inflatable banana was *"thrown by a coloured person"* and therefore there could be no racist intent.
- Alleges that there is a discrepancy between the referee's report which states that the inflatable banana was thrown *"in the direction of the player"* and the Security Officer's report which states that it was thrown *"in the direction of the pitch"*.
- Argues that the inflatable banana was not thrown at Gervinho, but was only thrown in a general act of frustration on the part of the supporter.
- Concludes that, contrary to the suggestion of the Control, Ethics and Disciplinary Body, the video footage submitted by the club shows *"the exact moment, the exact stand and the act"*.
- Suggests that Feyenoord has no history of racist acts against *"coloured players"*, as supported by several statements from former players of African origin.
- Proposes that the inconsistencies in the club's statements can be attributed to the time pressures of the UEFA disciplinary proceedings.
- Argues that an *"objective onlooker"* would not have considered the incident to be racist and that it was only the overreaction of the referee and the media coverage of the incident that led to the suggestion of racism.
- Requests that, even if the Appeals Body considers the incident to be a racist act, the club's evidence and arguments should be considered to be *"exceptional circumstances"* under Article 17 (3) DR.

7. It is noted that, in the Decision, the Control, Ethics and Disciplinary Body also imposed other sanctions on the Appellant in connection with other disciplinary matters, however, these other elements of the Decision have not been appealed by the Appellant and, accordingly, such other sanctions have entered into full force and effect.

8. On 31 August 2015, the UEFA ethics and disciplinary inspector submitted his reply to the appeal, requesting that it be dismissed and the costs charged accordingly.

III. Hearing

9. Neither the Appellant nor the UEFA ethics and disciplinary inspector requested a hearing. Consequently, the Appeals Body rendered its decision based on the written statements submitted by the parties.
10. The Appeals Body examined the entire case file, in particular the Decision with grounds, the grounds for appeal and the UEFA ethics and disciplinary inspector's reply to the appeal, on 17 September 2015.
11. The parties' arguments are set out and examined below, in so far as they are relevant to the decision.

IV. Appeals Body Competence and Admissibility of the Appeal

12. Article 24 (4) DR states as follows:

"The Appeals Body has jurisdiction to hear appeals against decisions by the Control, Ethics and Disciplinary Body and to rule on particular urgent cases referred to it directly by the chairman of the Control, Ethics and Disciplinary Body."

13. Feyenoord lodged its grounds for appeal by the set deadline and in the form required. The appeals fee was paid on time.
14. It follows that the Appeals Body has competence to decide on the present appeal and that the appeal is admissible. The Appeals Body may therefore consider its merits and can therefore re-examine the case in full, both factually and legally (Article 58 (2) DR).

V. Legal Considerations Of The Appeals Body

A. The legal framework.

15. According to Article 8 DR, a club that is bound by a rule of conduct laid down in UEFA's Statutes or regulations may be subject to disciplinary measures and directives if such a rule is violated as a result of the conduct of one of its members, players, officials or supporters and any other person exercising a function on behalf of the club concerned, even if the club concerned can prove the absence of any fault or negligence.
16. Under Article 14 (1) DR, any person under the scope of Article 3 DR who insults the human dignity of a person or group of persons on whatever grounds, including skin colour, race, religion or ethnic origin, incurs a suspension lasting at least ten matches or a specified period of time, or any other appropriate sanction.

17. Pursuant to Article 14 (2) DR, if one or more of a club's supporters engages in the behaviour described in Article 14 (1) DR, the club is punished with a minimum of a partial stadium closure.
18. According to Article 14 (3) (a) DR, a second offence is punished with one match played behind closed doors and a fine of €50,000.
19. Under Article 38 DR, facts contained in official UEFA reports are presumed to be accurate. Proof of their inaccuracy may, however, be provided.

B. In the present case

20. As stated by the Control, Ethics and Disciplinary Body, Article 14 (1) DR is a special rule (advancing on the principle set out in Article 8 DR) which stipulates that clubs are responsible for the racist conduct of their supporters. This responsibility applies to offences committed by any person supporting the team before, during or after the match, irrespective of the fault of the club in question (i.e. strict liability).
21. It is important to stress that the fight against racism is a high priority for UEFA. UEFA has a policy of zero tolerance towards racism and discrimination on the pitch and in the stands. For these reasons, racist behaviour must always be punished with the most severe sanctions.
22. In the present case, the club argues that the inflatable banana was not brought to the stadium for racist purposes, but only as part of a football fan tradition. However, in the opinion of the Appeals Body, the underlying reason why the inflatable banana was in the stadium is not important. What is important is whether the inflatable banana was thrown at the AS Roma player Gervinho and why it was thrown. It is this act - the throwing of an inflatable banana at a player of African origin - that must be analysed.
23. According to Article 38 DR, facts contained in official UEFA reports are presumed to be accurate. Proof of their inaccuracy may, however, be provided.
24. The referee's report for the Feyenoord vs. AS Roma match clearly states that an inflatable banana was thrown in the direction of Gervinho.
25. In the opinion of the Appeals Body, it is irrelevant that the referee is reporting what was said to him by his assistant. The authority and reliability of the assistant referee, as a match official in his own right, is as important as the referee's. The referee and his assistants work as a team and the referee's acts on the pitch (as presented in the official report) rightly reflect this team effort in officiating the game.
26. In addition, in the opinion of the Appeals Body, the fact that the Delegate and Security Officer state that the inflatable banana was thrown towards the pitch and do not mention the player Gervinho does not disprove the accuracy of the referee's report. Together, the

three official reports clearly prove that: (i) an inflatable banana was thrown; and (ii) that the referee – after liaising with his assistant - considered it to have been thrown at Gervinho.

27. The club has submitted video evidence and images in order to disprove the official reports, however, the footage provided is not conclusive - in particular, the area to the right of the corner flag is not shown in the match footage, making it impossible to conclude that the inflatable banana was not thrown at Gervinho.
28. In addition, the club's argument regarding the suitability of the inflatable banana as a throwing object is, quite frankly, weak.
29. In light of the foregoing, the Appeals Body concludes that the club has not provided any convincing evidence that would demonstrate that the inflatable banana was not thrown at Gervinho. The official reports, in particular the referee's report, have therefore not been disproven and are presumed to be accurate in application of Article 38 DR.
30. Having concluded that the inflatable was in fact thrown at the player, the Appeals Body also recognises the need to determine if the act was a racist act.
31. In this regard, the Appeals Body considers that the Control, Ethics and Disciplinary Body was correct to consider how such behaviour would be viewed by an "objective onlooker".
32. The Appeals Body also wishes to clarify that such a hypothetical objective person should not only be considered to be a person located in the stadium, but might equally be a person watching the game on television or indeed a person who is more generally exposed to images of the behaviour. It is important to consider the global reach of football and the broad consumption of football content in this context.
33. This principle of an objective, reasonable observer is well established. Indeed, as stated by the Court of Arbitration for Sport ("**CAS**") in *CAS 2013/A/3324 GNK Dinamo v UEFA* (paragraphs 9.12 and 9.13):

"...the insult can be conveyed by whatever means... it is not necessary for an offence to be committed under Article 14 UEFA DR to prove that the person charged intended to insult, it is sufficient that he or she did insult. The precondition of intention is significantly not prescribed by the Article... In the Panel's view the test of whether or not there has been an insult qualifying for sanctions under Article 14 UEFA DR, is the perception of the reasonable onlooker. It is in that sense objective not subjective."
34. Applying the CAS jurisprudence, the club's suggestion that the inflatable banana is not racist and that the person throwing the inflatable banana did not intend to be racist (or, because of his own skin colour, could not be racist) are irrelevant and misleading - the question is how such act would be viewed by an objective observer.

35. The Appeals Body considers that an objective onlooker would perceive the behaviour of the Feyenoord fan to be a racist act. Bananas are symbols that are widely acknowledged as being strongly linked to discrimination against players of African origin and such a symbol was clearly thrown at Gervinho (who is a player of African origin). When faced with such images, it is hard to believe how any objective, reasonable person could think that this was not an incident of racism at a football match.
36. In addition, it should be noted that the referee and his assistant (in their capacity as impartial match officials) clearly perceived this to be a racist act *“in the direction of the black player”* and, accordingly, the referee initiated the racism protocol. Further, the media interpreted the incident to be a racist act and reported it as such. This was also confirmed by the FARE Network. The act did not, as the club suggest, become racist because of the acts of the referee and media. On the contrary, it was the inherent racist quality of the act that triggered the appropriate response of the referee, the broad coverage by media sources and the report by the FARE Network. It is unrealistic to expect any reasonable person who experiences the image of a banana being thrown at a black player to be left with a non-racist impression.
37. On this basis, the Control, Ethics and Disciplinary Body concludes that the conduct of the Feyenoord supporter violated Article 14 DR and, in accordance with the principle of strict liability, the club must be punished accordingly.

C. Determination of the disciplinary measure

38. It is the Appeals Body’s consistent practice to consider the Control, Ethics and Disciplinary Body’s power of discretion to have been abused or exceeded if the first-instance body bases its decision on untrue or erroneous elements, does not apply fundamental legal principles, considers irrelevant facts or does not consider essential circumstances whose evaluation is compelling. In the opinion of the Chairman of the Appeals Body, none of this applies here.
39. The Appeals Body is of the opinion that the Control, Ethics and Disciplinary Body neither abused nor exceeded its broad powers of discretion. Its decision complies with the principles of legality – to the extent of its power of appreciation – and proportionality.
40. The Appeals Body draws attention to the fact that following the implementation of the 2013 edition of the DR (and as subsequently confirmed again in the 2014 edition of the DR), UEFA’s fight against racist behaviour entered a new era. This has resulted in more severe sanctions being imposed in respect of racist behaviour.
41. In the present case, it is noted that the club has one previous record of racist behaviour by its supporters and such recidivism was rightly taken into consideration by the Control, Ethics and Disciplinary Body.
42. In addition, the Appeals Body notes that such previous record also seems to contradict the club’s own suggestions that it does not have a history of racist behaviour. It is highly

concerning that the club's supporters have been involved in several instances of racist behaviour in a short space of time.

43. Applying Article 14 (3) (a) DR, a second offence involving the behaviour described in Article 14 (1) DR shall be punished with one match played behind closed doors and a fine of €50,000.
44. Only in "*exceptional circumstances*" can such sanction be modified under Article 17 (3) DR.
45. In the present case, the Control, Ethics and Disciplinary Body does not accept the club's suggestion that its various arguments/evidence qualify as an exceptional circumstances. There is, for example, nothing exceptional about a club being involved in anti-racism initiatives or having good relationships with current/former players of African origin, nor can such situations reasonably be said to excuse the overtly racist behaviour of supporters.
46. On the basis of the above, the Appeals Body has no option but to uphold the initial decision and reject the appeal.

VI. Costs

47. The allocation of the costs of proceedings before the Appeals Body depends on the outcome of those proceedings. The Appeals Body decides at its own discretion how these costs are to be allocated to the various parties or borne by UEFA. The appeal fee is either deducted from the costs of proceedings or reimbursed (Article 44 (2) DR).
48. It is considered justified to charge all of the costs of this case to the Appellant, whose appeal is rejected on all counts.
49. In this case the costs of proceedings are €2,000.

Decision of 17 September 2015

Football Club Zenit

(illicit banners)

Circumstances of the case: The first flag showed an image of the “Soprotivlenie wolf” which is mentioned in the FARE manual. The second flag displayed is known as the Russian Empire flag and mentioned in the FARE manual as well

Legal framework: Article 16 (2) (e) DR

Decision:

The Control, Ethics and Disciplinary Body considered that the flags displayed constituted illicit banners and therefore fell under the scope of Article 16 (2) (e) of the UEFA Disciplinary Regulations . As a result, the Control, Ethics and Disciplinary Body decided to fine the appellant € 10'000.

The appeal of Football Club Zenith is rejected. Consequently, the Control, Ethics and Disciplinary Body's decision of 21 May 2015 is confirmed.

Chairman: Björn Ahlberg (Sweden)

I. Facts Of The Case

1. The elements set out below are a summary of the main relevant facts, as established by the Appeals Body on the basis of the decision rendered by the Control, Ethics and Disciplinary Body on 21 May 2015 (the “Decision”), the official reports, the written submissions of the parties, the exhibits filed and the statements produced in the course of the Appeals Body proceedings. While the Appeals Body has considered all the facts, allegations, legal arguments and evidence submitted by the parties in these proceedings, it refers in the present decision only to the submissions and evidence it considers necessary to explain its reasoning.
2. In substance, according to the report of the UEFA match delegate, two flags were displayed by the supporters of the appellant:
 - The first flag showed an image of the “Soprotivlenie wolf” which is mentioned in the FARE manual.
 - The second flag displayed is known as the Russian Empire flag and mentioned in the FARE manual as well.
3. In its decision of 21 May 2015, the Control, Ethics and Disciplinary Body considered that the flags displayed constituted illicit banners and therefore fell under the scope of Article

16 (2) (e) of the UEFA Disciplinary Regulations (the “DR”). As a result, the Control, Ethics and Disciplinary Body decided to fine the appellant € 10’000.

4. The Decision with grounds was notified to the appellant on 3 July 2015.

II. Summary of the proceedings before the Appeals Body

5. On 3 July 2015, the appellant announced its intention to appeal against the Decision.
6. On 9 July 2015, the appellant filed its grounds for appeal. In its statements, the appellant, essentially, argued the following:
 - The Control, Ethics and Disciplinary Body in its decision did not specify which of the two flags under scrutiny were illicit, given that the decision only speaks about one banner which was apparently illicit.
 - The wolf displayed on the first flag does not illustrate a “Soprotivlenie wolf” but a “courage wolf”, which is a well know internet meme. The “Soprotivlenie wolf” is a drawn wolf, displayed in white on an all-black background, whereas the wolf displayed on the flag is the photo of an actual wolf, in colour on a colour-wheeled background.
 - The wolf from the first flag was displayed by a supporters group called “Petersburg Wolves” and was not chosen to make reference to any right-wing symbolism but to the animal “wolf” because just like those animals they wanted to be free wanderers who were not subject to uniform rules of other supporters’ movements.
 - The Russian Empire flag makes reference to a historical flag of Russia, which was an official flag of Russia when it was still an empire and is still used in the country by state authorities, public institutions and citizens. The flag is part of many city and region flags in Russia, it is displayed *inter alia* on top of the Catherine Palace in St. Petersburg and is often in used by supporters of the Russian national teams during football and ice hockey games conjunction with the red, blue and white flag.
 - The FARE manual in its previous versions did not mention the Russian Empire flag and was only added to the manual in 2014. The FARE manual states that the Russian Empire flag “on its own (...) may be regarded as a sign of far-right presence inside the stadium. It can be an indicator for and is often found in combination with other discriminatory symbols”. In this regard, the appellant stressed that UEFA does not leave it to FARE to legally qualify the facts reported and does not necessarily feel bound by its assessment of them and, in this context, asked the Appeals Body to consider that even based on the FARE manual

the Russian Empire flag, when used on its own, does not necessarily contain any discriminatory, political, religious or otherwise illicit or inappropriate message.

- Should the Appeals Body consider the flag of the Russian Empire illicit, UEFA would not follow its own approach regarding historical flags, given that FC Barcelona supporters have always been displaying the “Estelada” flag, which is generally displayed by Catalonian separatists to express their support for an independent Catalonia. The message behind the “Estelada” is clearly of a political nature and yet FC Barcelona has never been sanctioned for it. The same goes for the so called “Ulster flag”, which is not allowed to be flown from Northern Ireland government buildings anymore but is still used by Northern Ireland supporters in UEFA competition matches without being sanctioned for it.
7. On 31 August 2015, the UEFA Ethics and Disciplinary Inspector submitted his reply to the appeal, requesting that it be rejected and the costs charged accordingly.

III. Hearing

8. On 17 September 2015, a hearing was held.
9. The ad-hoc Chairman of the Appeals Body opened the appeal hearing, noted the presence of the appellant and the UEFA Ethics and Disciplinary Inspector.
10. Afterwards, the ad-hoc Chairman explained the procedure to be followed. He reminded the parties of the composition of the Appeals Body and told them that everything they and the ad-hoc Chairman of the Appeals Body said during the hearing would be recorded. No objection was raised.
11. The floor was given to the parties, who, in substance, reiterated the arguments given in their written pleadings and developed and maintained their requests.

IV. Appeals Body Competence and Admissibility of the Appeal

12. Article 24.4 DR states as follows: “The Appeals Body has jurisdiction to hear appeals against decisions by the Control, Ethics and Disciplinary Body and to rule on particular urgent cases referred to it directly by the chairman of the Control, Ethics and Disciplinary Body.”
13. Pursuant to Article 24.3.a) DR “(...) one of its members may take decision as judge sitting alone: in cases where the sanction imposed by the Control, Ethics and Disciplinary Body is a fine of up to €35’000 (...)”. The fine imposed on the appellant was € 10’000. The factual and legal circumstances also permit this solution. The appellant and the UEFA Ethics and Disciplinary Inspector concurred in this solution. Therefore, the member of the Appeals

Body acting as ad-hoc-Chairman, acting as judge sitting alone, is entitled to examine the merits of the case and reach a decision.

14. The appellant lodged its grounds for appeal by the set deadline and in the form required. The appeals fee was paid on time.
15. It follows that the Appeals Body has competence to decide on the present appeal and that the appeal is admissible. The Appeals Body may therefore consider its merits and can therefore re-examine the case in full, both factually and legally (Article 58.2 DR).

V. Legal Considerations Of The Appeals Body

A. The legal framework.

16. According to Article 16 (2) (e) DR, all associations and clubs are liable for the following inappropriate behaviour on the part of their supporters and may be subject to disciplinary measures and directives even if they can prove the absence of any negligence in relation to the organisation of the match: the use of gestures, words, objects or any other means to transmit any message that is not fit for a sports event, particularly messages that are of a political, ideological, religious, offensive or provocative nature.

B. In the case in hand

17. To begin with, the ad-hoc Chairman of the Appeals Body emphasized that the question whether the banners under scrutiny should be considered illicit or was not obvious and could only be answered after thorough analysis of the documentation provided by the appellant and taking into consideration the particular circumstances of the specific case.
18. Subsequently, the ad-hoc Chairman of the Appeals Body turned his attention to the conclusion of the appellant that, judging by the wording of the decision of the Control, Ethics and Disciplinary Body, only one of the two flags was considered to be illicit in the sense of Article 16 (2) (e) DR. In this regard, after analysis of the respective paragraphs in the decision and in particular its par. 9, the ad-hoc Chairman of the Appeals Body was convinced that the fact that the Control, Ethics and Disciplinary Body used the term “the banner in question” in singular was due to an editorial error, hence not due to the fact that the Control, Ethics and Disciplinary Body would have only considered one of the flags to be illicit. Therefore, the ad-hoc Chairman of the Appeals Body considered that consequently both flags are also subject to the present appeal procedures.
19. With this being established, the ad-hoc Chairman of the Appeals Body recalled that the presence of both flags remained undisputed during the course of these procedures and only the interpretation of the flags under scrutiny was in the centre of discussion.

20. Furthermore, the ad-hoc Chairman of the Appeals Body recalled that according to Article 38 DR, facts contained in official UEFA reports are presumed to be accurate, and, in this regard emphasized that the aforementioned provision is not applicable to the FARE report and recalled, as it was also stated by the appellant, that UEFA does not leave it to FARE to legally qualify the facts reported and does not necessarily feel bound by its assessment of them. However, the ad-hoc Chairman of the Appeals Body also confirmed that the observations which were made by the FARE report and the information contained in the FARE manual are strong indicators when determining possible discriminatory, racist and illicit banners and flags.
21. The ad-hoc Chairman of the Appeals Body further concluded that the question whether a banner is illicit in accordance with Article 16 (2) (e) DR needs to be analysed from an objective standpoint and looking at the particular circumstances of the relevant situation which must be assessed. In this regard, it is not necessary that a flag subjectively intends to have a message which is not fit for a sports event, as it is only necessary to appear inappropriate to an objective observer.
22. According to Article 1 (1) of the UEFA Statutes, UEFA is a private Swiss association entered in the register of companies under the terms of Article 60 et seq. of the Swiss Civil Code. The same article emphasises that UEFA shall be neutral, politically and religiously. This general principle accomplished in the first article of the UEFA Statutes is fully in line with the statutory objectives of this association, which prevails in Article 2 (1) (b), *inter alia*, that the objectives of UEFA shall be to: “promote football in Europe in a spirit of peace, understanding and fair play, without any discrimination on account of politics, gender, religion, race or any other reason”.
23. Under this legal context, the UEFA disciplinary bodies had developed over the years a long standing case law as regards the use of “illicit” banners at European football stadiums. In this regard, the UEFA disciplinary bodies have considered that football stadiums are not the right place to display political, religious and ideological or any other messages that are not fit for sport events. In the eyes of the UEFA disciplinary bodies, the relevant factor in each case is the relationship between the potential message and the football match and how the said potential message can be understood not only by the home and away supporters at the stadium also by the objective viewers on television. This principle is even more relevant in a competition like the UEFA Champions League, which is followed by millions of supporters all around the world by different platforms.
24. In this context, which must be considered coherent and fully in line with the UEFA statutory objectives, the UEFA disciplinary bodies have considered banners in breach of Article 16 DR (2) (e) in a longstanding and consistent jurisprudence (e.g. in the disciplinary cases 26795, 26275, 26594, 26524), featuring banners with a similar and therefore comparable, sometimes even less impactful contents.
25. Bearing the above in mind, the ad-hoc Chairman of the Appeals Body acknowledged the arguments of the appellant and in particular its explanations as to the usage of both flags and the possible interpretation in connection with the flags.

26. Regarding the flag showing the wolf, the ad-hoc Chairman of the Appeals Body on the one hand did not obviate the possibility that subjectively, by using the wolf on the flag in question, the supporters of the appellant did not intend to transmit a message that is not fit for a sports event. However, the ad-hoc Chairman of the Appeals Body was convinced that to an objective observer, said wolf symbol on the relevant banner could appear offensive and unfit for a sports event as it is sufficiently similar to the wolves which are usually used on right wing and neo-Nazi banners.
27. In this regard, the ad-hoc Chairman of the Appeals Body concurred with the argumentation of the UEFA Ethics and Disciplinary Inspector who had essentially argued that alone by the fact that the relevant UEFA match delegate and security officer assumed that the wolf flag would display a symbol which was illicit and transferred an illicit message, it could be seen that to an objective observer the flag under scrutiny could have exactly the same effect. The ad-hoc Chairman of the Appeals Body concluded that even though it is not certain without a doubt that the wolf symbol is meant to transfer an illicit message, to an objective observer this might appear to be the case, which is why the wolf banner falls under the scope of Article 16 (2) (e) DR. Therefore, the appellant should be sanctioned accordingly for it following the principle of strict liability for its supporters.
28. Regarding the Russian Empire flag, the ad-hoc Chairman of the Appeals Body firstly recalled the content of the FARE report, where it is stated that the displaying of the Russian Empire flag is an indicator for far-right presence in the stadium, in particular when it is found in combination with other discriminatory symbols. The ad-hoc Chairman of the Appeals Body further acknowledged that the flag itself does not necessarily bear an explicit discriminatory connotation, but is however often used by far-right nationalists and monarchists who want to position themselves as a contrast to the modern Russia.
29. In this context, the ad-hoc Chairman of the Appeals Body first turned his attention to the argument of the appellant that both the “Estelada” flag by Catalonian separatists as well as the “Ulster” flag by Northern Ireland nationalists are commonly used in stadiums without inflicting any disciplinary sanctions by UEFA.
30. As to the Catalonian “Estelada” flag, the ad-hoc Chairman of the Appeals Body stressed that said flag and the displaying of the flag by supporters of FC Barcelona was under investigation in the past and the club was thus sanctioned accordingly, as soon as the banner was reported by the relevant UEFA official (e.g. disciplinary case: 28309). Therefore, the aforementioned arguments of the appellant need to be rejected.
31. As to the “Ulster” flag, the ad-hoc Chairman of the Appeals Body, after taking into consideration the arguments provided by the appellant as well as particularities of the circumstances at hand, concluded that the usage of the Ulster flag cannot be compared to the usage of the Russian Empire flag in the case at hand or the “Estelada” flag in the case of FC Barcelona.

32. Regarding the concrete usage of the Russian Empire flag, the ad-hoc Chairman of the Appeals Body came to the conclusion that whenever a flag makes reference to a former and maybe bigger Russian Empire, this clearly transfers a strong political message and a political statement which is certainly not fit for a sports event.
33. In this regard, the ad-hoc Chairman of the Appeals Body again referred to what has been established before and to the question how a flag or banner must appear to an objective viewer. Assuming that the Russian Empire flag was hypothetically not intended to transfer such political message, it is not unlikely that to an objective observer, such flag might appear inappropriate and even offensive. This is again confirmed by the mere fact that both the UEFA match delegate and the security officer thought that the Russian Empire flag could transfer exactly such message.
34. Likewise, the ad-hoc Chairman of the Appeals Body made again reference to the content of the FARE manual, where it is stated that the displaying of the Russian Empire flag can be an indicator for far-right presence inside the stadium when it is found in combination with other discriminatory signs or symbols. In this regard, the ad-hoc Chairman of the Appeals Body recalled that the Russian Empire flag was displayed in close proximity of the second flag under scrutiny, i.e. the wolf banner, which was deemed to be illicit and not fit for a sports event itself. The ad-hoc Chairman of the Appeals Body formed the belief that the combination of these two banners is a growing sign for the illicit content of these flags.
35. Consequently, and in view of all the above mentioned facts and circumstances, the ad-hoc Chairman of the Appeals Body decided that also the Russian Empire flag meets the requirements of Article 16 (2) (e) DR, thus having the consequence that the appellant should be sanctioned in accordance with such provision.
36. It therefore remains for the Chairman of the Appeals Body to examine whether the Control, Ethics and Disciplinary Body respected the regulations and legal principles, in particular those of legality and proportionality, or whether it abused its power of discretion to fine the appellant € 10'000.

C. Determination of the disciplinary measure

37. It is the Appeals Body's constant practice to consider the Control, Ethics and Disciplinary Body's power of discretion to have been abused or exceeded if the first-instance body bases its decision on untrue or erroneous elements, does not apply fundamental legal principles, considers irrelevant facts or does not consider essential circumstances whose evaluation is compelling. In the opinion of the ad-hoc Chairman of the Appeals Body, none of this applies here.
38. In this regard, the ad-hoc Chairman of the Appeals Body recalled that the appeal of the appellant was only directed against the question whether the two banners under scrutiny

had met and therefore violated the requirements of Article 16 (2) (e) DR, whereas it was not directed against the sanction itself and against its proportionality.

39. In view of the above, the Chairman of the Appeals Body is of the opinion that the Control, Ethics and Disciplinary Body neither abused nor exceeded its broad powers of discretion. Given the moderate amount by which the appellant was fined, the decision of the Control, Ethics and Disciplinary Body decision complies with the principles of legality – to the extent of its power of appreciation – and proportionality.
40. On the basis of the above, the Chairman of the Appeals Body has no option but to uphold the initial decision and reject the appeal.

VI. Costs

41. The allocation of the costs of proceedings before the Appeals Body depends on the outcome of those proceedings. The Appeals Body decides at its own discretion how these costs are to be allocated to the various parties or borne by UEFA. The appeal fee is either deducted from the costs of proceedings or reimbursed (Article 44.2 DR).
42. It is considered justified to charge all of the costs of this case to the appellant, whose appeal is rejected on all counts.
43. In this case, since these proceedings were conducted by the ad-hoc Chairman of the Appeals Body, as judge sitting alone, the costs will be lower than if a Panel with three or five members is constituted. Consequently, the costs of the proceedings are € 1'000.

Decision of 17 September 2015

Croatian Football Federation

(racist behaviour)

Circumstances of the case: the UEFA match delegate reported that during the match Croatia against Italy on 12 June 2015, which was played behind closed doors, a "swastika" symbol was marked in the grass to the right of the Croatian bench.

Legal framework: Article 14 DR

Decision:

The Control, Ethics and Disciplinary Body decided to deduct the appellant one point for the current 15th UEFA European Championship qualifying round, to order the appellant to play their next two UEFA competition matches as host association behind closed doors, to order the appellant A-Team not to play their next UEFA competition matches in the "Stadion Poljud" during the 15th UEFA European Championship and to fine the appellant € 100'000. The appeal of the Croatian Football Federation is rejected. Consequently, the UEFA Control, Ethics and Disciplinary Body's decision of 23 July 2015 is confirmed

Chairman: Pedro Tomás (Spain)

Vice-Chairman: Dr. Levent Bıçakcı, (Turkey)

Member: Björn Ahlberg (Sweden)

I. Facts Of The Case

1. The elements set out below are a summary of the main relevant facts, as established by the Appeals Body on the basis of the decision rendered by the Control, Ethics and Disciplinary Body on 23 July 2015 (the "Decision"), the official reports, the written submissions of the parties, the exhibits filed and the statements produced in the course of the Appeals Body proceedings. While the Appeals Body has considered all the facts, allegations, legal arguments and evidence submitted by the parties in these proceedings, it refers in the present decision only to the submissions and evidence it considers necessary to explain its reasoning.
2. In substance, the UEFA match delegate reported that during the match Croatia against Italy on 12 June 2015, which was played behind closed doors, a "swastika" symbol was marked in the grass to the right of the Croatian bench.

3. In its decision of 23 July 2015, the Control, Ethics and Disciplinary Body considered that the Croatian Football Federation's (the "appellant") supporters had shown racist behaviour by putting a "swastika" symbol on the field of play, thus violating Article 14 of the UEFA Disciplinary Regulations (the "DR"). The Control, Ethics and Disciplinary Body had consequently held the appellant responsible for its supporters' racist behaviour and decided that the appellant had to be sanctioned accordingly. As a result, the Control, Ethics and Disciplinary Body decided to deduct the appellant one point for the current 15th UEFA European Championship qualifying round, to order the appellant to play their next two UEFA competition matches as host association behind closed doors, to order the appellant A-Team not to play their next UEFA competition matches in the "Stadion Poljud" during the 15th UEFA European Championship and to fine the appellant € 100'000.
4. The Decision with grounds was notified to the appellant on 11 August 2015.

II. Summary of the proceedings before the Appeals Body

5. On 14 August 2015, the appellant announced its intention to appeal against the decision.
6. On 19 August 2015, the appellant filed its grounds for appeal. In its statements, the appellant essentially stated the following:
 - The term "supporter" was wrongly applied in the present case, given that no supporters of the Croatian national team were present in the stadium since the game was played behind closed doors.
 - The Control, Ethics and Disciplinary Body erred in its understanding of the term "supporter" and did not provide an explanation where a link between the unknown perpetrators and the Croatian national team could be established. In this regard, the appellant stressed that the likelihood that the installation of the "swastika" symbol might have been put in place by a Croatian citizen does not automatically imply that such person would be a supporter of the Croatian national team.
 - In connection with the term "supporter", the Control, Ethics and Disciplinary Body has made reference to CAS jurisprudence which is neither applicable nor comparable to the case at hand, given that CAS 2007/A/1217 dealt with a case in which the supporters of one club were present in the stadium and CAS 2013/A/3139 dealt with a case in which the perpetrators were outside of the stadium causing incidents from the outside, whereas in the present case it is absolutely unknown who was responsible for the racist symbol on the pitch.
 - The Control, Ethics and Disciplinary Body wrongly assumed that from a reasonable and objective observer's standpoint, it would not be reasonable to

think that Italian supporters or any other person related to any other nationality, but the one from Croatia, or links of a different type were present before, during or after the match, and that the only possible and plausible conclusion is that the perpetrators are individuals related to the appellant. In this regard, the appellant stressed that the Control, Ethics and Disciplinary Body at no point of the decision explained why to a reasonable observer it would be evident that the perpetrators were individuals related to the appellant, especially in view of the fact that if someone wanted to cause damage to the appellant, it would not be Croatian citizens exclusively.

7. On 31 August 2015, the UEFA Ethics and Disciplinary Inspector submitted his reply to the appeal, requesting that it be rejected and the costs charged accordingly.

III. Hearing

8. No hearing was held, since the appellant requested that the proceedings be conducted in writing only and the Chairman of the Appeals Body did not raise any objection to this request.
9. The Appeals Body examined the entire case file, in particular the challenged decision, the grounds for appeal and the Ethics and Disciplinary Inspector's reply to the appeal, on 17 September 2015.
10. The parties' arguments are set out and examined below, in so far as they are relevant to the decision.

IV. Appeals Body Competence and Admissibility of the Appeal

11. Article 24.4 DR states as follows: "The Appeals Body has jurisdiction to hear appeals against decisions by the Control, Ethics and Disciplinary Body and to rule on particular urgent cases referred to it directly by the chairman of the Control, Ethics and Disciplinary Body."
12. The appellant lodged its grounds for appeal by the set deadline and in the form required. The appeals fee was paid on time.
13. It follows that the Appeals Body has competence to decide on the present Appeal and that the Appeal is admissible. The Appeals Body may therefore consider its merits and can therefore re-examine the case in full, both factually and legally (Article 58.2 DR).

V. Legal Considerations Of The Appeals Body

- A. The legal framework.

14. Under Article 52 of the UEFA Statutes, disciplinary measures may be imposed for unsportsmanlike conduct, violations of the Laws of the Game and contravention of UEFA's Statutes, regulations, decisions and directives.
15. Under Article 8 DR, member associations and clubs are responsible for the conduct of their players, officials, members, supporters and any other persons exercising a function at a match on their behalf. This rule also applies to the 2014-16 UEFA European Football Championship matches, as expressly stated in paragraph 6.01 of the competition regulations. Article 8 DR forms the legal basis on which UEFA can ensure that its objectives and the constraints imposed on its members are respected not only by its members, but also by third parties for whom they are answerable.
16. According to Article 14 (1) DR, any person under the scope of Article 3 who insults the human dignity of a person or group of persons on whatever grounds, including skin colour, race, religion or ethnic origin, incurs a suspension lasting at least ten matches or a specific period of time, or any other appropriate sanction.
17. According to Article 14 (2) DR, if one or more of the member association or club's supporters engage in the behaviour described in paragraph 1, the member association or club is punished with a minimum of a partial stadium closure.
18. According to Article 38 DR, facts contained in official UEFA reports are presumed to be accurate. Proof of their inaccuracy may, however, be provided.

B. In the case in hand

19. As it was stated in the UEFA match delegate's report and remained undisputed by the appellant, during the match Croatia against Italy on 12 June 2015 which was played behind closed doors, a "swastika" symbol was marked in the grass to the right of the Croatian bench.
20. The appellant in the grounds for his appeal most of all argued that the term "supporter" was not only wrongly applied in the present case, given that no supporters of the Croatian national team were present in the stadium since the game was played behind closed doors, but also that the term "supporter" has to be understood in a stricter sense.
21. Furthermore, the Appeals Body first turned its attention to the arguments raised by the appellant as to the definition of the term "supporter" as well as to the relevant jurisprudence of CAS.
22. In this regard, the Appeals Body acknowledged that the Control, Ethics and Disciplinary Body in its decision had discussed the term "supporter" quite extensively, taking into account the relevant CAS jurisprudence in similar cases as well as the circumstances of the case at hand and the arguments provided by the appellant and the UEFA Ethics and

Disciplinary Inspector. In this context, the Appeals Body, following the analysis of the relevant CAS jurisprudence, formed the belief that the content of the decisions CAS 2007/A/1217 and CAS 2013/A/3139 mentioned by the Control, Ethics and Disciplinary Body in its decision are indeed comparable as to the infringements under scrutiny in the matter at hand. Both of the aforementioned decisions of CAS directly deal with the strict liability of clubs and associations for its supporters in cases where it was not possible to clearly determine who committed the actions, leading to the relevant violation of the UEFA Disciplinary Regulations.

23. This being established, the Appeals Body recalled its jurisprudence as well as the jurisprudence of CAS in connection with the term "supporter" and reiterated that the term "supporter" is an open concept that is intentionally undefined. It must be assessed from the perspective of a reasonable and objective observer, combining the different elements compounding the context of the case.
24. In this regard, as to the arguments raised by the appellant that even if the unknown perpetrator would be a Croatian citizen, this would not necessarily mean that the person in question would be a supporter of the Croatian football team, the Appeals Body again referred to the relevant CAS jurisprudence and reiterated that the term "supporter" is not linked to race, nationality or the place of residence of the individual, nor is it linked to a contract which an individual has concluded with a national association or a club in purchasing a match ticket. Therefore, such argument as it was made by the appellant, has to be rejected.
25. With this established, the Appeals Body confirmed the conclusions of the Control, Ethics and Disciplinary Body which, in its decision, recognised that due to the fact that the match in question was played behind closed doors, it is not reasonable to think that Italian supporters or any other person related to another nationality but the one from Croatia or links of a different type, were present before, during or after the match. According to the UEFA match delegate's report, no visiting Italian supporters were present in the stadium. Moreover, the match was hosted and organized by the appellant, i.e. only employees of the appellant in the broadest sense were engaged in the organization and preparation of the match and therefore had access to the stadium in general and the pitch in particular. Therefore, the Appeals Body is convinced, that in the eyes of a reasonable and objective observer and on the basis of the facts in that case as established by the relevant reports, the perpetrators who put the swastika symbol on the pitch necessarily had to be linked to the appellant and hence had to be considered its supporters in the sense of Article 14 DR.
26. Moreover, the Appeals Body concurred with the conclusions drawn by the UEFA Ethics and Disciplinary Inspector who pointed at the relevant UEFA Safety and Security Regulations, and in particular to its Article 26 and Article 45. Article 26 of the UEFA Safety and Security Regulations stipulates that "*the match organizer must ensure that an efficient security sweep of the stadium – to search for unauthorized persons or prohibited objects/substances – is carried out before spectators are admitted*", whereas Article 45 of said regulations stipulates that "*the match organizer, together with the chief police officer*

or stadium security officer, must prevent any provocative action being taken by spectators inside or in the immediate vicinity of the stadium (unacceptable levels of verbal provocation from spectators towards players or opposing fans, racist behavior, provocative banners or flags, etc.).”

27. Based on the foregoing provisions, the Appeals Body agreed with the argumentation of the UEFA Ethics and Disciplinary Inspector and confirmed that the appellant became responsible for the organization of the stadium during the preparations of the relevant match under scrutiny, hence *inter alia* for the removing any abusive messages and statements from the stadium premises. The aforementioned Articles 26 and 45 of the UEFA Safety and Security Regulations in conjunction with Article 16 DR stipulate the legal principle of strict liability of host associations in connection with order and security both inside and around the stadium before, during and after the matches.
28. In this sense, again recalling that the “swastika” Symbol was not visible during the MD-1 inspection and was only made visible on the pitch shortly before the start of the relevant match, the Appeals Body was convinced beyond reasonable doubt that said incident occurred during a time of when the appellant was responsible for the safety and security in the stadium as stipulated in the UEFA Safety and Security Regulations. Consequently, the Appeals Body concluded that based on the principle of strict liability, the appellant shall be held responsible for its supporter’s racist behaviour which occurred during the time the appellant was responsible for safety and security of the stadium according to Articles 26 and 45 of the UEFA Safety and Security Regulations and must hence be sanctioned accordingly.
29. Finally, as to the argument raised by the appellant that it was actually the Croatian club, FC Hajduk, which was liable to ensure the orderly preparation of the match, the Appeals Body concluded that this is irrelevant as regards the violation of Article 14 DR as such circumstances only concern the internal legal relationship between the appellant and the aforementioned club and have neither influence on the present proceedings nor on the legal interpretation of the legal framework in the matter at hand.
30. It therefore remains for the Appeals Body to examine whether the Control, Ethics and Disciplinary Body respected the regulations and legal principles, in particular those of legality and proportionality, or whether it abused its power of discretion to deduct the appellant one point for the current 15th UEFA European Championship qualifying round, to order the appellant to play their next two UEFA competition matches as host association behind closed doors, to order the appellant’s A-Team not to play their next UEFA competition matches in the “Stadion Poljud” during the 15th UEFA European Championship and to fine the appellant € 100’000.

C. Determination of the disciplinary measure

31. It is the Appeals Body’s constant practice to consider the Control, Ethics and Disciplinary Body’s power of discretion to have been abused or exceeded if the first-instance body

bases its decision on untrue or erroneous elements, does not apply fundamental legal principles, considers irrelevant facts or does not consider essential circumstances whose evaluation is compelling. In the opinion of the Chairman of the Appeals Body, none of this applies here.

32. The Appeals Body in a first instance acknowledged that the appellant requested a mitigation of the sanctions imposed by the Control, Ethics and Disciplinary Body.
33. However, the Appeals Body is of the opinion that the Control, Ethics and Disciplinary Body neither abused nor exceeded its broad powers of discretion. Its decision complies with the principles of legality – to the extent of its power of appreciation – and proportionality. Moreover, the Appeals Body took note of the fact that the appellant could not present any circumstances which could be considered mitigating factors in connection with the violation of Article DR.
34. On the other hand, the Appeals Body recalled the previous record of the Appellant and took into account that this case refers to a third infringement of the appellant, a case for which Article 14 (3) (b) DR stipulates the sanction of more than one match behind closed doors, a stadium closure, the forfeiting of a match, the deduction of points or even the disqualification from the competition. In view of these provisions, the Appeals Body cannot consider the request of the appellant for mitigation of the sanction, since it has to apply the specific rule set forth in Article 14 (2) *et seq.* DR.
35. The level, nature and chronology of the sanctions for discriminatory conduct is precise and the system of sanctions must be respected when Article 14 DR is breached. In this respect, the panel has no room for manoeuvre but must apply the rule as indicated. Furthermore, the Appeals Body had to take into account that the match was already played behind closed doors, i.e. the appellant was already serving a match behind closed doors sanction due to its previous violation of Article 14 DR, which constitutes an aggravating factor when determining the appropriate disciplinary measure.
36. Consequently, the Appeals Body believes that by deciding to deduct the appellant one point for the current 15th UEFA European Championship qualifying round, to order the appellant to play their next two UEFA competition matches as host association behind closed doors, to order the appellant's A-Team not to play their next UEFA competition matches in the "Stadion Poljud" during the 15th UEFA European Championship and to fine the appellant € 100'000, the Control, Ethics and Disciplinary Body correctly interpreted the applicable regulations and case law.
37. On the basis of the above, the Appeals Body has no option but to uphold the initial decision and reject the appeal.

VI. Costs

Case Law. CEDB & Appeals Body. 2015/2016 (July– December)

38. The allocation of the costs of proceedings before the Appeals Body depends on the outcome of those proceedings. The Appeals Body decides at its own discretion how these costs are to be allocated to the various parties or borne by UEFA. The appeal fee is either deducted from the costs of proceedings or reimbursed (Article 44.2 DR).
39. It is considered justified to charge all of the costs of this case to the appellant, whose appeal is rejected on all counts.
40. In this case, the costs of the proceedings are € 2'000 in total and will be borne in full by the appellant.

Decision of 17 September 2015

FK Budućnost Podgorica

(no internet connection/no WIFI; admissibility)

Circumstances of the case: The Delegate for the match between FK Budućnost Podgorica and FK Spartaks Jūrmala on 2 July 2015 reported that there was “no Wi-Fi in Delegate's room

Legal framework: Article 11 UEFA Stadium Infrastructure, Article 54 (1) DR

Decision:

The Control, Ethics and Disciplinary Body concluded that “no internet connection was available in the delegate’s room” and that this constituted a breach of Article 11 of the UEFA Stadium Infrastructure Regulations. On this basis, the Control, Ethics and Disciplinary Body decided to warn the club in respect of such infringement. The appeal lodged by FK Budućnost Podgorica is inadmissible and, accordingly, the decision of the Control, Ethics and Disciplinary Body of 23 July 2015 is upheld

Chairman: Pedro Tomas (Spain)

Vice-Chairman: Levent Bıçakcı (Turkey)

Member: Björn Alberg (Sweden)

I. Facts Of The Case

1. The elements set out below are a summary of the main relevant facts, as established by the Appeals Body on the basis of the decision rendered by the Control, Ethics and Disciplinary Body on 23 July 2015 (the “Decision”), the official reports, the written submissions of the parties, the exhibits filed and the statements produced in the course of the Appeals Body proceedings. While the Appeals Body has considered all the facts, allegations, legal arguments and evidence submitted by the parties in these proceedings, it refers in the present decision only to the submissions and evidence it considers necessary to explain its reasoning.
2. The main facts of the present case can be summarised as follows:
 - The Delegate for the match between FK Budućnost Podgorica and FK Spartaks Jūrmala on 2 July 2015 reported that there was “no Wi-Fi in Delegate's room”.

- The Control, Ethics and Disciplinary Body concluded that “*no internet connection was available in the delegate’s room*” and that this constituted a breach of Article 11 of the UEFA Stadium Infrastructure Regulations (the “**SIR**”).
 - On this basis, the Control, Ethics and Disciplinary Body decided to warn the club in respect of such infringement.
3. The Decision with grounds was notified to the Appellant on 26 August 2015.

II. Summary of the proceedings before the Appeals Body

4. On 1 September 2015, FK Budućnost Podgorica announced its intention to appeal against the Decision and filed its grounds for appeal.
5. In its statement, the Appellant:
- States that it is not true that there was no Internet connection in the Delegate’s office.
 - Explains that there was a cable Internet connection in the Delegate’s office which had been widely used in the past and, on this occasion, it was the Delegate’s laptop computer that caused the problem.
 - Describes the alternative Internet solutions that it implemented to assist the Delegate.
6. It is noted that, in the Decision, the Control, Ethics and Disciplinary Body also imposed other sanctions on the Appellant in connection with other disciplinary matters, however, these other elements of the Decision have not been appealed by the Appellant and, accordingly, such other sanctions have entered into full force and effect.
7. On 7 September 2015, the UEFA Ethics and Disciplinary Inspector submitted her reply to the appeal, requesting that it be dismissed.

III. Hearing

8. Neither the Appellant nor the UEFA Ethics and Disciplinary Inspector requested a hearing. Consequently, the Appeals Body rendered its decision based on the written statements submitted by the parties.
9. The Appeals Body examined the entire case file, in particular the Decision with grounds, the grounds for appeal and the UEFA Ethics and Disciplinary Inspector’s reply to the appeal, on 17 September 2015.
10. The parties’ arguments are set out and examined below, in so far as they are relevant to the decision.

IV. Appeals Body Competence and Admissibility of the Appeal

11. Article 24 (4) DR states as follows:

"The Appeals Body has jurisdiction to hear appeals against decisions by the Control, Ethics and Disciplinary Body and to rule on particular urgent cases referred to it directly by the chairman of the Control, Ethics and Disciplinary Body."

12. It follows that the Appeals Body has competence to decide on the present appeal.

13. FK Budućnost Podgorica lodged its grounds for appeal by the set deadline and in the form required. The appeals fee was paid on time.

14. However, Article 54 (1) (a) DR states that:

"Appeals against decisions by the Control, Ethics and Disciplinary Body are admissible unless the disciplinary measure imposed in the first instance was limited to:

(a) a warning;"

15. In the Decision, it is clearly stated that the Control, Ethics and Disciplinary Body decided:

"To warn FK Budućnost Podgorica for the internet connection infringement."

16. Accordingly, applying Article 54 (1) (a) DR, the present appeal is inadmissible because the relevant disciplinary measure imposed by the Control, Ethics and Disciplinary Body was limited to a warning.

V. Legal Considerations Of The Appeals Body

A. The legal framework.

17. According to Article 11 SIR:

"The stadium must be equipped with a delegate's room with access to communication facilities such as a phone, fax and internet connection located nearby, and with easy access to the team and referees' dressing rooms."

B. In the present case

18. Given that the present appeal is inadmissible for the reasons set out above, the Appeals Body does not need to consider the merits of the case.

19. However, the Appeals Body would like to stress that Article 11 SIR does not require a Wi-Fi Internet connection, simply an *"internet connection"*. In the present case, it appears

that an Internet connection was provided by the club and that the Delegate's laptop computer was incompatible with the relevant cable/connections.

C. Determination of the disciplinary measure

20. Given that the present appeal is inadmissible for the reasons set out above, the Chairman of the Appeals Body has no option but to uphold the initial decision.

VI. Costs

21. The allocation of the costs of proceedings before the Appeals Body depends on the outcome of those proceedings. The Appeals Body decides at its own discretion how these costs are to be allocated to the various parties or borne by UEFA. The appeal fee is either deducted from the costs of proceedings or reimbursed, as per Article 44 (2) DR.
22. It is considered justified to charge all of the costs of this case to the Appellant, whose appeal is declared inadmissible.
23. In this case the costs of the proceedings are €1,000.

Decision of 17 September 2015

KKS Lech Poznań

(propaganda; illicit banner)

Circumstances of the case: - Before the kick-off, away supporters of Lech Poznan displayed a flag with the slogan "Legion Piła-Krew Naszej Rasy" (Legion Piła -Blood of our race).

Legal framework: Article 14 DR, Article 16 (2) (e) DR

Decision

In its decision of 23 July 2015, the Control, Ethics and Disciplinary Body considered that the banner stood within the scope of Article 14 DR, serving hereby as a form of ideological propaganda, in particular fascist propaganda, in accordance with paragraph 7 of the latter provision. Consequently and as this case refers to a second infringement during the last five years, Appellant was punished with one match played behind closed doors and a fine of € 50,000.

The appeal lodged by KKS Lech Poznań is partially admitted. Consequently, the UEFA Control, Ethics and Disciplinary Body's decision of 23 July 2015 is amended as follows: KKS Lech Poznań is fined €20'000 for the displaying of an illicit banner by its supporters violating hereby Article 16 (2) (e) DR.

Chairman: Pedro Tomas (Spain)

Vice-Chairman: Levent Bıçakcı (Turkey)

Member: Björn Alberg (Sweden)

I. Facts of the Case

1. The elements set out below are a summary of the main relevant facts, as established by the Appeals Body on the basis of the decision rendered by the Control, Ethics and Disciplinary Body on 24 July 2015 (the "Decision"), the official reports, the written submissions of the parties, the exhibits filed and the statements produced in the course of the Appeals Body proceedings. While the Appeals Body has considered all the facts, allegations, legal arguments and evidence submitted by the parties in these proceedings, it refers in the present decision only to the submissions and evidence it considers necessary to explain its reasoning.
2. In substance, the UEFA official reports submitted the following factual circumstances:
 - Before the kick-off, away supporters of Lech Poznan displayed a flag with the slogan "Legion Piła-Krew Naszej Rasy" (Legion Piła -Blood of our race).

3. In its decision of 23 July 2015, the Control, Ethics and Disciplinary Body considered that the banner stood within the scope of Article 14 DR, serving hereby as a form of ideological propaganda, in particular fascist propaganda, in accordance with paragraph 7 of the latter provision. Consequently and as this case refers to a second infringement during the last five years, Appellant was punished with one match played behind closed doors and a fine of € 50,000
4. The Decision with grounds was notified to the appellant on 10 August 2015.

II. Summary of the proceedings before the Appeals Body

5. On 12 August 2015, KKS Lech Poznań announced its intention to appeal against the Decision and requested by means of the said document for a stay of execution of the aforementioned decision.
6. On 14 August 2015, the Chairman of the Appeals Body granted the stay of execution. It followed that the UEFA Control, Ethics and Disciplinary Body's decision of 23 July 2015 stayed until the Appeals Body decided on this matter.
7. On 19 August 2015, the Appellant filed its grounds for appeal. In its statements, the Appellant, essentially, argued the following:
 - It underlines its support for UEFA's policy against racism, asserting that the Club itself has carried out various campaigns with an identical message;
 - It stresses that the wording on the flag is rather ambiguous and would not be associated to discriminatory or racist persons, but rather it would show support from the Polish town of Pila;
 - The sanction is not proportional in the light of previous cases dealt with by the UEFA disciplinary bodies, in particular the sanction imposed on FC Dynamo Kyiv on 14 May 2013, and on GNK Dinamo Zagreb on 29 August 2013.
8. On 31 August 2015, the UEFA Ethics and Disciplinary Inspector submitted his reply to the appeal, requesting that it be rejected and the costs charged accordingly.

III. Hearing

9. On 17 September 2015, a hearing was held.
10. The Chairman of the Appeals Body opened the appeal hearing, noted the presence of the Appellant and the UEFA Ethics and Disciplinary Inspector.
11. Afterwards, the Chairman explained the procedure to be followed. He reminded the parties of the composition of the Appeals Body and told them that everything they and the Appeals Body said during the hearing would be recorded. No objection was raised.
12. The floor was given to the parties, who, in substance, reiterated the arguments given in their written pleadings and developed and maintained their requests.

IV. Appeals Body Competence and Admissibility of the Appeal

13. Article 24 (4) DR states as follows: “The Appeals Body has jurisdiction to hear appeals against decisions by the Control, Ethics and Disciplinary Body and to rule on particular urgent cases referred to it directly by the chairman of the Control, Ethics and Disciplinary Body.”
14. Appellant lodged its grounds for appeal by the set deadline and in the form required. The appeal fee was paid on time.
15. It follows that the Appeals Body has competence to decide on the present Appeal and that the Appeal is admissible. The Appeals Body may therefore consider its merits and can therefore re-examine the case in full, both factually and legally (Article 58 (2) DR).

V. Legal Considerations Of The Appeals Body

A. The legal framework.

16. According to Article 8 DR, a member association or club that is bound by a rule of conduct laid down in UEFA’s Statutes or regulations may be subject to disciplinary measures and directives if such a rule is violated as a result of the conduct of one of its members, players, officials or supporters and any other person exercising a function on behalf of the member association or club concerned, even if the member association or the club concerned can prove the absence of any fault or negligence.
17. According to Article 14 (1) DR, any person under the scope of Article 3 who insults the human dignity of a person or group of persons on whatever grounds, including skin colour, race, religion or ethnic origin, incurs a suspension lasting at least ten matches or a specified period of time, or any other appropriate sanction.
18. According to Article 14 (3) (b) DR, any subsequent offence is punished with more than one match behind closed doors, a stadium closure, the forfeiting of a match, the deduction of points or disqualification from the competition.
19. According to Article 14 (7) DR, all forms of ideological, political and religious propaganda are forbidden. If this provision is breached, paragraphs 1 to 6 above apply by analogy.
20. According to Article 16 (2) (e) DR, all associations and clubs are liable for the following inappropriate behaviour on the part of their supporters and may be subject to disciplinary measures and directives even if they can prove the absence of any negligence in relation to the organisation of the match: the use of gestures, words, objects or any other means to transmit any message that is not fit for a sports event, particularly messages that are of a political, ideological, religious, offensive or provocative nature.

B. In the case in hand

21. The UEFA Appeals Body recalls as did the Control, Ethics and Disciplinary Body in its decision that Article 14 DR is a special rule taking over the principle set out in Article 8 DR which stipulates that member associations and clubs are responsible for racist conducts of their supporters. This responsibility is given for offences committed by any person supporting the team before, during or after the match, irrespective of the fault of the club or association in question (strict liability).
22. The fight against racism is a high priority for UEFA. UEFA has a policy of zero tolerance towards racism and discrimination on the pitch and in the stands. All racist misbehaviours shall be considered as serious offences against the disciplinary regulations and shall be punished regarding the circumstances and the previous records with the utmost severe sanctions.
23. The Appellant in its appeal brief determines that in case there is no direct and visible link between the displayed banner (i.e. its content) and racist abuse or promotion of racism, then the flag in question should rather be perceived as not connected to football itself and thus as not fit for sports events or of a provocative nature, which would then re-qualify the offence under the Article 16 (2) (e) of the Regulations.
24. Briefly, Appellant accepts the banner to be treated by this UEFA disciplinary body as not fit for a sport's event in the light of Article 16 (2) (e) DR.
25. In the case in hand, before the kick-off, away supporters of Lech Poznan displayed a flag with the slogan "Legion Piła - Krew Naszej Rasy" (Legion Piła -Blood of our race). The flag remained on display throughout the match until the final whistle.
26. Furthermore, it has been established that both the content and the possible context of the above mentioned banner has been brought up by the UEFA delegate in his report by means of a report of FARE. It follows that the UEFA official report which content is presumed to be accurate in accordance with Article 38 DR establishes the facts through FARE, which it shall be taken in mind does not enjoy the presumption contained in the latter provision.
27. In this regard, the presence of the banner and its content is undisputed. The question here is whether the nature of the banner is to be embedded under the scope of Article 14 DR.
28. It shall be recalled that FARE is a relevant partner of UEFA in the fight against racism and provides valuable information and evidence on incidents occurred at UEFA competition matches. In this regard, the information provided, even though it is not presumed accurate, shall be analysed with the outmost attention and seriousness. The expertise of FARE and the individuals who conformed this association has been confirmed in several occasions by CAS, including here a CAS award involving a decision on racist infringements in which UEFA acted as a party (CAS 2013/A/3324 and 3369).

29. It is according to the expertise of FARE that the content of the banner refers to the lyrics of a song by a Polish neo-Nazi music band.
30. In this context, it appears here that the question to be posed is whether the content of the banner containing the slogan "Legion Piła-Krew Naszej Rasy" (Legion Piła -Blood of our race) is to be deemed as a racist banner in the sense of Article 14 DR or merely not fit for a sport's event as suggested by Appellant in its appeal brief.
31. The Appeals Body takes over the view of the Control, Ethics and Disciplinary Body in that the party bearing the burden of evidence, in order to satisfy it, does not need to establish "beyond any reasonable doubts" the facts that it alleges to have occurred; it needs to convince the Panel that an allegation is true by its comfortable satisfaction, even sometimes by a "balance of probability", i.e. that the occurrence of the circumstances on which it relies is more probable than their non-occurrence (see CAS 2008/A/1370 & 1376; CAS 2004/A/602; TAS 2007/A/1411 and CAS 2010/A/226). Particularly relevant is in this regard the view of the objective and reasonable observer (CAS 2007/A/1217 and CAS 2014/A/3324&3369).
32. Furthermore, as well expressed by the above mentioned instance whilst citing CAS 2013/A/3324 & 3369, "context in law is everything". Consequently it is the Panel's view that the test of whether or not there has been a racist and/or discriminatory message qualifying for sanctions under Article 14 UEFA DR, is the perception of the reasonable onlooker. It is in that sense objective not subjective (CAS 2013/A/3324 & 3369).
33. Bearing the above in mind, the Appeals Body cannot follow the assertions made by the UEFA's first instance disciplinary body as there are some circumstances, also important in the context of this case, which provide important elements contesting the outcome of this case at the Control, Ethics and Disciplinary Body's proceedings.
34. First, the racist context linked to the banner in question seems to be under the said circumstances too farfetched as it refers allegedly to the wording of a song of an alleged Nazi-band in Poland, extent that has not even been proven to the comfortable satisfaction of the Panel. It follows, that the context surrounding the banner provides no evidence about the origin of the message, its links to the Nazi group and/or the racist or discriminatory content of the message.
35. Second, as already mentioned, the content of the wording gives no connection to the said Nazi-band nor the content in itself provides sufficient grounds as to define it as an insult to the dignity of a person or group of persons in this particular case. Thus, the Appeals Body is not comfortable satisfied in this case, what the conclusion of a reasonable and objective observer would be with regard to whether the content of the banner was racist or discriminatory under Article 14 DR.
36. The Panel remarks that according to the Appellant statements the same banner has been examined under the light of the disciplinary committee in Poland, deciding the latter that no discriminatory content derives from the said banner.

37. Notwithstanding the above, the Appeals Body deems that such a controversial banner which has been examined both at national and international level for its illicit nature, has no place at UEFA competition matches. It is to be subduced to Article 16 (2) (e) DR, as also suggested and accepted by the Appellant in its appeal brief. In this regard, the Appellant shall had been more attentive as to impede a banner which already activated disciplinary proceedings at national level, to enter the stadium on the occasion of UEFA competition matches. Even more when it has been confirmed by both UEFA jurisprudence and CAS that UEFA can rely on but is not bound by domestic decisions at court or by sporting association's disciplinary committees, being the outcome of this particular case uncertain, as it has been demonstrated by both contradictory decisions of the first and second UEFA disciplinary bodies.
38. Finally, it shall be recalled to the Appellant that the banner is in accordance to the particular context of this case no to be subduced to Article 14 DR, but to Article 16 (2) (e) DR. It follows that placed the banner in a different context, different disciplinary consequences are, in principle, to be attached as those contemplated in Article 16 DR.
39. Therefore, it is strongly advised to impede by whatever means that such a banner, in this case not fit for a sport's event, enters the stadiums, as in connection to a different context the disciplinary consequences may be completely different.

C. Determination of the disciplinary measure

40. It is the Appeals Body's constant practice to consider the Control, Ethics and Disciplinary Body's power of discretion to have been abused or exceeded if the first-instance body bases its decision on untrue or erroneous elements, does not apply fundamental legal principles, considers irrelevant facts or does not consider essential circumstances whose evaluation is compelling.
41. The Appeals Body is of the opinion that due to the fact that the banner is to be allocated within the scope of a different provision the sanction to be imposed shall be imposed on different standards than those given by Article 14 DR.
42. In the present case, the Appeals Body identified and took into account the following concrete circumstances:
 - the seriousness of the offence committed;
 - the club's previous record: KKS Lech Poznań has already been punished for the improper conduct of supporters, and, in particular, for the displaying of illicit messages;
 - the obvious controversial content of the banner activating disciplinary proceedings both at national and international level.
43. On the basis of the above, the Appeals Body deems that a fine € 20'000 shall be the adequate disciplinary measure.

VI. Costs

44. The allocation of the costs of proceedings before the Appeals Body depends on the outcome of those proceedings. The Appeals Body decides at its own discretion how these costs are to be allocated to the various parties or borne by UEFA. The appeal fee is either deducted from the costs of proceedings or reimbursed (Article 44 (2) DR).
45. It is considered justified to charge the costs both to UEFA and the Appellant whose appeal has been partially admitted.

Decision of 17 September 2015

FK Kukësi

(match not taken place in full; fireworks; illicit banners)

Circumstances of the case:

After Legia scored a goal, FK Kukësi supporters threw bottles to the pitch. Again, in the 39 min, they threw a bottle on the assistant referee. 51 minutes into the second half and after the goal scored by Legia the home supporters threw bottles and something sharp hit one of the players. The referee decided to abandon the match.

Both the UEFA delegate and the UEFA security officer reported that several fireworks were ignited during the match by FK Kukësi supporters. Furthermore, the said officials established that political banners were hung during the match. In particular, the UEFA delegate provided a picture containing a banner with the wording “The end of the game will be the end of your life. I am not a Slavian Albanian” with a political image below, both displayed by the home fans.

Legal framework: Article 26.01 of the UEFA Europa League Regulations, Article 21 DR, FIFA 5th Laws of the game, Article 16 (2) DR

Decision:

The Control, Ethics and Disciplinary Body considered that FK Kukësi is to be held responsible for the misconduct of its supporters and must, thus, be deemed as responsible for the match not to take place in full in accordance with Article 26.01 UEFA Europa League Regulations, Article 21 and FIFA 5th Laws of the game. In addition, the latter UEFA disciplinary body deemed that FK Kukësi is to be held responsible for the misconduct of its supporters, mainly for the setting and throwing of objects, crowd disturbances and the displaying of illicit banners in accordance with the principle of strict liability contemplated in Article 8 and 16 (2) DR. The Control, Ethics and Disciplinary Body decided to declare the UEFA Europa League 2015/2016 match FK Kukësi vs. Legia Warszawa played on 30 July 2015 as forfeit. FK Kukësi is deemed to have lost the match 0:3, to order the FK Kukësi to play their next two (2) UEFA competition matches as host club behind closed doors. The second match behind closed doors sanction is deferred for a probationary period of two years and to fine FK Kukësi € 70'000.

The appeal lodged by FK Kukësi is dismissed. Consequently, the UEFA Control, Ethics and Disciplinary Body's decision of 3 August 2015 is confirmed.

| | |
|----------------|-------------------------|
| Chairman: | Pedro Tomás (Spain) |
| Vice-chairman: | Levent Biçakci (Turkey) |
| Member: | Björn Ahlberg (Sweden) |

I. Facts Of The Case

1. The elements set out below are a summary of the main relevant facts, as established by the Appeals Body on the basis of the decision rendered by the UEFA Control, Ethics and Disciplinary Body's decision of 3 August 2015 (the "Decision"), the official reports, the written submissions of the parties, the exhibits filed and the statements produced in the course of the Appeals Body proceedings. While the Appeals Body has considered all the facts, allegations, legal arguments and evidence submitted by the parties in these proceedings, it refers in the present decision only to the submissions and evidence it considers necessary to explain its reasoning.
2. In substance, the UEFA official reports submitted the following factual circumstances:

"In minute 29, after the away team scored the 0:1, the scoring player celebrated in front of the home supporters. The supporters threw between 10 and 15 bottles (PET bottles, 0.5 litres, closed and full) towards the celebrating players of the away team. No players, nor assistant referee 2, Remy Zgraggen, were hit. I decided to cool down the atmosphere by having an early drinking break and sent all players to the benches on the opposite side of the home supporters.

During the drinking break, we asked the authorities of the stadium to make a public announcement to stop throwing items on the field of play.

After the drinking break, I took the captain of the home team, Mr Hallaci Rraman, with me and we both went towards the home team supporters. I asked the captain to calm down the fans and he did this with a calming gesture.

In half time, assistant referee 2, Remy Zgraggen, informed me that in two occasions after this incident he was almost hit by other bottles thrown towards him. They missed him by only a few centimetre. He told me that he feels very insecure. We discussed in the referee's team that if someone were hit, we would abandon the match.

We asked to the Uefa delegate, Mr Martin Sturkenboom, to come in the dressing room. He told us about incidents during the half-tune break between the two supporter's sides an we informed him that objects were thrown towards assistant referee 2 during the first half. The delegate and I agreed to wait with the start of the second half until the situation has calmed down and to make a second, clear public announcement. We therefore asked the security officer of the stadium to come int he refree's dressing room and we made

clear that if more objects were thrown, I could not guarantee the security of players and officials anymore and that I could abandon the match.

After I heard that a public announcement was made, the teams and we went out of the dressing rooms to start the second half (with a delay of 6 minutes).

In the 52nd minute, the away team scored their second goal (1:2) and celebrated this in front of their own spectators. While moving back towards their own half, the assistant referee 2 and I saw that, again several objects were thrown from the home supporter's side on the field of play. Beside bottles, also several stones were thrown. Assistant referee 2 informed me that he was very concerned about his safety and he therefore entered the field of play in order to protect himself.

I suddenly noticed that player Nr 8 of Legia, Mr Ondrej Duda, was laying on the ground. I went towards him and noticed that his face was covered with blood. Player Nr 18 of Legia, Mr Michal Kucharczyk, gave me one of the stones (see picture below) that was found on the field of play. Assistant referee 2 and I saw stones of similar size up to 5cm in diameter laying around.

Therefore, I stopped the match and asked the delegate, assistant referee 2, as well as the captains and coaches of both teams to come in my dressing room for consultation. I first discussed the incident with everybody present and then stated that due to security reasons, I have to abandon the match. The delegate told me that he fully supports this decision. I asked both captains and coaches to respect this decision and to accept it.

At that moment, also the UEFA security in the referee's dressing room and told us that the decision is in line with his own observations.

After several discussions with the Uefa delegate, the Uefa observer and Police officers, as well as with the responsible people for stadium and team security, we left the stadium about 23:15 hours without any problem"s.

3. Regarding the UEFA delegate's official additional report it contains the following information:

"In the 29 th minute after the away goal 0-1 was scored during celebration +/- 10 bottles were thrown from the home supporters to the celebrating players of the away team. Away players were protesting to this home public behaviour threatening and situation was not pleasant.

At the same time the referee decided to take the drinking break earlier than the agreed 30 th minute. (a smart decision to cool down!)

In the 31 th minute after this drinking break the referee went with the captains of the home team to the home public to let them warn by their own "captain player" and ask them to behave in a correct way and do not throw objects on the pitch anymore.

During the period of the 31th and 45th minute 2 times bottles and other objects were thrown towards the assistant referee 2 again and they nearly hit him.

During half time home team supporters threw a bottle in the away sector. The reaction was more bottles thrown by the away team supporters in to the home supporters sector.

In both sectors police was intervening but situation showed very difficult for them to control.

The stadium is very old and there was the fear that both supporters groups could not be separated anymore and controlled by the police.

After half time the situation was not yet under control so that the referee decided to stay inside and wait for a cool down of the public.

In the meantime the delegate informed UEFA match centre about the actual situation and the possibility to the risk that the referee can't protect and guarantee the safety of his team and the officials and players anymore.

The referee Stephan Klossner informed the delegate that he had decided, that if there were thrown new objects on the pitch again because of safety reasons he could abandon the match because of safety reasons. This was mainly due to the fact that the assistant referee 2 was almost hit and did not feel secure anymore. He told this fact also to the security manager of the home team.

Referee and delegate decided to announce this through a public announcement.

After that the referee started the match second half again with a delay of +/- 6 minutes.

In the 52nd minute after the 1-2 score goal of the away team again during the celebration of the goal the referee team saw that stones and other objects were thrown on the pitch.

Assistant referee 2 informed the referee that he felt very insecure about his safety.

After this the referee noticed that a player of the away team was laying on the ground. The referee went there and noticed that his face was covered with blood.

Speaking with him the referee was informed that he was hit by a stone. One of the away team players handed over a stone to the referee. The referee has that stone in his possession.

Then as a consequence, the referee stopped the match and asked the captains and coaches of both teams and the delegate to come to the referee's dressing room to consult each other about the circumstances. Because the situation was at his height, the delegate

asked the UEFA security manager to stay outside to observe the situation outside and inform the referee and him if necessary.

After the referee's discussion with coaches and captains about their security, the referee took the decision to abandon the match. He asked both the captains and the coaches to respect this decision and accept it. They did not disagree.

He asked the delegate what his opinion was about that and the delegate said that he could understand it very well and he could support his decision.

At that moment, the UEFA security manager came in the referee's dressing room and with his current outside observations, he could support the decision fully. In his eyes the police did not have the control over the situation in the stadium.

The referee was informing the teams about his decision and asked the teams and officials to stay in the dressing rooms for their own security until the police could have the situation under control.

After that a very hectic and annoying situation occurred. The home team officials were very disappointed and tried to reconsider and repeal the decision with the referee and the delegate

Supporters left the stadium and after about 90 minutes, after the incident in the 52 minutes, home-, away-, referee team and officials could leave the stadium without problems”.

4. According to the UEFA security's official report, the following information shall be taken into account:
 - After Legia scored a goal, FK Kukësi supporters threw bottles to the pitch.
 - Again, in the 39 min, they threw a bottle on the assistant referee.
 - 51 minutes into the second half and after the goal scored by Legia the home supporters threw bottles and something sharp hit one of the players. It was a stone.
5. In addition, both the UEFA delegate and the UEFA security officer reported that several fireworks were ignited during the match by FK Kukësi supporters. Furthermore, the said officials established that political banners were hung during the match. In particular, the UEFA delegate provided a picture containing a banner with the wording “The end of the game will be the end of your life. I am not a Slavian Albanian” with a political image below, both displayed by the home fans.
6. In its decision of 3 August 2015, the Control, Ethics and Disciplinary Body considered that FK Kukësi is to be held responsible for the misconduct of its supporters and must, thus, be deemed as responsible for the match not to take place in full in accordance with Article 26.01 UEFA Europa League Regulations, Article 21 and FIFA 5th Laws of the game. In addition, the latter UEFA disciplinary body deemed that FK Kukësi is to be held

responsible for the misconduct of its supporters, mainly for the setting and throwing of objects, crowd disturbances and the displaying of illicit banners in accordance with the principle of strict liability contemplated in Article 8 and 16 (2) DR.

7. The Control, Ethics and Disciplinary Body imposed the following disciplinary measures against the Appellant:
 - To declare the UEFA Europa League 2015/2016 match FK Kukësi vs. Legia Warszawa played on 30 July 2015 as forfeit. FK Kukësi is deemed to have lost the match 0:3.
 - To order the FK Kukësi to play their next two (2) UEFA competition matches as host club behind closed doors. The second match behind closed doors sanction is deferred for a probationary period of two years.
 - To fine FK Kukësi € 70'000.

8. The Decision with grounds was notified to the appellant on 4 August 2015.

II. Summary of the proceedings before the Appeals Body

9. On 7 August 2015, the Appellant filed jointly its intention of appeal and the grounds for appeal. In its statements, the Appellant, essentially, argued the following:
 - All the necessary measures to guarantee the security of the match were taken before, during and after the match;
 - The banner that their fans displayed didn't have a politic and anti-sportive content, contrary it is normal for such competitions. Its content was said in a metaphoric way, the end of the game will be a destruction for you, their team will win this match;
 - The match was not abandoned by any one of the teams, who were almost waiting to attend it. This was the reason why FK Kukësi proposed the referee and UEFA delegate, taking the mass of eviction of the fans outside of the stadium and the match could be played without their presence;
 - There were no physical clashes between fans of both teams because state police intervened in time;
 - The actions and inactions of the referee, delegate and UEFA's officer clearly showed that these officials had no intention to continue the match for which they were there;
 - The referee did not respect the procedure for managing such situations. Specifically, to suspend temporarily the match and send captains of both teams to their fans requiring the termination of anti-sportive action and, if after this call the fans would not stop doing anti sportive behaviour, the referee would have the right to stop the match;
 - The situation created after the player's damage was not serious enough to abandon the game;
 - The injured player after receiving first medical aid, being no blood in his face and shirt, changed his shirt and was ready to enter on the field

10. On 31 August 2015, the UEFA Ethics and Disciplinary Inspector submitted his reply to the appeal, requesting that it be rejected and the costs charged accordingly.

III. Hearing

11. No hearing was held, since the appellant requested that the proceedings be conducted in writing only and the chairman of the Appeals Body did not raise any objection to this request.
12. The Appeals Body examined the entire case file, in particular the challenged decision, the grounds for appeal and the Ethics and Disciplinary Inspector's reply to the appeal.
13. The parties' arguments are set out and examined below, in so far as they are relevant to the decision.

IV. Appeals Body Competence and Admissibility of the Appeal

14. Article 24.4 DR states as follows: "The Appeals Body has jurisdiction to hear appeals against decisions by the Control, Ethics and Disciplinary Body and to rule on particular urgent cases referred to it directly by the chairman of the Control, Ethics and Disciplinary Body."
15. Appellant lodged its grounds for appeal by the set deadline and in the form required. The appeals fee was paid on time.
16. It follows that the Appeals Body has competence to decide on the present Appeal and that the Appeal is admissible. The Appeals Body may therefore consider its merits and can therefore re-examine the case in full, both factually and legally (Article 58 (2) DR).

V. Legal Considerations Of The Appeals Body

A. The legal framework.

17. According to Article 26.01 of the UEFA Europa League Regulations, if a club refuses to play or is responsible for a match not taking place or not being played in full, the UEFA Control, Ethics and Disciplinary Body declares the match forfeited and disqualifies the club concerned in combination with the following fines.
18. According to Article 21 DR, if a match cannot take place or cannot be played in full, the member association or club responsible forfeits the match.
19. In the light of the FIFA 5th Laws of the game, powers and duties, the referee stops, suspends or abandons the match because of outside interference of any kind.

20. According to Article 38 DR, facts contained in official UEFA reports are presumed to be accurate. Proof of their inaccuracy may, however, be provided.

21. According to Article 16 (2) DR:

However, all associations and clubs are liable for the following inappropriate behaviour on the part of their supporters and may be subject to disciplinary measures and directives even if they can prove the absence of any negligence in relation to the organisation of the match:

a) the invasion or attempted invasion of the field of play;

b) the throwing of objects;

c) the lighting of fireworks or any other objects;

d) the use of laser pointers or similar electronic devices;

e) the use of gestures, words, objects or any other means to transmit any message that is not fit for a sports event, particularly messages that are of a political, ideological, religious, offensive or provocative nature;

f) acts of damage;

g) the disruption of national or competition anthems;

h) any other lack of order or discipline observed inside or around the stadium.

22. According to Article 8 DR, which stipulates the principle of “strict liability”, and Article 16 (2) DR, which picks up on such, the club is to be held responsible for the improper conduct of its supporters, even if it might not be at fault itself.

23. According to Article 38 DR, facts contained in official UEFA reports are presumed to be accurate. Proof of their inaccuracy may, however, be provided.

B. In the case in hand

a. Match not taken place in full

24. Regarding the match not taken place in full, the Appeals Body completely supports the line of arguments exposed by the UEFA Control, Ethics and Disciplinary Body in its decision.

25. The 5th Law of the Game establishes that each match is controlled by a referee who has full authority to enforce the Laws of the Game in connection with the match to which he has been appointed to.

26. Appellant argues that the referee did not respect the procedure insofar he did not suspend temporarily the match and send the captains of both teams to their fans requiring the termination of the anti-sportive action and, if after this call the fans would

- not stop doing anti sportive behaviour, the referee would then have the right to stop the match.
27. The arguments of Appellant are not sufficiently convincing insofar the referee is empowered to stop, as well as to suspend or abandon the match because of outside interference of any kind in accordance with the 5th FIFA Law of the Game. This extent has been confirmed by the Appellant.
 28. It follows that it is under the referee's discretion to choose between the options given to him according to the latter provision. There is no provision obliging the referee to proceed with the different steps exposed by the Appellant in order to stop, suspend or abandon the match. Appellant has not proved this extent, lacking hereby the argument of Appellant of any legal basis.
 29. Nevertheless, this UEFA disciplinary body wishes to emphasize that according to the referee's report which is presumed to be accurate in accordance with Article 38 DR and has not been contested yet, the referee did indeed call the captain of FK Kukësi during the first half at the drinking break and ask him to address to its supporters as to terminate with their misconduct, as well as requested a public announcement in order to put an end to the said improper conduct.
 30. In addition and during half time, the referee informed the security officer that if more objects were thrown he could not guarantee the security of the players and officials anymore and that he may abandon the match.
 31. In the light of the above, it seems obvious that the decision of the referee to abandon the match was preceded by several other decisions and actions, not requested to him, but nevertheless undertaken by him, which evidences a dramatic situation in which supporters completely were disregarding the instructions given by both the FK Kukësi captain and the public announcements.
 32. Regretfully, this situation ended up with a player hit by a stone which caused him a bleeding wound.
 33. Consequently, the argument as regards the allegations related to the procedure undertaken by the referee to take his decision shall be dismissed.
 34. Furthermore, Appellant insists on the fact that the situation created after the player's damage was not serious enough to abandon the game. The injured player after receiving first medical aid had no blood in his face and shirt which he changed and was ready to enter on the field.
 35. The Appeals Body does not comply with the assertion of Appellant as to define this situation as not serious enough to abandon the game.

36. First and here again, it is under the discretion of the referee to decide to abandon the match in case of outside interference in accordance to the 5th FIFA Laws of the Game. Nothing else is added to the wording of this provision which puts emphasis on the fact that it is the referee who under his view and in the light of the circumstances of the case shall decide to abandon the match.
37. This UEFA disciplinary body, understands that there is a considerable protection afforded to referees' field-of-play decisions, as reflected in long-established CAS jurisprudence. Thus, the UEFA Appeals Body will not review a field-of-play decision unless there is persuasive evidence that there has been arbitrariness or bad faith in arriving at such decision, even when that decision is recognized as being wrong, with the benefit of hindsight solely in cases where there is an obvious deviation of the legitimate reasons to abandon the match this decision can be modified. Briefly, the decision of the referee is in this regard to be subsumed as a decision taken by the referee on the field of play and cannot be contested in accordance with Article 9 (1) DR (CAS 2015/A/3874).
38. Second and more related to the merits of this case, Appellant is wrong when deeming that a situation in which a player has been hit by a stone provoking him a bleeding wound is not enough to abandon the match. There is no doubt that solely this misconduct undertaken by the Appellant's supporters is under the eyes of an objective and reasonable observer enough to abandon the match.
39. Players, coaches, referees and all those acting on the field of play need to be protected from any interference of the outside. They need to exercise their duties and play free of any disturbances, let alone their integrity needs to be completely protected. If UEFA would allow that the players' integrity is harmed as in the case in hand, it will have a direct impact on the core of football and lead players to play with a spirit of fear and helplessness which completely goes against UEFA most important values of fair play, sportsmanship and integrity.
40. It shall be added that this misconduct was produced in a highly concerning context, which draws a disturbing picture of the situation endured by the players and the referee's team acting on the field of play. The referee would have been even entitled to abandon the match before the player had been hit by the stone.
41. Consequently, this argument shall be dismissed as well.
42. Taking the above into consideration, the UEFA Appeals Body shares the view of the Control, Ethics and Disciplinary in that the decision of the referee was correct, within his entire scope of discretion, pertaining the latter to a factual decision not to be contested by the Appellant in accordance with Article 9 (1) DR.
43. Consequently, the case in hand presents the elements of a match which could not be played in full, and this because of the violent and disrespectful attitude of the FK Kukësi supporters.

44. This becomes even more clear in the light of the referee's report which states that the latter "informed the delegate that he had decided, that if there were thrown new objects on the pitch again because of safety reasons he could abandon the match because of safety reasons". In addition, the same report adds that after the stoppage of the match prior to the abandonment "UEFA security manager came in the referee's dressing room and with his current outside observations, he could support the decision fully. In his eyes the police did not have the control over the situation in the stadium".
45. It appears obvious and doesn't need a further detailed discussion that the security breaches provoking the match not to be played in full were originated by the FK Kukësi supporters which as a matter of fact and in accordance with the principle of strict liability contemplated in Article 8 DR makes the Appellant responsible for the match no to be played in full.

b. The improper conduct of supporters

46. Regarding the setting off and throwing of objects and the crowd disturbances, Appellant merely stresses that all the necessary measures to guarantee the security of the match were taken before, during and after the match. In this regard, Appellant does not oppose to the official reports specifying how each of the above infringements were committed by the FK Kukësi supporters.
47. Bearing the above in mind, this UEFA disciplinary body shares once again the view of the Control, Ethics and Disciplinary Body insofar as these arguments are irrelevant as to establish the responsibility of the club. The principle of strict liability contemplated in Article 8 DR and picked up by Article 16 (2) DR for misconducts perpetrated by supporters at UEFA competition matches triggers the said responsibility of the club in cases such as the setting off of fireworks, throwing of objects and crowd disturbances, here the lack or order or discipline inside or around the stadium.
48. Appellant arguments may only be valid as to the determination of the appropriate disciplinary measure and will, thus, be taken into consideration in the part reserved to the determination of the adequate disciplinary measure.
49. Regarding the displaying of the banners and in particular those containing the wording "The end of the game will be the end of your life. I am not a Slavian Albanian", here the discussion was also incorrectly placed by Appellant insofar it cannot by whatever means argue that a message with such a highly violent and offensive content may to be understood and accepted as a normal practice at football matches, let alone that UEFA would allow that supporters address to their opponents in that manner.
50. This UEFA Appeals Body regrets that messages with such a violent content are displayed at football matches in which the spirit of fair play, integrity and sportsmanship shall always prevail.

51. Consequently, this UEFA disciplinary body deems that the arguments forwarded by Appellant are ungrounded and the decision of the Control, Ethics and Disciplinary Body completely in line with the UEFA DR and the objectives, mainly those linked to fair play and sportsmanship, embedded in its Statutes.

C. Determination of the disciplinary measure

52. Regarding the match not to be played in full, Article 21 DR is straight when imposing that in cases in which a match that cannot be played in full, the member association or club responsible forfeits the match. Thus, there is no room for manoeuvre and the match shall be declared forfeit against the team responsible. It follows, the decision of the Control, Ethics and Disciplinary Body of 3 August as to declare the UEFA Europa League 2015/2016 match FK Kukësi vs. Legia Warszawa played on 30 July 2015 as forfeit shall be confirmed.

53. Regarding the improper conduct of the Appellant's supporters, it is the Appeals Body's constant practice to consider the Control, Ethics and Disciplinary Body's power of discretion to have been abused or exceeded if the first-instance body bases its decision on untrue or erroneous elements, does not apply fundamental legal principles, considers irrelevant facts or does not consider essential circumstances whose evaluation is compelling. In the opinion of the Appeals Body, none of this applies here.

54. The Appeals Body is of the opinion that the Control, Ethics and Disciplinary Body neither abused nor exceeded its broad powers of discretion. Its decision complies with the principles of legality – to the extent of its power of appreciation – and proportionality.

55. Briefly, a situation involving different stoppages of the match as a consequence of direct attacks against players and referees throughout the match, the fact that a player laid on the ground bleeding due to a stone thrown by the FK Kukësi supporters, the fact that the referee was put in a situation in which he needed to abandon the match for numerous security failures, the fact that the police was not able to face the disorders produced by the supporters, which opposes to the general statement of the club suggesting that it took all that was necessary to guarantee the security of the match which was clearly not made by the latter due to the fact that rightly the security was in no way guaranteed, the player laying on the ground and bleeding because of a stone thrown by a supporter, being an obvious example of the negligent and inefficient security system implemented for that match, and, finally, the displaying of an evident and grossly offensive banner, brings this UEFA disciplinary body to the conclusion that the sanction of the Control, Ethics and Disciplinary Body is in no form grossly or evidently disproportionate, even too lenient in the light of the circumstances.

56. On the basis of the above, the Appeals Body has no option but to uphold the initial decision and reject the appeal.

VI. Costs

57. The allocation of the costs of proceedings before the Appeals Body depends on the outcome of those proceedings. The Appeals Body decides at its own discretion how these costs are to be allocated to the various parties or borne by UEFA. The appeal fee is either deducted from the costs of proceedings or reimbursed (Article 44.2 DR).
58. It is considered justified to charge all of the costs of this case to the appellant, whose appeal is rejected on all counts.

Decision of 25 September 2015

Sporting Clube de Portugal, Portugal

(assault; red card)

Circumstances of the case: In substance, according to the report of the referee, in the 92nd minute of the game, the Sporting Clube de Portugal player Eduardo Joao Mario was sent off by the referee for kicking the PFC CSKA Moskva player Ahmed Musa to his stomach. The sanctioned player Eduardo immediately left the pitch, whereas the injured player Musa also had to leave the pitch as he wasn't able to continue the match.

Legal framework: Article 15 (1) (e) DR

Decision

The Control, Ethics and Disciplinary Body considered that the act of the player Eduardo, as described by the referee above, constitutes assault under the terms of Article 15 (1) (e) DR. As a result, the Control, Ethics and Disciplinary Body decided to suspend the player Eduardo for three (3) UEFA competition matches for which he would be otherwise eligible.

The appeal lodged by Sporting Clube de Portugal is rejected and the decision of the Control, Ethics and Disciplinary Body of 3 September 2015 is upheld.

Chairman: Pedro Tomás (Spain)

I. Facts of the case

1. The elements set out below are a summary of the main relevant facts, as established by the Appeals Body on the basis of the decision rendered by the Control, Ethics and Disciplinary Body on 3 September 2015 (the "Decision"), the official reports, the written submissions of the parties, the exhibits filed and the statements produced in the course of the Appeals Body proceedings. While the Appeals Body has considered all the facts, allegations, legal arguments and evidence submitted by the parties in these proceedings, it refers in the present decision only to the submissions and evidence it considers necessary to explain its reasoning.
2. In substance, according to the report of the referee, in the 92nd minute of the game, the Sporting Clube de Portugal player Eduardo Joao Mario ("the player Eduardo") was sent off by the referee for kicking the PFC CSKA Moskva player Ahmed Musa ("the player Musa") to his stomach. The sanctioned player Eduardo immediately left the pitch, whereas the injured player Musa also had to leave the pitch as he wasn't able to continue the match.

3. In its decision of 3 September 2015, the Control, Ethics and Disciplinary Body considered that the act of the player Eduardo, as described by the referee above, constitutes assault under the terms of Article 15 (1) (e) DR. As a result, the Control, Ethics and Disciplinary Body decided to suspend the player Eduardo for three (3) UEFA competition matches for which he would be otherwise eligible.
4. The Decision with grounds was notified to the appellant on 9 September 2015.

II. Summary of the proceedings before the Appeals Body

5. On 11 September 2015, Sporting Clube de Portugal announced its intention to appeal against the Decision.
6. The grounds for appeal, submitted with the declaration of intention to appeal, can be summarized as follows:
 - The referee's report is inaccurate as it describes that the player Eduardo kicked his opponent to the stomach, whereas it was the player's leg touching the player Musa as he was attempting to play the ball, unaware of the opponent's proximity.
 - There was no willingness of the player Eduardo to collide with his opponent, no deceit, no disposition, alacrity or any form of voluntary behaviour, as it was only an accident.
 - The player Eduardo did not want to stop the play and cause an interruption of the game, given that Sporting Clube de Portugal desperately needed one more goal to advance to the next round of the competition.
 - It was not "brutal behaviour" capable of causing "serious injuries and pain", given that the opponent player Musa was able to already play in the next match for his club only four days later.
 - The action of the player Eduardo should only be regarded as "rough play" in the sense of Article 15 (1) (a) (2) DR or as "unsporting conduct" in the sense of Article 15 (1) (a) (5) DR and should only be punished with a one match suspension.
 - The sanction of three games is highly inadequate, bearing in mind the fact that the player Eduardo has never been sent off throughout his career at a senior level in more than 100 matches. Given that recidivism is considered an aggravating circumstance, the lack of a previous record during such a flawless career should be considered a mitigating circumstance.
7. On 16 September 2015, the UEFA Ethics and Disciplinary inspector submitted her reply to the appeal, requesting that it be rejected and the costs charged accordingly.

III. Hearing

8. No hearing was held, since the appellant requested that the proceedings be conducted in writing only and the Chairman of the Appeals Body did not raise any objection to this request.
9. The Chairman of the Appeals Body examined the entire case file, in particular the challenged decision, the grounds for appeal and the Ethics and Disciplinary Inspector's reply to the appeal, on 25 September 2015.
10. The parties' arguments are set out and examined below, in so far as they are relevant to the decision.

IV. Appeals Body Competence and Admissibility of the Appeal

11. Pursuant to Article 24 (3) (a) DR: "The Chairman of the Appeals Body (...) may take decision as judge sitting alone: in urgent cases". The next match affected by this case is scheduled for 1 October 2015. Accordingly, and in order to clarify the disciplinary situation of the club and guarantee the smooth running of the competition, it is appropriate to deal with the case urgently. The factual and legal circumstances also permit this solution. Therefore, the Chairman of the Appeals Body, acting as judge sitting alone, is entitled to examine the merits of the case and reach a decision.
12. On 11 September 2015, the appellant lodged its grounds for appeal by the set deadline and in the form required. The appeals fee was paid on time.
13. It follows that the Chairman of the Appeals Body has competence to decide on the present appeal and that the appeal is admissible. The Chairman of the Appeals Body may therefore consider its merits and can therefore re-examine the case in full, both factually and legally (Article 58 (2) DR).

V. Legal Considerations Of The Appeals Body

A. The legal framework.

14. Pursuant to Article 52 of the UEFA Statutes, as well as Article 23 of the UEFA Disciplinary Regulations (DR), the Control, Ethics and Disciplinary Body is competent to deal with the case.
15. According to Article 15 (1) (e) DR, suspension for three competition matches or a specified period for assaulting another player or another person present at the match.
16. According to Article 38 DR, facts contained in official UEFA reports are presumed to be accurate. Proof of their inaccuracy may, however, be provided.

17. In light of the above, the UEFA Statutes, rules and regulations, in particular the UEFA Disciplinary Regulations are applicable to these proceedings.

B. In the case in hand

18. It remained undisputed during these procedures that in the 92nd minute of the game, there was a collision between the player Eduardo and the opponent player Musa, which was caused by the player Eduardo of Sporting Clube de Portugal. The decisive question in the matter at hand is whether this collision should be considered as rough play in the sense of Article 15 (1) (a) (2) DR or as an assault in the sense of Article 15 (1) (e) DR.
19. The Control, Ethics and Disciplinary Body considered the foul play by the player Eduardo as an act of assault, considering that said player placed the physical well-being of his opponent in danger, thereby creating a risk of causing serious injuries and pain. The Control, Ethics and Disciplinary Body further considered the act of the player Eduardo constituted a particular brutal behaviour, especially in view of the fact that the opponent player Musa even had to leave the pitch as he could not continue the match due to the injury he suffered in the incident.
20. The Chairman of the Appeals Body also took into account the arguments of the appellant, which can be summarized as an attempt of the player Eduardo to go for the ball, thereby not having an eye on the opponent and consequently crashing into the latter, this by accident and not in a deliberate and intentional way.
21. Subsequently, the Chairman of the Appeals Body, after thorough analysis of the video footage which was provided by the appellant, confirmed the conclusions of the Control, Ethics and Disciplinary Body and as he was equally convinced that the collision of the player Eduardo with player Musa was not only an accidental collision and hence a simple rough play, but rather an assault in the sense of Article 15 (1) (e) DR.
22. In this regard, the Chairman of the Appeals Body recalled that according to the constant practice of the UEFA disciplinary bodies, assault in the sense of the above provision consists of any act committed not only intentionally but also recklessly by which the opponent's physical or psychological well-being is interfered with. It shall be noted that important elements to infer the existence of an assault are the presence of a challenge for the ball and the dangerousness of the action.
23. In the case at hand, the Chairman of the Appeals Body acknowledged that the ball was cleared away from the goal of PFC CSKA Moskva and the player Musa as well as the player Eduardo were both running into the direction of the ball, which was still high up in the air. However, the Chairman of the Appeals Body noted that the player Musa reached the ball first, played the ball with his head into the direction of Sporting Clube de Portugal's half starting a counterattack, before the player Eduardo crashed into him,

the latter player having his leg and knee raised up in the air and thereby kicking the player Musa with parts of his knee and parts of his upper and lower leg into the stomach.

24. Hence, on the one hand, the Chairman of the Appeals Body noted that the ball was still in play, which could generally speak for the argument of the appellant that the collision which was caused by the player Eduardo only constituted a “regular” foul and therefore a rough play in the sense of Article 15 (1) (a) (2) DR. However, the Chairman came to the conclusion that the player Eduardo had the chance to see that the player Musa was running towards him and that the latter player would reach the ball earlier than him. The Chairman recalled the argument of the appellant that the player Eduardo at no time took his eyes off the ball. However, the Chairman was convinced that the player Eduardo had vision on the player Musa, that the player Eduardo knew he would only reach the ball as second and that he knew or must have known he would therefore crash into him. Consequently, the action and behaviour in the sequence under scrutiny must be described as either highly negligent, or one must even assume that the player Eduardo had *dolus eventualis* to entail the collision.
25. Moreover, the Chairman of the Appeals Body recalled that the dangerousness of the action equally determine if a foul should be regarded as rough play only, or as an assault. In this context, the Chairman of the Appeals body was also convinced that by raising his knee and leg to the level of the stomach of the opponent player, who even only reached the ball with his head by jumping, the player Eduardo took an enormous risk of injuring any player in his proximity. The fact that such risk even materialized itself, i.e. that the player Musa was injured and had to be substituted, only proves the dangerousness of the action by the player Eduardo and indicates that the foul has to be regarded as an assault.
26. As to the argument of the appellant that the foul of the player Eduardo could not be regarded as brutal behaviour, capable of causing serious injuries and pain and interfering with the well-being, as it was stated in the decision of the Control, Ethics and Disciplinary Body, since the player Musa was able to participate already in the next game of PFC CSKA Moskva only four days later, the Chairman of the Appeals Body found it worthwhile to underline that the absence of a serious injury is no circumstance which would speak in favour of the player Eduardo. In this regard, the Chairman of the Appeals Body emphasized that the action of the player Eduardo caused an injury which was serious enough that the player Musa could not continue the game and had to be substituted and replaced immediately. Therefore, the aforementioned argument of the appellant in this sense has to be rejected.
27. Moreover, as to the argument of the appellant that the player Eduardo had no reason whatsoever to stop the player and to cause an interruption and a free-kick for PFC CSKA Moskva since the appellant desperately needed to score one more goal in order to stay in the competition, the Chairman could also not agree with such argument. Undisputedly, the appellant needed one more goal and therefore needed the ball under its control. But given that the player Musa just lead a counterattack and was starting to carry the ball deep into the half of the appellant, maybe even having the chance to score the decisive

goal for his club PFC CSKA Moskva, the Chairman of the Appeals Body was convinced that in view of the aforementioned, the player Eduardo had a good reason to stop such counterattack in order not to concede the fourth goal in the game.

28. Consequently, and in view of all the foregoing deliberations, the Chairman of the Appeals Body concluded that the action of the act of the Sporting Clube de Portugal player Eduardo as described by the referee above constitutes assault under the terms of Article 15 (1) (e) DR and needs to be sanctioned accordingly.
29. It therefore remains for the Chairman of the Appeals Body to examine whether the Control, Ethics and Disciplinary Body respected the regulations and legal principles, in particular those of legality and proportionality, or whether it abused its power of discretion to suspend the player for three UEFA competition matches for which he would be otherwise eligible.

C. Determination of the disciplinary measure

30. It is the Appeals Body's constant practice to consider the Control, Ethics and Disciplinary Body's power of discretion to have been abused or exceeded if the first-instance body bases its decision on untrue or erroneous elements, does not apply fundamental legal principles, considers irrelevant facts or does not consider essential circumstances whose evaluation is compelling. In the opinion of the Chairman of the Appeals Body, none of this applies here.
31. The Chairman of the Appeals Body is of the opinion that the Control, Ethics and Disciplinary Body neither abused nor exceeded its broad powers of discretion. Its decision complies with the principles of legality – to the extent of its power of appreciation – and proportionality.
32. In this regard, the Chairman of the Appeals Body recalled the argument of the appellant who argued that in view of the fact that recidivism is an aggravating circumstance, the absence of a record in an entire career must be regarded as a mitigating circumstance which should lead to the reduction of the sanction which was imposed on the player Eduardo. However, the Chairman of the Appeals Body firstly emphasized that the absence of red cards during a player's career in general and violations of the UEFA Disciplinary Regulations in particular should be regarded as the basic rules of decorum and fair play that are to be expected of a professional player of his age and experience. In this sense, the absence of aggravating circumstances is generally not considered a mitigating circumstance in itself.
33. In this sense, the Chairman of the Appeals Body further referred to its previous jurisprudence in similar cases and in particular to its decision of 9 August 2012 of FC Chelsea and John Terry, in which the Appeals Body on a very exceptional basis considered the absence of a previous record of the player as a mitigating circumstance. However, the Chairman of the Appeals body also stressed that in the aforementioned decision, the

player had not received a red card in 169 UEFA competition matches, i.e. the player had a remarkable record during a long career of games played in UEFA competitions. Moreover, in the case of John Terry, the player did not injure his opponent. On the contrary, in the case at hand, the player Eduardo has so far only played in eleven UEFA competition matches and, in addition to that, has injured his opponent player in the action under scrutiny. Consequently, the Chairman of the Appeals Body could not consider such exceptional circumstances as stipulated in the John Terry case, which is why the argument made by the appellant in this regard has to be rejected.

34. On the basis of the above, the Chairman of the Appeals Body has no option but to uphold the initial decision and reject the appeal.

VI. Costs

35. The allocation of the costs of proceedings before the Appeals Body depends on the outcome of those proceedings. The Appeals Body decides at its own discretion how these costs are to be allocated to the various parties or borne by UEFA. The appeal fee is either deducted from the costs of proceedings or reimbursed (Article 44.2 DR).
36. It is considered justified to charge all of the costs of this case to the appellant, whose appeal is rejected on all counts.
37. In this case, since these proceedings were conducted by the Chairman of the Appeals Body, as judge sitting alone, the costs will be lower than if a Panel with three or five members is constituted. Consequently, the costs of the proceedings are € 1'000.

Decision of 9 October 2015

Bulgarian Football Union

(red card; assault)

Circumstances of the case: The referee reported that in 55 minute after a stoppage of the game resulting from a foul committed, the Bulgarian Football Union player Micanski Iliyan deliberately stepped on the foot of the Italian player n°16 who was lying on the field

Legal framework: Article 15 (1) DR

Decision:

The Control, Ethics and Disciplinary Body considered that act of kicking his opponent while the latter laid on the ground as described by the referee above constitutes assault under the terms of Article 15 (1) (e) of the UEFA Disciplinary Regulations. The player was therefore sanctioned with a suspension for three UEFA competition matches for which he would be otherwise eligible.

The appeal lodged by the Bulgarian Football Union is partially admitted. Consequently, the Control, Ethics and Disciplinary Body's decision of 17 September 2015 is amended as follows: To suspend the Bulgarian Football Union player Micanski Iliyan for two (2) UEFA competition matches for which he would be otherwise eligible. The association ensures the player is informed personally of this decision.

Chairman: Pedro Tomás (Spain)

I. Facts Of The Case

1. The elements set out below are a summary of the main relevant facts, as established by the Appeals Body on the basis of the decision rendered by the Control, Ethics and Disciplinary Body on 21 May 2015 (the "Decision"), the official reports, the written submissions of the parties, the exhibits filed and the statements produced in the course of the Appeals Body proceedings. While the Appeals Body has considered all the facts, allegations, legal arguments and evidence submitted by the parties in these proceedings, it refers in the present decision only to the submissions and evidence it considers necessary to explain its reasoning.
2. In substance, the referee reported that in 55 minute after a stoppage of the game resulting from a foul committed, the Bulgarian Football Union player Micanski Iliyan deliberately stepped on the foot of the Italian player n°16 who was lying on the field.
3. In its decision of 17 September 2015, the Control, Ethics and Disciplinary Body considered that act of kicking his opponent while the latter laid on the ground as described by the referee above constitutes assault under the terms of Article 15 (1) (e) of the UEFA

Disciplinary Regulations (“DR”). The player was therefore sanctioned with a suspension for three UEFA competition matches for which he would be otherwise eligible.

4. The Decision with grounds was notified to the appellant on 23 September 2015.

II. Summary of the proceedings before the Appeals Body

5. On 25 September 2015, the Appellant submitted its declaration of intention to appeal against the decision of the Control, Ethics and Disciplinary Body of 17 September 2015.
6. The grounds for appeal, submitted on 2 October 2015, can be summarized as follows:
 - It is clear from the player’s statements and from the video footage that the actions of Micanski Illiyan were not with the intention to harm the physical or psychological well-being of the player.
 - The controversial situation was a direct result of a lost body balance after a challenge for the ball between the two players in question, being Article 15 (1) (a) DR the appropriate disciplinary measure
 - The player in its statements argues that did not deserve the red card. He explains that he committed a foul and lost the balance. He admits that he might slightly touch the opponent without causing any harm, that he did not want to provoke his opponent. Finally, the player stresses his clean previous record and his well-tempered actions.

III. Hearing

7. No hearing was held, since the Appeal has been conducted in writing only.
8. The Appeals Body examined the entire case file, in particular the challenged decision, the grounds for appeal and the Ethics and Disciplinary Inspector’s reply to the appeal.
9. The parties' arguments are set out and examined below, in so far as they are relevant to the decision.

IV. Jurisdiction of the Appeals Body and admissibility of the Appeal

10. Article 24(4) DR states as follows: “The Appeals Body has jurisdiction to hear appeals against decisions by the Control, Ethics and Disciplinary Body and to rule on particular urgent cases referred to it directly by the chairman of the Control, Ethics and Disciplinary Body.”

11. On 2 October 2015, the Appellant lodged its grounds for appeal by the set deadline and in the form required. The appeals fee was paid on time.
12. It follows that the Appeals Body has competence to decide on the present Appeal and that the Appeal is admissible. The Appeals Body may therefore consider its merits and can therefore re-examine the case in full, both factually and legally (Article 58.2 DR).

V. Legal Considerations Of The Appeals Body

A. The legal framework.

13. Under Article 52 of the UEFA Statutes, disciplinary measures may be imposed for unsportsmanlike conduct, violations of the Laws of the Game and contravention of UEFA's Statutes, regulations, decisions and directives.
14. According to Article 15 (1) (a) DR, suspension for one competition match or a specified period for rough play.
15. According to Article 15 (1) (e) DR, a suspension for three competition matches or a specified period applies for assaulting another player or another person present at the match.
16. According to Article 38 DR, facts contained in official UEFA reports are presumed to be accurate. Proof of their inaccuracy may, however, be provided.

B. In the case in hand

17. As it was stated in the report of the Referee, in 55 minute after a stoppage of the game resulting from a foul committed, the Bulgarian Football Union player Micanski Iliyan deliberately stepped on foot of the Italian player n°16 who was lying on the field of play.
18. The UEFA disciplinary bodies have stipulated a number of times that any act committed with direct or oblique intention through which the physical or psychological well-being of the referee, a player or any other person present at a match is harmed or threatened, before, during or after the game, constitutes serious unsporting conduct classified under the general term "assault" in accordance with Article 15 (1) (e) DR. In the case of a particularly serious attack on a person's physical or psychological well-being, we therefore talk of "serious assault" in the sense of letter g) of this same provision.
19. It has been the UEFA disciplinary bodies' long lasting practice to qualify as rough play in the sense of article 15 (1) (a) DR any act committed, by which the offending player tackles carelessly and tolerates injuring or endangering the opponent.

20. Regarding the conduct of the Bulgarian Football Union player Micanski Iliyan, after carefully reviewing the video footage, bearing in mind the explanation of the Appellant and the player, the Appeals Body comes to the conclusion that in this particular case and under these particular circumstances the player's action falls within the scope of Article 15 (1) (a) DR rather than under 15 (1) (e) DR as deemed by the Control, Ethics and Disciplinary Body in its decision of 17 September 2015.
21. The Appeals Body considers that in this particular case, the reckless attitude of the player towards his opponent endangered the latter physical well-being, but not to the extent as to define the said action as an assault. It is in this regard, that the Appeals Body is comfortable satisfied that the intention of the player was, in principle, not to stepped on his opponent, but eventually accept it as a possibility after having lost his balance.
22. Even in this scenario contemplated by the player in which he might have lost the balance he should have taken the precaution towards the Italian player who was laying on the ground. Such a reckless attitude could have resulted in a serious injury of the Italian player. Stepping someone laying on the ground with the studs is not to be accepted by a professional player who proofs himself to be an experienced player as it derives from his own statements.
23.

C. Determination of the disciplinary measure
24. It is the Appeals Body's constant practice to consider the Control, Ethics and Disciplinary Body's power of discretion to have been abused or exceeded if the first-instance body bases its decision on untrue or erroneous elements, does not apply fundamental legal principles, considers irrelevant facts or does not consider essential circumstances whose evaluation is compelling.
25. Rough play is sanctioned under the terms of article 15 (1) (a) DR with a one-match suspension or for a definite period. Such a sanction constitutes the minimum punishment. Should the circumstances so dictate, the Disciplinary Body may extend the duration of this suspension (article 17 DR).
26. The Association and the player in their statements plead for a minimum sanction on the basis of the clean previous records and the lack of intentionality.
27. Stepping an opponent who is laying on the ground as established in the case in hand and recklessly endangering the opponent's safety as described by the match official is a particularly rough play and thus a serious threat for the integrity of the opponent. It is to be deemed as a ruthless behaviour which shall count as an aggravating circumstance.
28. In this regard and in compliance with the constant practice of the UEFA disciplinary bodies, a two-match suspension shall be considered as the adequate punishment.

VI. Costs

29. The allocation of the costs of proceedings before the Appeals Body depends on the outcome of those proceedings. The Appeals Body decides at its own discretion how these costs are to be allocated to the various parties or borne by UEFA. The appeal fee is either deducted from the costs of proceedings or reimbursed (Article 44 (2) DR).
30. It is considered justified to charge the costs of this case both to the Appellant, whose appeal has been partially admitted, and UEFA.
31. In this case, since these proceedings were conducted in written by the Appeals Body, the costs of the proceedings are € 2'000.

Decision of 26 November 2015

Hapoel Beer-Sheva

(direct red card)

Circumstances of the case: In substance, according to the report of the referee, in the 20th minute of the match, the player Tzedek Shir from Hapoel Beer-Sheva was guilty of violent conduct, when he deliberately swung his arm and struck his opponent endangering his safety, resulting into a red card and the sending off of the player. The player then refused to leave the field of play and consequently delayed the restart. Moreover, also as reported by the referee, during halftime, the press officer of the Appellant, Mr. Gil Cebanony, appeared in the tunnel area and insulted the referee. After being asked to leave the tunnel area, security had to be instructed to remove the official. At the end of the match, the official re-entered the field of play and apologized to the referee

Legal framework: Article 15 (a), (e) and (d) DR

Decision:

The Control, Ethics and Disciplinary Body considered that the act of the player, as described by the referee above, constitutes an assault under the terms of Article 15 (1) (e) DR. As a result, the Control, Ethics and Disciplinary Body decided to suspend the player for three UEFA competition matches for which he would be otherwise eligible. Moreover, the Panel deemed that the act of the player refusing to leave the field of play immediately after being sent off violated Article 15 (1) (a) (5) DR and punished said violation with an additional one-match suspension. In total, the player was sanctioned with a four match suspension. Regarding the Appellant's official, the CEDB decided that the behaviour of the official violated Article 11 (1) DR in conjunction with Article 11 (2) (b) DR and decided to suspend the official for one match from exercising any duties related to the match in question the day before and the day of the match, banning him from having access to the field of play, its surroundings as well as the technical area, and to fine him € 5'000.

The appeal lodged by Hapoel Beer-Shiva is partially upheld and the decision of the Control, Ethics and Disciplinary Body of 3 September 2015 is amended as follows: To suspend the Hapoel Beer-Sheva player Tzedek Shir for three (3) UEFA competition matches for which he would be otherwise eligible. To suspend the Hapoel Beer-Sheva official Gil Cebanony for two (2) UEFA competition matches in which he may participate. The official is not allowed to exercise any duties related to the matches in question the day before and the day of the match, as well as is banned from having access to the field of play, its surroundings and the technical area.

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| Chairman: | Pedro Tomás (Spain) |
| Vice-chairmen: | Michael Maessen (Netherlands) Levent Bicakci (Turkey) |
| Member: | João Leal (Portugal) |

I. Facts of the case

1. The elements set out below are a summary of the main relevant facts, as established by the Appeals Body on the basis of the decision rendered by the Control, Ethics and Disciplinary Body on 3 September 2015 (the “Decision”), the official reports, the written submissions of the parties, the exhibits filed and the statements produced in the course of the Appeals Body proceedings. While the Appeals Body has considered all the facts, allegations, legal arguments and evidence submitted by the parties in these proceedings, it refers in the present decision only to the submissions and evidence it considers necessary to explain its reasoning.
2. In substance, according to the report of the referee, in the 20th minute of the match, the player Tzedek Shir (“the player”) from Hapoel Beer-Sheva (the “Appellant”) was guilty of violent conduct, when he deliberately swung his arm and struck his opponent endangering his safety, resulting into a red card and the sending off of the player. The player then refused to leave the field of play and consequently delayed the restart.
3. Moreover, also as reported by the referee, during halftime, the press officer of the Appellant, Mr. Gil Cebanony (“the official”), appeared in the tunnel area and insulted the referee. After being asked to leave the tunnel area, security had to be instructed to remove the official. At the end of the match, the official re-entered the field of play and apologized to the referee.
4. In its decision of 13 August 2015, the Control, Ethics and Disciplinary Body (the “CEDB” or “the Panel”) considered that the act of the player, as described by the referee above, constitutes an assault under the terms of Article 15 (1) (e) DR. As a result, the Control, Ethics and Disciplinary Body decided to suspend the player for three UEFA competition matches for which he would be otherwise eligible. Moreover, the Panel deemed that the act of the player refusing to leave the field of play immediately after being sent off violated Article 15 (1) (a) (5) DR and punished said violation with an additional one-match suspension. In total, the player was sanctioned with a four match suspension.
5. Regarding the Appellant’s official, the CEDB decided that the behaviour of the official violated Article 11 (1) DR in conjunction with Article 11 (2) (b) DR and decided to suspend

the official for one match from exercising any duties related to the match in question the day before and the day of the match, banning him from having access to the field of play, its surroundings as well as the technical area, and to fine him € 5'000.

6. The Decision with grounds was notified to the Appellant on 8 September 2015.

II. Summary of the proceedings before the Appeals Body

7. On 10 September 2015, the Appellant announced its intention to appeal against the Decision.
8. The grounds for appeal, submitted with the declaration of intention to appeal, can be summarized as follows:
9. Regarding the violent conduct of the player, the Appellant stated that from the video evidence it can be seen that the player did not try to injure or harm his opponent, and that the player certainly did not commit any serious assault or violent conduct. The player and his opponent were running close to each other when the opponent knocked into the back of the player or at least tried to knock him over from behind. In order to regain his balance, the player had to use his left hand in order to free himself, however without striking his opponent. The opponent was not harmed or injured and could continue to play.
10. Regarding the unsporting conduct of the player, the Appellant argued that based on the video evidence, there is no basis for the allegation that the player refused to leave the pitch and caused a delay. Between the showing of the red card and the moment of when the player left the pitch, at maximum only one minute elapsed.
11. Regarding the improper conduct of the official, the Appellant stated that the official was never convicted of any unfitting behaviour and was never indicted for things he said or did. Moreover, the official admittedly went to the referee in the tunnel and told him that the red card for the player Tzedek Shir was not justified, this without shouting or being violent in any way. Furthermore, the official immediately apologized after the game, which is why the sanction of the official should be reduced to a fine only.
12. On 23 September 2015, the UEFA Ethics and Disciplinary Inspector ("EDI") submitted her reply to the appeal, requesting that it be rejected and the costs charged accordingly. Moreover, the EDI lodged a cross-appeal against the Decision as regards the sanction against the official, based on the assumption that the behaviour of the official constituted an insulting act, violating Article 15 (1) (d) DR, and requested the Appeals Body to increase the suspension to two matches, combined with a € 5'000 fine.

III. Hearing

13. No hearing was held, since the appellant requested that the proceedings be conducted in writing only and the Chairman of the Appeals Body did not raise any objection to this request.
14. The Appeals Body examined the entire case file, in particular the challenged decision, the grounds for appeal and the Ethics and Disciplinary Inspector's reply to the appeal, on 26 November 2015.
15. The parties' arguments are set out and examined below, in so far as they are relevant to the decision.

IV. Appeals Body Competence and Admissibility of the Appeal

16. Article 24 (4) DR states as follows: "The Appeals Body has jurisdiction to hear appeals against decisions by the Control, Ethics and Disciplinary Body and to rule on particular urgent cases referred to it directly by the chairman of the Control, Ethics and Disciplinary Body."
17. On 10 September 2015, the Appellant lodged its grounds for appeal by the set deadline and in the form required. The appeals fee was paid on time.
18. It follows that the Appeals Body has competence to decide on the present Appeal and that the Appeal is admissible. The Appeals Body may therefore consider its merits and can therefore re-examine the case in full, both factually and legally (Article 58 (2) DR).

V. Legal Considerations Of The Appeals Body

The behaviour of the player

A. The legal framework.

19. According to Article 15 (1) (e) DR, suspension for three competition matches or a specified period for assaulting another player or another person present at the match.
20. According to Article 15 (1) (a) (5) DR, suspension for one competition match or a specified period for unsporting conduct.
21. According to Article 38 DR, facts contained in official UEFA reports are presumed to be accurate. Proof of their inaccuracy may, however, be provided.
22. In light of the above, the UEFA Statutes, rules and regulations, in particular the UEFA Disciplinary Regulations are applicable to these proceedings.

B. The violent conduct

23. It remained undisputed during these procedures that in the 20th minute of the match, the player waived or used his arm against his opponent player. The decisive question in the matter at hand is whether the player only tried to free himself and gain balance – as alleged by the Appellant – or if the player deliberately struck the opponent with his arm – as it was argued by the CEDB and the EDI – which would constitute an assault in the sense of Article 15 (1) (e) DR.
24. The Control, Ethics and Disciplinary Body, based on the report of the referee, considered the foul play by the player as an act of assault, considering that said player endangered the safety of his opponent.
25. The Appeals Body, after thorough analysis of the video footage which was provided by the Appellant, confirmed the conclusions of the Control, Ethics and Disciplinary Body as it could be clearly seen from the video footage that the player threw an elbow-blow in the direction of the opponent player. The question whether the opponent player might have fouled the player or not beforehand is irrelevant as to the legal assertion of the act of the Appellant's player. Consequently, the act of the player throwing his elbow in the direction of his opponent intentionally is not only reckless but also clearly endangers the opponent's physical well-being.
26. Therefore, the Panel concurred with the decision of the CEDB and decided that the act of the player constitutes an assault as stipulated in Article 15 (1) (e) DR which needs to be sanctioned accordingly.

C. The unsporting conduct of the player

27. The Appeals Body recalled the legal considerations of the CEDB, the latter Panel, based on the report of the referee, having considered that the player did not leave the field immediately and hence delayed the restart of the game as he stayed on the field of play to discuss in unsporting manner with the referee.
28. Subsequently, the Appeals Body recalled the arguments of the Appellant and the EDI and took note of the video evidence of the incident. After thorough analysis of the said video, the Panel came to the conclusion that the protest of the player following the red card cannot be considered as particularly long and therefore could not concur with the arguments of the CEDB and the EDI that the restart of the game was considerably delayed because of said protests of the player against the referee's decision.
29. Consequently, the Appeals Body decided to drop the charge for unsporting conduct of the player, deciding that the player did not violate Article 15 (1) (a) (5) DR. Hence, the Panel partially accepted the appeal of the Appellant with relation to Article 15 (1) (a) (5) DR.

The behaviour of the Appellant's official

A. The legal framework.

30. According to Article 15 (1) (d) DR, suspension for three competition matches or a specified period for insulting any match official.
31. According to Article 38 DR, facts contained in official UEFA reports are presumed to be accurate. Proof of their inaccuracy may, however, be provided.

B. The improper conduct of the official

32. Regarding the improper behaviour of the Appellant's official, the Appeals Body recalled the contradicting arguments and positions of the Appellant on the one hand, and the EDI on the other. The Appellant had argued that its official has never been charged for improper conduct before and that he even apologized after game, however stressing that the official did not insult the referee. The EDI had argued that the acts of the official were more severe than as it was assessed by the CEDB and should be considered as insulting acts as stipulated in Article 15 (1) (d) DR.
33. After taking into account the report of the referee who had stated that he was insulted by the official, the latter who even had to be removed by security, the Appeals Body also acknowledged that the Appellant has not provided any evidence which would prove the opposite and which would break the assumption of accuracy of the referee's report. Consequently, the Panel came to the conclusion that the behaviour of the official constituted an insulting act which violated Article 15 (1) (d) DR and which needs to be sanctioned accordingly.
34. It therefore remains for the Chairman of the Appeals Body to examine whether the Control, Ethics and Disciplinary Body respected the regulations and legal principles, in particular those of legality and proportionality, or whether it abused its power of discretion to suspend the player for three UEFA competition matches for which he would be otherwise eligible.

Determination of the disciplinary measure

35. It is the Appeals Body's constant practice to consider the Control, Ethics and Disciplinary Body's power of discretion to have been abused or exceeded if the first-instance body bases its decision on untrue or erroneous elements, does not apply fundamental legal principles, considers irrelevant facts or does not consider essential circumstances whose evaluation is compelling. In the opinion of the Chairman of the Appeals Body, none of this applies here.

36. Regarding the violent conduct of the player, the Appeals Body is of the opinion that the Control, Ethics and Disciplinary Body neither abused nor exceeded its broad powers of discretion. Its decision complies with the principles of legality – to the extent of its power of appreciation – and proportionality, in particular in view of the fact that the three match suspension which was imposed on the player is the minimum sanction for such violation of the DR. Given that the Appellant has not provided any mitigating circumstances or evidence during the course of the proceedings before UEFA, the Panel agreed with the decision of the CEDB and rejected the appeal of the Appellant as regards the violent conduct of the player.
37. As regards the conduct of the Appellant's official, the Appeals Body recalled that the minimum sanction for insulting a match official is three matches, while also bearing in mind that the EDI has requested a two match suspension in addition to a € 5'000 fine, based on the mitigating fact that the official after the game has apologized to the referee. The Panel further took into account that the Appellant has argued that the official was never charged for any unsporting behaviour before, but formed the belief that such "clean sheet" of an official cannot be considered as a mitigating circumstance, given that such behaviour is to be expected from any person being part of UEFA competitions.
38. In conclusion, in view of the fact that the official has apologized to the referee after the game and clearly showed remorse regarding his behaviour, the Appeals Body agreed with the request of the EDI and decided that a two match suspension for the Appellant's official is the appropriate sanction. In this regard, the Panel specified that the official is not allowed to exercise any duties related to the matches in question the day before and the day of the match and is banned from having access to the field of play, its surroundings as well as the technical area.
39. On the basis of the above, the Chairman of the Appeals Body partially accepted the appeal of the Appellant and partially accepted the cross-appeal of the EDI. Any further requests are rejected.

VI. Costs

40. The allocation of the costs of proceedings before the Appeals Body depends on the outcome of those proceedings. The Appeals Body decides at its own discretion how these costs are to be allocated to the various parties or borne by UEFA. The appeal fee is either deducted from the costs of proceedings or reimbursed (Article 44 (2) DR).
41. It is considered justified to charge all of the costs of this case to the appellant, given that most parts of the initial decision of the CEDB were upheld.
42. In this case, since these proceedings were conducted by the Appeals Body with a Panel of four members, the costs of the proceedings are € 1'000.

Decision of 26 November 2015

WKS Śląsk Wrocław SA
(racist behaviour)

Circumstances of the case: During the UEFA Europa League 2015/16 match between WKS Śląsk Wrocław SA and IFK Göteborg on 16 July 2015, it was reported by the UEFA delegate (by reference to the observations of a FARE observer) that a banner styled after the logo of the international neo-Nazi network “Blood and Honour” and featuring a quote from a song of a Polish neo-Nazi music band was displayed by WKS Śląsk Wrocław SA supporters

Legal framework: Article 14 DR

Decision

The Control, Ethics and Disciplinary Body concluded that the behaviour of the WKS Śląsk Wrocław SA supporters was racist and that the club had therefore violated Article 14 of the UEFA Disciplinary Regulations.

The appeal lodged by WKS Śląsk Wrocław is upheld. Consequently, the Control, Ethics and Disciplinary Body’s decision of 13 August 2015 is overturned and WKS Śląsk Wrocław is declared free from any disciplinary measure.

Chairman: Pedro Tomás (Spain)

Vice-chairmen: Michael Maessen (Netherlands)
Levent Bicakci (Turkey)

Members: João Leal (Portugal)
Urs Reinhard (Switzerland)

I. Facts Of The Case

1. The elements set out below are a summary of the main relevant facts, as established by the Appeals Body on the basis of the decision rendered by the Control, Ethics and Disciplinary Body on 13 August 2015 (the “**Decision**”), the official reports, the written submissions of the parties, the exhibits filed and the statements produced in the course of the Appeals Body proceedings. Whilst the Appeals Body has considered all of the facts, allegations, legal arguments and evidence submitted by the parties in these proceedings, it refers in the present decision only to the submissions and evidence it considers necessary to explain its reasoning.
2. During the UEFA Europa League 2015/16 match between WKS Śląsk Wrocław SA and IFK Göteborg on 16 July 2015, it was reported by the UEFA delegate (by reference to the observations of a FARE observer) that a banner styled after the logo of the international

neo-Nazi network “Blood and Honour” and featuring a quote from a song of a Polish neo-Nazi music band was displayed by WKS Śląsk Wrocław SA supporters.

3. Disciplinary proceedings were opened against WKS Śląsk Wrocław SA on 17 July 2015 and the Control, Ethics and Disciplinary Body convened on 13 August 2015 to decide on the case. The Decision with grounds was notified to the Appellant on 9 September 2015.
4. In the Decision with grounds, the Control, Ethics and Disciplinary Body concluded that the behaviour of the WKS Śląsk Wrocław SA supporters was racist and that the club had therefore violated Article 14 of the UEFA Disciplinary Regulations (the “DR”).

II. Summary of the proceedings before the Appeals Body

5. On 11 September 2015, WKS Śląsk Wrocław SA announced its intention to appeal against the Decision.
6. On 14 September 2015, the Appellant filed its grounds for appeal.
7. In its statement, the Appellant argued that displaying the banner did not breach Article 14 DR as the symbols, etc. used on the banner only relate to the club/Poland and are not racist.
8. It is noted that, in the Decision, the Control, Ethics and Disciplinary Body also imposed a sanction on the Appellant in connection with the setting-off of fireworks (i.e. a €10,000 fine), however, this other element of the Decision has not been appealed by the Appellant and, accordingly, such other sanction has entered into full force and effect.
9. On 25 September 2015, the UEFA Ethics and Disciplinary Inspector submitted her reply to the appeal, requesting that it be dismissed and the costs charged accordingly.

III. Hearing

10. Neither the Appellant nor the UEFA Ethics and Disciplinary Inspector requested a hearing. Consequently, the Appeals Body rendered its decision based on the written statements submitted by the parties.
11. The Appeals Body examined the entire case file, in particular the Decision with grounds, the grounds for appeal and the UEFA Ethics and Disciplinary Inspector’s reply to the appeal, on 26 November 2015.
12. The parties' arguments are set out and examined below, in so far as they are relevant to the decision.

IV. Appeals Body Competence and Admissibility of the Appeal

13. Article 24 (4) DR states as follows:

“The Appeals Body has jurisdiction to hear appeals against decisions by the Control, Ethics and Disciplinary Body and to rule on particular urgent cases referred to it directly by the chairman of the Control, Ethics and Disciplinary Body.”

14. WKS Śląsk Wrocław SA lodged its grounds for appeal by the set deadline and in the form required. The appeals fee was paid on time.
15. It follows that the Appeals Body has competence to decide on the present appeal and that the appeal is admissible. The Appeals Body may therefore consider its merits and can therefore re-examine the case in full, both factually and legally, in accordance with Article 58 (2) DR.

V. Legal Considerations Of The Appeals Body

A. The legal framework

16. According to Article 8 DR, a club that is bound by a rule of conduct laid down in UEFA's Statutes or regulations may be subject to disciplinary measures and directives if such a rule is violated as a result of the conduct of one of its members, players, officials or supporters and any other person exercising a function on behalf of the club concerned, even if the club concerned can prove the absence of any fault or negligence.
17. Under Article 14 (1) DR, any person under the scope of Article 3 DR who insults the human dignity of a person or group of persons on whatever grounds, including skin colour, race, religion or ethnic origin, incurs a suspension lasting at least ten matches or a specified period of time, or any other appropriate sanction.
18. According to Article 14 (2) DR, if one or more of a club's supporters engages in the behaviour described in Article 14 (1) DR then the club shall be punished with a minimum of a partial stadium closure.
19. According to Article 38 DR, facts contained in official UEFA reports are presumed to be accurate. Proof of their inaccuracy may, however, be provided.

B. In the case in hand

20. Whilst the Appeals Body acknowledges and agrees that the fight against racism is a high priority for UEFA and that any racist behaviour is a serious offence under the DR, the Appeals Body does not consider WKS Śląsk Wrocław SA to have breached Article 14 DR on this occasion.
21. The Appeals Body notes that the banner does not feature the key component of the logo of the international neo-Nazi network “Blood and Honour” (i.e. a Swastika symbol). Had

- a Swastika symbol been present, then this would have clearly indicated a racist intent on the part of the supporters.
22. Similarly, when considered in isolation, the Appeals Body is not comfortably satisfied that the words on the banner (translated as “Be proud of who you are, the eagle power sign leads you”) would be considered racist by an objective observer.
 23. Since there is no Swastika symbol present on the banner and given that the words on the banner are not of themselves racist, this means that the only remaining element of the banner that might be considered racist is the white background (it being the same as the white background that features on the logo of the international neo-Nazi network “Blood and Honour”). The Appeals Body is not, however, comfortably satisfied that the banner as a whole would be considered racist by an objective observer solely because of the white background.
 24. As a general point, since there is no presumption of accuracy for FARE reports under the DR, the Appeals Body is not comfortably satisfied by the proof of racist behaviour provided in the Delegate’s report in the present case because the Delegate solely refers to the opinion of a FARE observer.
 25. Based on the foregoing, the Appeals Body does not consider that the banner was racist and, accordingly, WKS Śląsk Wrocław SA did not violate Article 14 DR.
 26. The Appeals Body considers that the use of the banner may potentially have breached Article 16 DR (since the banner might be considered offensive or provocative), however, because no proceedings were opened for this offence by the Control, Ethics and Disciplinary Body and no cross-appeal was made by the UEFA Ethics and Disciplinary Inspector, this potential offence has not been considered by the Appeals Body.
 27. In addition, the Appeals Body strongly advises the club to arrange for the banner to be changed as proof of its good faith - specifically the white background, which might be changed from its current shape to a standard rectangle in order to better avoid any comparisons to the logo of the international neo-Nazi network “Blood and Honour”.

C. Determination of the disciplinary measure

28. In light of the above, the Appeals Body has no option but to uphold the appeal and overturn the Decision in so far as it relates to the breach of Article 14 DR.
29. Accordingly, WKS Śląsk Wrocław SA is declared free of the disciplinary measures imposed in the Decision in connection with the Article 14 DR offence (i.e. the partial stadium closure).

30. For the avoidance of doubt, the fine of €10,000 imposed in the Decision in connection with the setting-off of fireworks under Article 16 (2) DR shall remain in full force and effect.

VI. Costs

31. The Appeals Body decides at its own discretion how to allocate the costs of proceedings.
32. The appeal fee is either deducted from the costs of proceedings or reimbursed (in accordance with Article 44 (2) DR).
33. On this occasion, it is considered justified to charge all of the costs of this case to the Appellant, less the appeals fee which has already been paid.
34. In the present case, the costs of proceedings are €1,000.

Decision of 26 November 2015

Hungarian Football Federation

(racist behavior and improper conduct of supporters)

Circumstances of the case: At three points during the Hungary vs. Romania match on 4 September 2015, the Hungarian supporters sang a racist chant - "Giganyok" (meaning "Gypsies") - at the Romanian players. When the Romanian national anthem was played at the match, the Hungarian supporters turned their backs and booed/loudly whistled. During the match, certain stairways in the stadium were blocked.

Legal framework: Article 14 DR, Article 16 (2) (g) DR, Article 38 Safety and Security Regulations

Decision

The Control, Ethics and Disciplinary Body concluded that: With regard to the "Giganyok" chant, the behaviour of the Hungarian supporters was racist and the HFF had therefore violated Article 14 of the UEFA Disciplinary Regulations (the "DR"). With regard to the disruption of the Romanian national anthem, the HFF must be held responsible for the misconduct of its supporters and had therefore violated Article 16 (2) (g) DR. With regard to the blocked stairways, the HFF (as the host and match organiser) had violated Article 38 of the UEFA Safety and Security Regulations.

The appeal lodged by the Hungarian Football Federation is rejected and the decision of the Control, Ethics and Disciplinary Body of 17 September 2015 is upheld

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| Chairman: | Pedro Tomás (Spain) |
| Vice-chairmen: | Michael Maessen (Netherlands) Levent Bicakci (Turkey) |
| Members: | João Leal (Portugal) Urs Reinhard (Switzerland) |

I. Facts Of The Case

1. The elements set out below are a summary of the main relevant facts, as established by the Appeals Body on the basis of the decision rendered by the Control, Ethics and Disciplinary Body on 17 September 2015 (the "**Decision**"), the official reports, the written submissions of the parties, the exhibits filed and the statements produced in the course of the Appeals Body proceedings. Whilst the Appeals Body has considered all of the facts, allegations, legal arguments and evidence submitted by the parties in these proceedings, it refers in the present decision only to the submissions and evidence it considers necessary to explain its reasoning.

2. The main facts of the present case can be summarised as follows:
 - At three points during the Hungary vs. Romania match on 4 September 2015, the Hungarian supporters sang a racist chant - "Giganyok" (meaning "Gypsies") - at the Romanian players.
 - When the Romanian national anthem was played at the match, the Hungarian supporters turned their backs and booed/loudly whistled.
 - During the match, certain stairways in the stadium were blocked.
3. Disciplinary proceedings were opened against the Hungarian Football Federation (the "HFF") on 7 September 2015 and the Control, Ethics and Disciplinary Body convened on 17 September 2015 to decide on the case. The Decision with grounds was notified to the Appellant on 22 September 2015.
4. In the Decision with grounds, the Control, Ethics and Disciplinary Body concluded that:
 - With regard to the "Giganyok" chant, the behaviour of the Hungarian supporters was racist and the HFF had therefore violated Article 14 of the UEFA Disciplinary Regulations (the "DR").
 - With regard to the disruption of the Romanian national anthem, the HFF must be held responsible for the misconduct of its supporters and had therefore violated Article 16 (2) (g) DR.
 - With regard to the blocked stairways, the HFF (as the host and match organiser) had violated Article 38 of the UEFA Safety and Security Regulations (the "SSR").

II. Summary of the proceedings before the Appeals Body

5. On 22 September 2015, the HFF announced its intention to appeal against the Decision.
6. On 25 September 2015, the HFF filed its grounds for appeal.
7. In its statement, the HFF:
 - Suggests that both the Delegate and FARE reports are misleading, insufficient and contradictory with regard to the "Giganyok" chant.
 - Argues that the Delegate did not hear the "Giganyok" chant himself and just relied on what he was told by the FARE observer.

- Argues that it has made significant efforts to tackle the problem of racism amongst its supporters and that its progress in this area should be taken into account as “*exceptional circumstances*” under Article 17 (3) DR in order to reduce the disciplinary measures imposed by the Control, Ethics and Disciplinary Body.
 - Suggests that the blocked stairways were managed and solved quickly.
 - States that it did everything possible to prevent the incidents that happened at the match.
 - Suggests that the measures imposed by the Control, Ethics and Disciplinary Body in the Decision are disproportionate.
8. On 29 September 2015, the UEFA Ethics and Disciplinary Inspector submitted his reply to the appeal, requesting that it be dismissed and the costs charged accordingly.
9. On 5 October 2015, the Appeals Body suspended the case and requested that the UEFA Ethics and Disciplinary Inspector prepare an additional report.
10. Such additional report was submitted by the UEFA Ethics and Disciplinary Inspector on 17 November 2015.

III. Hearing

11. Neither the Appellant nor the UEFA Ethics and Disciplinary Inspector requested a hearing. Consequently, the Appeals Body rendered its decision based on the written statements submitted by the parties.
12. The Appeals Body examined the entire case file, in particular the Decision with grounds, the grounds for appeal, the UEFA Ethics and Disciplinary Inspector’s reply to the appeal and the UEFA Ethics and Disciplinary Inspector’s additional report, on 26 November 2015.
13. The parties’ arguments are set out and examined below, in so far as they are relevant to the decision.

IV. Appeals Body Competence and Admissibility of the Appeal

14. Article 24 (4) DR states as follows:

“The Appeals Body has jurisdiction to hear appeals against decisions by the Control, Ethics and Disciplinary Body and to rule on particular urgent cases referred to it directly by the chairman of the Control, Ethics and Disciplinary Body.”

15. The HFF lodged its grounds for appeal by the set deadline and in the form required. The appeals fee was paid on time.

16. It follows that the Appeals Body has competence to decide on the present appeal and that the appeal is admissible. The Appeals Body may therefore consider its merits and can therefore re-examine the case in full, both factually and legally, in accordance with Article 58 (2) DR.

V. Legal Considerations Of The Appeals Body

A. The legal framework

17. According to Article 8 DR, an association that is bound by a rule of conduct laid down in UEFA's Statutes or regulations may be subject to disciplinary measures and directives if such a rule is violated as a result of the conduct of one of its members, players, officials or supporters and any other person exercising a function on behalf of the association concerned, even if the association concerned can prove the absence of any fault or negligence.
18. Under Article 14 (1) DR, any person under the scope of Article 3 DR who insults the human dignity of a person or group of persons on whatever grounds, including skin colour, race, religion or ethnic origin, incurs a suspension lasting at least ten matches or a specified period of time, or any other appropriate sanction.
19. Pursuant to Article 14 (2) DR, if one or more of an association's supporters engages in the behaviour described in Article 14 (1) DR, then the association shall be punished with a minimum of a partial stadium closure.
20. According to Article 14 (3) (a) DR, a second offence is punished with one match played behind closed doors and a fine of €50,000.
21. According to Article 16 (2) (g) DR:
"However, all associations and clubs are liable for the following inappropriate behaviour on the part of their supporters and may be subject to disciplinary measures and directives even if they can prove the absence of any negligence in relation to the organisation of the match:
...
(g) the disruption of national or competition anthems;"
22. Under Article 38 DR, facts contained in official UEFA reports are presumed to be accurate. Proof of their inaccuracy may, however, be provided.
23. As stated in Article 2 SSR, the purpose of the SSR is to safeguard the safety and security of everyone present at a match. In order to achieve this, several provisions concerning spectator control are included in the regulations.

22. Of particular relevance for the present case is Article 38 SSR which provides that *“the match organiser must take measures to ensure that all public passageways, corridors, stairs, doors, gates and emergency exit routes are kept free of any obstructions, which could impede the free flow of spectators”*.
24. According to Article 49 SSR, any breach of the SSR may be penalised in accordance with the DR.

B. In the present case

25. With regard to the racism offence, Article 14 (1) DR is a special rule (informing on the principle set out in Article 8 DR) which stipulates that associations are responsible for the racist conduct of their supporters. This responsibility applies to offences committed by any person supporting the team before, during or after the match, irrespective of the fault of the association in question (i.e. strict liability).
26. It is important to stress that the fight against racism is a high priority for UEFA. UEFA has a policy of zero tolerance towards racism and discrimination on the pitch and in the stands. For these reasons, racist behaviour must always be punished with the most severe sanctions.
27. Generally speaking, the Appellant’s arguments throughout the disciplinary proceedings have really only addressed the scale of the chanting (i.e. contesting how many people chanted and for how long) and no evidence has ever been presented by the HFF to suggest that there was no racist chanting at all.
28. In this regard, it must be noted that the report of the FARE observer has crucial significance with regard to assessing both the existence and scale of the racist chanting (in particular, the video evidence submitted with this report).
29. The HFF questions whether the Delegate heard the chanting himself and simply reported what he was told by the FARE observer. Indeed, this seems to be true based on the various statements made by the Delegate. However, this does not mean that the racist chanting did not occur. In fact, quite the opposite is true.
30. Having watched video footage of the match, it is obvious to the Appeals Body that the racist chanting did occur. Further, it is clear that the chanting was not isolated and was actually performed by many Hungarian supporters in the stadium – totally contradicting the HFF’s claim that the chanting was very limited.
31. In light of this compelling video evidence, the technical queries put forward by the HFF regarding the Delegate’s report and the role of the FARE observer are unconvincing and insignificant. The video evidence in the present case reinforces the accuracy of the Delegate’s reports, even if he had initially been informed about the chant by a FARE observer.

32. The Appeals Body is also persuaded by the additional report of the UEFA Ethics and Disciplinary Inspector which clearly explains the derogatory nature of the chant and provides several useful precedents from the Court of Arbitration for Sport and UEFA where this particular chant has been found to be racist – including, it must be stressed, another incident of Hungarian supporters singing this chant at Romanian fans (see the Appeals Body decision of 3 February 2015 in case 27713 in which the HFF was found to have breached Article 14 DR).
33. On this basis, the Appeals Body concludes that the conduct of the Hungarian supporters violated Article 14 DR and, in accordance with the principle of strict liability, the HFF must be punished accordingly.
34. With regard to the disruption of the Romanian national anthem, the HFF acknowledges that this did occur.
35. In the opinion of the Appeals Body, the Control, Ethics and Disciplinary Body was entirely correct to state that disrupting an opponent’s national anthem is contrary to established principles of good sporting behaviour and is unbecoming of supporters at international football matches.
36. The Appeals Body emphasises that such conduct by supporters is expressly prohibited in Article 16 (2) DR, irrespective of any lack of fault of the association - as the principle of strict liability applies. None of the arguments submitted by the HFF change this position.
37. Consequently, according to Article 16 (2) (g) DR, the HFF is to be held responsible for the misconduct of its supporters and must be penalised accordingly – as was decided by the Control, Ethics and Disciplinary Body.
38. With regard to the blocked stairways, the HFF acknowledges that this did occur but claims that it was dealt with appropriately.
39. The importance of Article 2 SSR cannot be overstated. After all, this provision is aimed at maintaining the safety and security of everyone present at the match.
40. The comments that the HFF makes regarding the way this problem was handled by its stewards are irrelevant, since they do not breach the accuracy of the UEFA official’s report.
26. Accordingly, the HFF (as the host and match organiser) violated Article 38 SSR – as was decided by the Control, Ethics and Disciplinary Body.

C. Determination of the disciplinary measures

41. It is the Appeals Body’s consistent practice to consider the Control, Ethics and Disciplinary Body’s power of discretion to have been abused or exceeded if the first-instance body

- bases its decision on untrue or erroneous elements, does not apply fundamental legal principles, considers irrelevant facts or does not consider essential circumstances whose evaluation is compelling. In the opinion of the Appeals Body, none of this applies here.
42. The Appeals Body is of the opinion that the Control, Ethics and Disciplinary Body neither abused nor exceeded its broad powers of discretion in taking the Decision.
 43. The Decision complies with the principles of legality and proportionality.
 44. With regard to the Article 14 DR offence, the Appeals Body draws attention to the fact that following the implementation of the 2013 edition of the DR (and as subsequently confirmed again in the 2014 edition of the DR), UEFA's fight against racist behaviour entered a new era. This has resulted in more severe sanctions being imposed in respect of racist behaviour.
 45. In the present case, it is also noted that the association has one previous record of racist behaviour by its supporters and such recidivism was rightly taken into consideration by the Control, Ethics and Disciplinary Body.
 46. Applying Article 14 (3) (a) DR, a second offence involving the behaviour described in Article 14 (1) DR shall be punished with one match played behind closed doors and a fine of €50,000.
 47. Only in "*exceptional circumstances*" can such sanction be modified under Article 17 (3) DR.
 48. The Appeals Body does not accept the HFF's suggestion that its various arguments/evidence qualify as an exceptional circumstances. There is, by way of example, nothing exceptional about an association taking steps to tackle racism amongst its supporters – this is an ordinary responsibility of a national football association.
 49. With regard to the other incidents in the present case, the Control, Ethics and Disciplinary Body rightly identified and took into account the seriousness of the offences committed, the multiplicity of the offences committed and the HFF's previous records. The Appeals Body sees no evidence that the Control, Ethics and Disciplinary Body's powers of discretion has been abused or exceeded here.
 50. Indeed, in view of the multiple offenses committed by the HFF (racist chant, blocking of stairways and disruption of the Romanian national anthem), Article 18 DR applies. This means that the Control, Ethics and Disciplinary Body was entitled to take the disciplinary measure applicable to the most serious offense (in this case, one match behind closed doors and a fine of €50,000 in respect of the racist chant - as explained above) and increase it accordingly.

51. On this basis, the Control, Ethics and Disciplinary Body acted appropriately when deciding to impose an additional fine of €20,000 in respect of the blocking of stairways and the disruption of the Romanian national anthem.
52. Accordingly, the Appeals Body has no option but to uphold the Decision and reject the appeal.

VI. Costs

53. The Appeals Body decides at its own discretion how to allocate the costs of proceedings.
54. The appeal fee is either deducted from the costs of proceedings or reimbursed (in accordance with Article 44 (2) DR).
55. On this occasion, it is considered justified to charge all of the costs of this case to the Appellant, less the appeals fee which has already been paid.
56. In the present case, the costs of proceedings are €1,000.

Decision of 26 November 2015

Croatian Football Federation

(serious foul play; red card)

Circumstances of the case

In substance, according to the report of the referee, in the 89th minute of the relevant match, the Croatian player wearing number 15, Cop Duje, hit the Bulgarian number 2, who was in possession of the ball, with the studs in excessive force in the Achilles tendon zone in a dangerous way.

Legal framework: Article 15 (1) DR

Decision

The Control, Ethics and Disciplinary Body considered that the act of the player, as described by the referee above, constitutes a rough play under the terms of Article 15 (1) (a) of the UEFA Disciplinary Regulations. As a result, the Control, Ethics and Disciplinary Body decided to suspend the player for two (2) UEFA competition matches for which he would be otherwise eligible.

The appeal lodged by the Croatian Football Federation is rejected and the decision of the Control, Ethics and Disciplinary Body of 22 October 2015 is upheld.

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| Chairman: | Pedro Tomás (Spain) |
| Vice-chairmen: | Michael Maessen (Netherlands) Levent Bicakci (Turkey) |
| Members: | João Leal (Portugal) Urs Reinhard (Switzerland) |

I. Facts of the case

1. The elements set out below are a summary of the main relevant facts, as established by the Appeals Body on the basis of the decision rendered by the Control, Ethics and Disciplinary Body on 22 October 2015 (the "Decision"), the official reports, the written submissions of the parties, the exhibits filed and the statements produced in the course of the Appeals Body proceedings. While the Appeals Body has considered all the facts, allegations, legal arguments and evidence submitted by the parties in these proceedings, it refers in the present decision only to the submissions and evidence it considers necessary to explain its reasoning.
2. In substance, according to the report of the referee, in the 89th minute of the relevant match, the Croatian player wearing number 15, Cop Duje ("the player"), hit the Bulgarian

number 2 (“the opponent player”), who was in possession of the ball, with the studs in excessive force in the Achilles tendon zone in a dangerous way.

3. In its decision of 22 October 2015, the Control, Ethics and Disciplinary Body considered that the act of the player, as described by the referee above, constitutes a rough play under the terms of Article 15 (1) (a) of the UEFA Disciplinary Regulations. As a result, the Control, Ethics and Disciplinary Body decided to suspend the player for two (2) UEFA competition matches for which he would be otherwise eligible.
4. The Decision with grounds was notified to the Appellant on 26 October 2015.

II. Summary of the proceedings before the Appeals Body

5. On 27 October 2015, the Croatian Football Federation (“the Appellant”) announced its intention to appeal against the Decision.
6. The grounds for appeal, submitted on 28 October 2015, can be summarized as follows:
 - On a very slippery pitch (it was raining during the whole match), the player tried to take the ball away from the opponent, but failed to reach the ball with a foot and accidentally came in contact with the opponent’s leg. The opponent was not injured as a result of this challenge, nor needed any medical attention on any grounds.
 - The player calmly left the field of play after he was sent off and had no previous records of being sent off or punished.
 - The player did not use excessive force, but that it was a regular challenge on the ball which was, unfortunately, performed clumsily and ended up with the contact with the opponent’s foot.
 - The whole match passed in extremely fair and correct atmosphere, only one yellow card was imposed and the sending off of the player happened just before the final whistle when Croatia was already a sure winner and there was no reason for the intentional rough play.
 - For disregarding mitigating circumstances and for not explaining special circumstances that would justify the increase of the disciplinary measure from one to two match suspension for a rough play, the sanction is inappropriate and excessive.
7. On 3 November 2015, the UEFA Ethics and Disciplinary Inspector submitted her reply to the appeal, requesting that it be rejected and the costs charged accordingly.

III. Hearing

8. No hearing was held, since the Appellant requested that the proceedings be conducted in writing only and the Appeals Body did not raise any objection to this request.

9. The Appeals Body examined the entire case file, in particular the challenged decision, the grounds for appeal and the Ethics and Disciplinary Inspector's reply to the appeal, on 26 November 2015.
10. The parties' arguments are set out and examined below, in so far as they are relevant to the decision.

IV. Appeals Body Competence and Admissibility of the Appeal

11. Pursuant to Article 24 (4) of the UEFA Disciplinary Regulations states as follows: "The Appeals Body has jurisdiction to hear appeals against decisions by the Control, Ethics and Disciplinary Body and to rule on particular urgent cases referred to it directly by the chairman of the Control, Ethics and Disciplinary Body."
12. On 10 September 2015, the Appellant lodged its grounds for appeal by the set deadline and in the form required. The appeals fee was paid on time.
13. It follows that the Appeals Body has competence to decide on the present Appeal and that the Appeal is admissible. The Appeals Body may therefore consider its merits and can therefore re-examine the case in full, both factually and legally (Article 58 (2) of the UEFA Disciplinary Regulations).

V. Legal Considerations Of The Appeals Body

A. The legal framework.

14. Pursuant to Articles 52 and 57 (b) of the UEFA Statutes, as well as Articles 22 and 24 of the UEFA Disciplinary Regulations, the Appeals Body is competent to deal with the case.
15. According to Article 15 (1) (a) (2) of the UEFA Disciplinary Regulations, suspension for one competition matches or a specified period for rough play.
16. According to Article 38 of the UEFA Disciplinary Regulations, facts contained in official UEFA reports are presumed to be accurate. Proof of their inaccuracy may, however, be provided.
17. In light of the above, the UEFA Statutes, rules and regulations, in particular the UEFA Disciplinary Regulations are applicable to these proceedings.

B. In the case in hand

18. It remained undisputed during these procedures that in the 89th minute of the game, the player hit his Bulgarian opponent wearing number 2, who was in possession of the ball, with the studs against the Achilles tendon zone.

19. The Control, Ethics and Disciplinary Body considered the foul play by the player as rough play, considering that said player placed the physical well-being of his opponent in danger, thereby endangering the safety of his opponent.
20. The Appeals Body also took into account the arguments of the Appellant, who had basically argued that the player did not use excessive force, that the contact with the opponent's leg resulted from a merely clumsy tackle which was performed on a slippery pitch with the intention to play the ball and which did not result in an injury of the opponent player. The Appeals Body further recalled that the Appellant also argued that the whole match passed in extremely fair and correct atmosphere, during the course of which only one yellow card was imposed and that the sending off of the player happened just before the final whistle when Croatia was already a certain winner and there was no reason for the intentional rough play.
21. Subsequently, the Appeals Body looked into the arguments of the UEFA Ethics and Disciplinary Inspector who had argued that the Appellant did not offer any evidence which would prove his position, such as video footage of the incident, to be able to show the absence of excessive force and whether the incident was merely an accidental unsuccessful attempt to play the ball, to overturn the accuracy of the official match report.
22. After thorough analysis of the various arguments that have been provided by the Appellant and the UEFA Ethics and Disciplinary Inspector, the Appeals Body recalled the content of Article 38 of the UEFA Disciplinary Regulations, where it is stipulated that facts contained in official UEFA reports are presumed to be accurate, whereas proof of their inaccuracy may be provided. In this regard, the Appeals Body acknowledged that the Appellant has in fact not provided any documentary evidence such as video footage which would serve as proof for its arguments and which would be fit to proof a possible inaccuracy of the referee's report.
23. Consequently, the Panel concurred with the arguments of the UEFA Ethics and Disciplinary Inspector and confirmed that the arguments which were provided by the Appellant were not sufficient to raise doubts regarding the accuracy of the referee's report. Likewise, the Appeals Body concurred in the conclusion of the Control, Ethics and Disciplinary Body that the act of the player as it was described by the referee constitutes a rough play in the sense of Article 15 (1) (a) (2) of the UEFA Disciplinary Regulations and needs to be sanctioned accordingly.
24. It therefore remains for the Appeals Body to examine whether the Control, Ethics and Disciplinary Body respected the regulations and legal principles, in particular those of legality and proportionality, or whether it abused its power of discretion to suspend the player for three UEFA competition matches for which he would be otherwise eligible.

C. Determination of the disciplinary measure

25. It is the Appeals Body's constant practice to consider the Control, Ethics and Disciplinary Body's power of discretion to have been abused or exceeded if the first-instance body bases its decision on untrue or erroneous elements, does not apply fundamental legal principles, considers irrelevant facts or does not consider essential circumstances whose evaluation is compelling. In the opinion of the Appeals Body, none of this applies here.
26. The Appeals Body is of the opinion that the Control, Ethics and Disciplinary Body neither abused nor exceeded its broad powers of discretion. Its decision complies with the principles of legality – to the extent of its power of appreciation – and proportionality.
27. In this regard, the Appeals Body recalled the argument of the Appellant who argued that the Control, Ethics and Disciplinary Body in its decision was disregarding mitigating circumstances as it did not explain the special circumstances that would justify the increase of the disciplinary measure from one to two match suspension for a rough play, which is why the sanction as it was imposed by the Control, Ethics and Disciplinary Body is inappropriate and excessive. Moreover, the Appeals Body recalled the argument of the Appellant that the player had no previous records of being sent off or punished, which needs to be taken into account.
28. However, the Appeals Body stressed that it has been the UEFA disciplinary bodies' long standing practice that in cases of a particularly rough play, like in the case at hand, the minimum punishment is increased from one to two matches' suspension. Also, the Appeals Body was convinced that by increasing the minimum sanction from one to two matches, the Control, Ethics and Disciplinary Body complied with the principles of legality – to the extent of its power of appreciation – and proportionality.
29. Moreover, the Appeals Body firstly emphasized that the absence of red cards during a player's career in general and violations of the UEFA Disciplinary Regulations in particular should be regarded as the basic rules of decorum and fair play that are to be expected of a professional player of his age and experience. In this sense, the absence of aggravating circumstances is generally not considered a mitigating circumstance in itself.
30. In this sense, the Appeals Body further referred to its previous jurisprudence in similar cases and in particular to its decision of 9 August 2012 of FC Chelsea and John Terry, in which the Appeals Body on a very exceptional basis considered the absence of a previous record of the player as a mitigating circumstance. However, the Appeals Body also stressed that in the aforementioned decision, the player had not received a red card in 169 UEFA competition matches, i.e. the player had a remarkable record during a long career of games played in UEFA competitions. Moreover, in the case of John Terry, the player did not injure his opponent. On the contrary, in the case at hand, the player has so far only played in 41 UEFA competition matches, i.e. not even a fourth of the matches John Terry had played unsanctioned. Consequently, the Appeals Body could not consider such exceptional circumstances as stipulated in the John Terry case, which is why the argument made by the Appellant in this regard has to be rejected.

31. On the basis of the above, the Appeals Body has no option but to uphold the initial decision and reject the appeal.

VI. Costs

32. The allocation of the costs of proceedings before the Appeals Body depends on the outcome of those proceedings. The Appeals Body decides at its own discretion how these costs are to be allocated to the various parties or borne by UEFA. The appeal fee is either deducted from the costs of proceedings or reimbursed (Article 44 (2) of the UEFA Disciplinary Regulations).
33. It is considered justified to charge all of the costs of this case to the Appellant, whose appeal is rejected on all counts.
34. In this case, since these proceedings were conducted by the Appeals Body with a Panel of five members, the costs of the proceedings are € 1'000.

Decision of 26 November 2015

FC Lokomotiv Moskva

(red card- unsporting conduct; crowd disturbances)

Circumstances of the case

In substance, according to the report of the referee, in the 69th minute of the match, the player with the number 14 (the "player") of FC Lokomotiv Moskva (the "Appellant") was sent off because during a mass confrontation, he connected with a jabbed punch to the face of his opponent. The incident happened in the middle of the field, just in front of the technical zones. His opponent was not injured and could continue the play. The dismissed player did not immediately leave the field of play, showing more dissent towards the referee telling him to "fuck off". Moreover, the UEFA match delegate had reported that during the second half of the match, some of the Appellant's supporters tried to remove the "NO TO RACISM" banner which was displayed by UEFA, covering 300 seats which were blocked by UEFA. Also, it was reported that in the 65th minute of the match, a group of the Appellant's supporters were fighting for approximately 5-10 min.

Legal framework: Article 15 (1) (5) DR, Article 16 (2) DR

Decision:

The Control, Ethics and Disciplinary Body considered that the act of the player, as described by the referee above, constitutes an assault under the terms of Article 15 (1) (e) of the UEFA Disciplinary Regulations. Moreover, the Control, Ethics and Disciplinary Body considered that by telling the referee to "fuck off", the player violated Article 15 (1) (a) (5) of the UEFA Disciplinary Regulations. As a result, the Control, Ethics and Disciplinary Body decided to suspend the player for four (4) UEFA competition matches for which he would be otherwise eligible. Likewise, as regards the crowd disturbances, the Control, Ethics and Disciplinary Body concluded that by trying to remove the "NO TO RACISM" banner and by fighting amongst each other, the Appellant's supporters violated Article 16 (2) (h) of the UEFA Disciplinary Regulations and a fine of € 7'000 was deemed the appropriate sanction.

The appeal lodged by FC Lokomotiv Moskva is rejected and the decision of the Control, Ethics and Disciplinary Body of 27 October 2015 is upheld

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| Chairman: | Pedro Tomás (Spain) |
| Vice-chairmen: | Michael Maessen (Netherlands) Levent Bicakci (Turkey) |
| Members: | João Leal (Portugal) Urs Reinhard (Switzerland) |

I. Facts of the case

1. The elements set out below are a summary of the main relevant facts, as established by the Appeals Body on the basis of the decision rendered by the Control, Ethics and Disciplinary Body on 27 October 2015 (the “Decision”), the official reports, the written submissions of the parties, the exhibits filed and the statements produced in the course of the Appeals Body proceedings. While the Appeals Body has considered all the facts, allegations, legal arguments and evidence submitted by the parties in these proceedings, it refers in the present decision only to the submissions and evidence it considers necessary to explain its reasoning.
2. In substance, according to the report of the referee, in the 69th minute of the match, the player with the number 14 (the “player”) of FC Lokomotiv Moskva (the “Appellant”) was sent off because during a mass confrontation, he connected with a jabbed punch to the face of his opponent. The incident happened in the middle of the field, just in front of the technical zones. His opponent was not injured and could continue the play. The dismissed player did not immediately leave the field of play, showing more dissent towards the referee telling him to “fuck off”.
3. Moreover, the UEFA match delegate had reported that during the second half of the match, some of the Appellant’s supporters tried to remove the “NO TO RACISM” banner which was displayed by UEFA, covering 300 seats which were blocked by UEFA. Also, it was reported that in the 65th minute of the match, a group of the Appellant’s supporters were fighting for approximately 5-10 min.
4. In its decision of 27 October 2015, the Control, Ethics and Disciplinary Body considered that the act of the player, as described by the referee above, constitutes an assault under the terms of Article 15 (1) (e) of the UEFA Disciplinary Regulations. Moreover, the Control, Ethics and Disciplinary Body considered that by telling the referee to “fuck off”, the player violated Article 15 (1) (a) (5) of the UEFA Disciplinary Regulations. As a result, the Control, Ethics and Disciplinary Body decided to suspend the player for four (4) UEFA competition matches for which he would be otherwise eligible.
5. Likewise, as regards the crowd disturbances, the Control, Ethics and Disciplinary Body concluded that by trying to remove the “NO TO RACISM” banner and by fighting amongst each other, the Appellant’s supporters violated Article 16 (2) (h) of the UEFA Disciplinary Regulations and a fine of € 7’000 was deemed the appropriate sanction.

6. The Decision with grounds was notified to the Appellant on 4 November 2015.

II. Summary of the proceedings before the Appeals Body

7. On 7 November 2015, the Appellant announced its intention to appeal against the Decision.
8. The grounds for appeal, submitted on 11 November 2015, can be summarized as follows:
 - Several players of the opponent team ran towards the player who then waived his hand because he was afraid of being injured, but had no intention to punch a player.
 - Since the opponent player was not injured, no one can possibly say that the player had put any opponent in danger.
 - The player has no previous record which should be taken into account as a mitigating circumstance.
 - The behaviour of its supporters cannot be regarded as crowd disturbances or fights, given that the supporters were pushing and jumping on each other just for fun. This can be established from the video, on which it can be seen that everyone involved is smiling and having fun.
 - As regards the alleged removal of the “No to racism” banner, the Appellant stresses that the banner was under permanent supervision and was only removed by the wind. In this regard, the Appellant provided witness statements of four stewards who can confirm this circumstance.
9. On 17 November 2015, the UEFA Ethics and Disciplinary Inspector submitted her reply to the appeal, requesting that it be rejected and the costs charged accordingly.

III. Hearing

10. No hearing was held, since the Appellant requested that the proceedings be conducted in writing only and the Appeals Body did not raise any objection to this request.
11. The Appeals Body examined the entire case file, in particular the challenged decision, the grounds for appeal and the Ethics and Disciplinary Inspector’s reply to the appeal, on 26 November 2015.
12. The parties’ arguments are set out and examined below, in so far as they are relevant to the decision.

IV. Appeals Body Competence and Admissibility of the Appeal

13. Article 24 (4) of the UEFA Disciplinary Regulations states the following: “The Appeals Body has jurisdiction to hear appeals against decisions by the Control, Ethics and Disciplinary

Body and to rule on particular urgent cases referred to it directly by the chairman of the Control, Ethics and Disciplinary Body.”

14. On 11 November 2015, the Appellant lodged its grounds for appeal by the set deadline and in the form required. The appeals fee was paid on time.
15. Pursuant to Articles 52 and 57 (b) of the UEFA Statutes, as well as Article 24 of the UEFA Disciplinary Regulations, it follows that the Appeals Body has competence to decide on the present Appeal and that the Appeal is admissible. The Appeals Body may therefore consider its merits and can therefore re-examine the case in full, both factually and legally (Article 58 (2) of the UEFA Disciplinary Regulations).
16. The Appeals Body noted that the Appellant was also sanctioned by the Control, Ethics and Disciplinary Body for further violations of the UEFA Disciplinary Regulations, however the present Appeal was only directed against the sanctions which have been imposed on the Appellant for the violation of Articles 15 (1) (e) and 15 (1) (a) (5) of the UEFA Disciplinary Regulations by the player for assaulting another player present at the match and for unsporting conduct, as well as for the violation of Article 16 (2) (h) of the UEFA Disciplinary Regulations for the behaviour of the Appellant’s supporters. Therefore, the scope of the Appeal was limited to the appealed parts of the decision of the Control, Ethics and Disciplinary Body.

V. Legal Considerations Of The Appeals Body

The red card

A. The legal framework.

17. According to Article 15 (1) (e) of the UEFA Disciplinary Regulations, suspension for three competition matches or a specified period for assaulting another player present at the match.
18. According to 15 (1) (a) (5) of the UEFA Disciplinary Regulations, suspension for one competition match or a specified period for unsporting conduct.
19. According to Article 38 of the UEFA Disciplinary Regulations, facts contained in official UEFA reports are presumed to be accurate. Proof of their inaccuracy may, however, be provided.

B. Responsibility of the Appellant’s player

20. It remained undisputed during these procedures that in the 69th minute of the game, a mass confrontation broke out during the course of which the player made a move with

his hand in the direction of the face of the opponent player. It also remained undisputed that before leaving the pitch, the player told the referee to “fuck off”.

21. The Control, Ethics and Disciplinary Body, based on the report of the referee who described the player’s move of the hand as a jabbed punch to the face of the opponent, considered the act of the player was an assault in the sense of Article 15 (1) (e) of the UEFA Disciplinary Regulations and the “fuck off” as an unsporting conduct in the sense of Article 15 (1) (a) (5) of the UEFA Disciplinary Regulations.
22. The Appeals Body also took into account the arguments of the Appellant, who in its grounds for the Appeal had basically argued that the player was provoked by the players of the opposite team, given that these players ran very closely to the player and pushed him back. As a reaction to the aggression by the opponent players, the player waived his hand because he was afraid of being injured, however without the intention to punch a player.
23. The Appeals Body further noted that the Appellant had argued that the player did not put any opponent in danger and that the contact the player’s hand made with the face of the opponent was unintentional.
24. Subsequently, the Appeals Body looked into the arguments of the UEFA Ethics and Disciplinary Inspector who had argued that neither the alleged provocation by the opponent players nor the alleged missing intention to actually punch an opponent should be taken into account, given that the act of waiving the hand into the face of an opponent constitutes a reckless act in itself and therefore falls under Art. 15 (1) (e) of the UEFA Disciplinary Regulations.
25. After acknowledging the various arguments that have been provided by the Appellant and the UEFA Ethics and Disciplinary Inspector, the Appeals Body also recalled the content of Article 38 of the UEFA Disciplinary Regulations, where it is stipulated that facts contained in official UEFA reports are presumed to be accurate, whereas proof of their inaccuracy may be provided. In this regard, the Appeals Body thoroughly analysed the video footage which was provided by the Appellant and which could possibly prove a potential inaccuracy of the referee’s report.
26. However, the Appeals Body concurred with the interpretation of the video footage and the arguments which were provided by the UEFA Ethics and Disciplinary Inspector and could therefore not agree with the argument of the Appellant that it was only the player’s intention to defend himself and that the contact the player’s hand made with the face of the opponent player was unintentional.
27. The Appeals Body recalled that there was in fact some kind of mass confrontation during the course of which the player was provoked and approached by the opponent players. However, the Appeals Body considered that from the video footage it can be clearly established that the player raised and waived his hand into the face of the opponent in an aggressive manner, i.e. not in a purely defensive way. In this context, the Appeals Body

was convinced that such act by the player was not solely committed to defend himself, but that part of the aggression rather also originated from the behaviour of the player who aggressively turns into the direction of his opponents. In view of the foregoing, the Appeals Body further concurred in the view that the contact between the player's hand and the opponent player's was face definitely not unintentional.

28. As to the circumstances of the incident and particularly in view of the way the opponent players approached the player has to be considered overly aggressive, the Appeals Body nonetheless concluded that the act of the player cannot be justified and is irrelevant as to the legal assessment and interpretation of the events taking place and as regards the violation of Article 15 (1) (e) of the UEFA Disciplinary Regulations. Such circumstances can only be considered in connection with the scope of the disciplinary measure, but have no influence on the questions whether the act of the player has to be considered an assault under the scope of the aforementioned provisions.
29. Consequently, the Appeals Body concluded that the arguments which were provided by the Appellant were not sufficient to raise doubts regarding the accuracy of the referee's report, as the Appeals Body rather came to the conclusion that the referee had reported the events in an accurate manner. Likewise, the Appeals Body concurred in the conclusion of the Control, Ethics and Disciplinary Body that the act of the player as it was described by the referee constitutes an assault in the sense of Article 15 (1) (e) of the UEFA Disciplinary Regulations and needs to be sanctioned accordingly.

The crowd disturbances

A. Legal Framework

30. According to Article 16 (2) of the UEFA Disciplinary Regulations, "*(...) clubs are liable for the following inappropriate behaviour on the part of their supporters and may be subject to disciplinary measures and directives even if they can prove the absence of any negligence in relation to the organisation of the match: (...) any other lack of order or discipline observed inside or around the stadium.*"
31. According to Article 8 of the UEFA Disciplinary Regulations, which stipulates the principle of "strict liability", and Article 16 (2) of the UEFA Disciplinary Regulations, which picks up on such, the club is to be held responsible for the improper conduct of its supporters, even if it might not be at fault itself.
32. According to Article 38 of the UEFA Disciplinary Regulations, facts contained in official UEFA reports are presumed to be accurate. Proof of their inaccuracy may, however, be provided.

B. The responsibility of the Appellant

33. The Appeals Body recalled the content of the UEFA match delegate's report, where it is stipulated that during the second half of the match, some of the Appellant's supporters

- tried to remove the “NO TO RACISM” banner which was displayed by UEFA, covering 300 seats which were blocked by UEFA. Also, it was reported that in the 65th minute of the match, a group of the Appellant’s supporters were fighting for approximately 5-10 min.
34. In this regard, the Appeals Body acknowledged that the crowd disturbances as they have been reported by the UEFA match delegate consist of two separate events, one being the alleged attempted removal of the UEFA “NO TO RACISM” banner, and the second one being the alleged fights which broke out amongst the Appellant’s supporters.
 35. Regarding the alleged attempted removal of UEFA’s “NO TO RACISM” banner, the Appellant had argued that the banner was under permanent supervision and was only removed by the wind. The Appeals Body further recalled that in support of its explanation, the Appellant provided witness statements of four stadium stewards who confirmed the Appellant’s explanation of the circumstances.
 36. The Appeals Body also recalled the arguments of the UEFA Ethics and Disciplinary Inspector who argued that the UEFA match delegate not only reported that the banner was gone, but explicitly stated that some supporters tried to remove it and that the mere testimonials of people who are very closely linked to the Appellant were not sufficient to prove the inaccuracy of such a precise and strong statement as it was made by the UEFA match delegate.
 37. After careful consideration of the UEFA match delegate’s report and bearing in mind the arguments provided by the Appellant and the UEFA Ethics and Disciplinary Inspector on behalf of UEFA, the Appeals Body came to the conclusion that the Appellant has not provided sufficient evidence to put the accuracy of the UEFA match delegate’s report in question.
 38. As it was emphasized by the UEFA Ethics and Disciplinary Inspector, the report of the UEFA match delegate is very precise as to what happened. The Appeals Body acknowledged that the UEFA match delegate did not state that the banner was suddenly gone, but that he precisely put in his report that during the second half, the Appellant’s supporters attempted to remove it. In view of the Appeals Body, it is very unlikely that the UEFA match delegate would have reported the event in such a distinct and detailed way, had he not witnessed what actually happened.
 39. Turning to the witness statements of the Appellant’s stadium stewards which were provided by the Appellant, the Appeals Body was convinced that they were not sufficient to break the accuracy of the UEFA match delegate’s report. As it was already stated, the said report was drafted in a very detailed and distinct way and therefore bears a very high evidential value, whereas the face value of the statements which were made by stewards who are closely linked to the Appellant was not sufficient to compromise the probative value of the UEFA match delegates report.
 40. As to the alleged fights, the Appeals Body recalled the arguments of the Appellant, who had basically argued that the report of the UEFA match delegate misinterpreted what

was actually going on in the sector of the Appellant's supporters. In this regard, the Appellant had explained that its supporters were in fact pushing and jumping on each other, however all in good fun and in a peaceful and joyful atmosphere. In this regard, the Appellant referred to the video footage it has provided and from which it can be seen that the alleged fights were in fact a funny and entertaining incident which made the persons involved smile and laugh.

41. Moreover, the Appeals Body acknowledged the arguments of the UEFA Ethics and Disciplinary Inspector who had argued that even if the Appeals Body would consider the video footage sufficient evidence of the events under scrutiny, given that the video only shows a small part of the stadium without any further specification, it should consider that Article 16 (2) (h) of the UEFA Disciplinary Regulations does not incriminate fights of supporters, but far more generally "any other lack of order or discipline observed inside or around the stadium". In view of the foregoing, the UEFA Ethics and Disciplinary Inspector stressed that the behaviour which can be seen on the video, if not a genuine fight is at least a fighting game and in any case a lack of order inside the stadium.
42. After carefully taking into account the arguments of both the Appellant and the UEFA Ethics and Disciplinary Inspector and after thorough analysis of the video footage, the Appeals Body on the one hand and on a preliminary basis agreed with the arguments of the Appellant that the events in the sector where the Appellant's supporters were seated were not fights in the strict semantic meaning of the term.
43. However, on the other hand, the Appeals Body also agreed with the argument of the UEFA Ethics and Disciplinary Inspector who had pointed to the fact that Article 16 (2) (h) of the UEFA Disciplinary Regulations does not specifically speak about "fights", but about "*any other lack of order or discipline inside (...) the stadium.*" Based on the foregoing, the Appeals Body was convinced that the term "lack of order or discipline inside the stadium" perfectly summarizes the events and the behaviour of the Appellant's supporters which can be witnessed on the video footage. Even though it is undisputed and hence established that the Appellant's supporters were having fun when they were pushing and jumping on each other, such behaviour is prohibited inside stadiums during UEFA competitions, already in view of the fact that such behaviour can not only harm innocent bystanders, but can lead to real fights, mass panics and serious injuries and disorder inside the stadium.
44. Consequently, in view of all of the above, the Appeals Body concluded that the Control, Ethics and Disciplinary Body rightfully decided that the Appellant's supporters violated Article 16 (2) (h) of the UEFA Disciplinary Regulations.
45. It therefore remains for the Appeals Body to examine whether the Control, Ethics and Disciplinary Body respected the regulations and legal principles, in particular those of legality and proportionality, or whether it abused its power of discretion to suspend the player for three UEFA competition matches for which he would be otherwise eligible.

Determination of the disciplinary measure

46. It is the Appeals Body's constant practice to consider the Control, Ethics and Disciplinary Body's power of discretion to have been abused or exceeded if the first-instance body bases its decision on untrue or erroneous elements, does not apply fundamental legal principles, considers irrelevant facts or does not consider essential circumstances whose evaluation is compelling. In the opinion of the Appeals Body, none of this applies here.
47. Conversely, in the case at hand, the Appeals Body is of the opinion that the Control, Ethics and Disciplinary Body neither abused nor exceeded its broad powers of discretion. Its decision complies with the principles of legality – to the extent of its power of appreciation – and proportionality.
48. Regarding the red card for the player, the Appeals Body recalled the argument of the Appellant who referred to the clean sheet, i.e. the lack of a previous record of the player, which according to the Appellant should be taken into consideration as a mitigating circumstance.
49. However, the Appeals Body firstly emphasized that the absence of red cards during a player's career in general and violations of the UEFA Disciplinary Regulations in particular should be regarded as the basic rules of decorum and fair play that are to be expected of a professional player of his age and experience. In this sense, the absence of aggravating circumstances is generally not considered a mitigating circumstance in itself.
50. Moreover, as it was also stated by the Appellant, for the violation of Article 15 (1) (e) of the UEFA Disciplinary Regulations, the Control, Ethics and Disciplinary Body had imposed the standard sanction of three matches. Also, for telling the referee to "fuck off", the Control, Ethics and Disciplinary Body has imposed a one match suspension for the violation of Article 15 (1) (a) 5) of the UEFA Disciplinary Regulations, which is the minimum sanction for such violation. Consequently, the Appeals Body was convinced that by suspending the player for a total of four matches, the Control, Ethics and Disciplinary Body complied with the principles of legality – to the extent of its power of appreciation – and proportionality.
51. Regarding the crowd disturbances and the violation of Article 16 (2) (h) of the UEFA Disciplinary Regulations, the Appeals Body acknowledged that the Appeal of the Appellant was only directed against the qualifications of the events in accordance with the UEFA Disciplinary Regulations and the imposition of the sanctions, whereas the Appellant did not provide any arguments as to the proportionality of the sanctions themselves. Besides, the Appeals Body was convinced that the sanctions imposed by the Control, Ethics and Disciplinary Body for the crowd behaviour, i.e. the fine of € 12'000, complied with the principles of legality – to the extent of its power of appreciation – and proportionality.
52. On the basis of the above, the Appeals Body has no option but to uphold the initial decision and reject the appeal.

VI. Costs

53. The allocation of the costs of proceedings before the Appeals Body depends on the outcome of those proceedings. The Appeals Body decides at its own discretion how these costs are to be allocated to the various parties or borne by UEFA. The appeal fee is either deducted from the costs of proceedings or reimbursed (Article 44 (2) of the UEFA Disciplinary Regulations).
54. It is considered justified to charge all of the costs of this case to the Appellant, whose appeal is rejected on all counts.
55. In this case, since these proceedings were conducted by the Appeals Body with a Panel of five members, the costs of the proceedings are € 1'000.

Decision of 26 November 2015

Fenerbahçe SK

(protest)

Circumstances of the case

The Club filed a protest on the basis of a an ineligible participation of the player Frederico "Fred" Rodrigues fielded by FC Shakhtar Donetsk in the match based on an alleged positive test on Hydrochlorothiazide, a prohibited substance according to the 2015 WADA List of Prohibited Substances and Methods under category S5 (Diuretics and Masking Agents). According to the club, the player did not fulfil the conditions defined in the relevant competition regulations as established in Article 50 DR (hereinafter also as "DR").

Legal framework: Article 48 DR

Decision:

The Control, Ethics and Disciplinary Body considered that the Fenerbahçe SK had not submitted any decision, communication or whatsoever which may change the eligibility situation of the player Frederico "Fred" Rodrigues for the UEFA competition, even if the Club bears the burden of proof to ground its claims. Consequently, FC Shaktar Donetsk had not violated Article 11 Disciplinary Regulations, as there is no unsporting behaviour to be deemed from the fact of fielding a player who indeed was at that moment eligible to play.

Chairman: Pedro Tomás (Spain)

Vice-chairmen: Michael Maessen (Netherlands)
Levent Bicakci (Turkey)

Members: João Leal (Portugal)
Urs Reinhard (Switzerland)

I. Facts Of The Case

1. The elements set out below are a summary of the main relevant facts, as established by the Appeals Body on the basis of the decision rendered by the UEFA Control, Ethics and Disciplinary Body's decision of 3 August 2015 (the "Decision"), the official reports, the written submissions of the parties, the exhibits filed and the statements produced in the course of the Appeals Body proceedings. While the Appeals Body has considered all the facts, allegations, legal arguments and evidence submitted by the parties in these proceedings, it refers in the present decision only to the submissions and evidence it considers necessary to explain its reasoning.

2. On 28 July 2015, Fenerbahçe SK (hereinafter also as “Appellant” and “Fenerbahçe”) played against FC Shakhtar Donetsk (hereinafter also as “Second Respondent”) an UEFA Champions League 2015/2016 match.
3. On 29 July 2015 the Club filed a protest on the basis of an ineligible participation of the player Frederico “Fred” Rodrigues fielded by FC Shakhtar Donetsk in the match based on an alleged positive test on Hydrochlorothiazide, a prohibited substance according to the 2015 WADA List of Prohibited Substances and Methods under category S5 (Diuretics and Masking Agents). According to the club, the player did not fulfil the conditions defined in the relevant competition regulations as established in Article 50 DR (hereinafter also as “DR”).
4. On 30 July 2015, Fenerbahçe SK submitted new documents as regards the above mentioned protest in which it stated that Article 25 FIFA Anti-Doping Regulations (hereinafter also as “FIFA ADR”) obliges the UEFA Control, Ethics and Disciplinary Body (hereinafter also as “CEDB”) to declare the match between Fenerbahçe SK and FC Shakhtar Donetsk in the UEFA Champions as forfeit and to decide that FC Shakhtar Donetsk is deemed to have lost the said match by 0-3.
5. On 31 July 2015, FC Shakhtar Donetsk sent its submissions on the above mentioned matter arguing that Fenerbahçe’s protest must be wholly rejected as they are entirely without merit.
6. On 3 August 2015 the Control, Ethics and Disciplinary Body considered that the Fenerbahçe SK had not submitted any decision, communication or whatsoever which may change the eligibility situation of the player Frederico “Fred” Rodrigues for the UEFA competition, even if the Club bears the burden of proof to ground its claims. Consequently, FC Shakhtar Donetsk had not violated Article 11 Disciplinary Regulations, as there is no unsporting behaviour to be deemed from the fact of fielding a player who indeed was at that moment eligible to play.
7. The decision without grounds was notified to the Club on 4 August 2015.
8. On the same date the Club requested the grounds of the decision of the Control, Ethics and Disciplinary Body.

II. Summary of the proceedings before the Appeals Body

9. On 18 August 2015, before having received the decision with grounds of the Control, Ethics and Disciplinary Body, the Club submitted a declaration of appeal and the appeal brief against the said decision of the Control, Ethics and Disciplinary Body. In its statements, the Appellant, essentially, argued the following:
 - Fenerbahçe SK refers to a number of cases of athletes of several sports who have been provisionally suspended following an adverse analytical result for the prohibited substance hydrochlorothiazide. Here, Appellant claims that the

Second Respondent should have been aware of the high probability that the positive test would likely lead to a substantial suspension based on the above precedent.

- In this context the Appellant asserts that the Second Respondent's decision to field the Player despite (i) the factual and legal circumstances that it was aware from his positive A- and B-sample and (ii) a directive from UEFA not to do so, violated Article 11 UEFA DR.
 - Moreover, the Second Respondent also acted in an unsporting manner by fielding the Player in violation of the principle of fair play. It is undisputed that the Player had an adverse analytical finding against him based on his A-Sample before the First Leg. Even when this result was confirmed by the B-Sample analysis before the Second Leg, the Second Respondent again did not refrain from fielding the Player in the Second Leg
 - In addition, the Appellant holds that this situation becomes more precarious by the ratio of Article 25 FIFA ADR under which the Club and the Player are subjects due to the fact that UEFA is an association affiliated to FIFA, being both the Club and the Player subject to FIFA ADR in general and to Article 25 FIFA ADR in particular.
 - Article 25 FIFA ADR is designed to defend the principles of sportsmanship and fair play by eliminating the competitive result of a player who committed an anti-doping violation from the date of the collection of the positive sample to the date of a decision by a competent body.
 - Having knowledge of Article 25 FIFA ADR and its ratio, the Second Respondent should have been aware that any results involving the Player after his positive A-Sample, which was confirmed by the B-Sample analysis before the Second Leg, were clearly against the principles of fair play and sportsmanship and would be subject to disqualification.
 - In view of the above, the Appellant concludes that, in order to protect fair play in the case at hand because FC Shakhtar Donetsk fielded an ineligible player, the Match shall be declared forfeited in favour of Fenerbahçe SK.
10. On 8 September 2015, the decision with grounds of the Control, Ethics and Disciplinary Body was sent to Fenerbahçe SK.
11. On 18 September 2015, the Club sent a letter arguing that UEFA subsequently failed to notify the decision with grounds to the lawyers of the Club and only notified the latter to the Club (not to its lawyers). Furthermore, the Appellant sees no reason to supplement its arguments brought forward in its Appeal dated 18 August 2015.

12. On 28 September 2015, the UEFA ethics and disciplinary inspector submitted his reply to the appeal, requesting that it be rejected and the costs charged accordingly.
13. On 2 October 2015, FC Shakhtar Donetsk submitted its reply to the appeal. In substance the Second Responded argues that the Player has not been suspended, neither provisionally nor definitively, being therefore at Club's disposal to play at any moment, that being the player eligible, the Club did not violate the principles of fair play or any other regulation in force when he played against the Appellant on the 28th of July 2015. There is no violation of the current UEFA or FIFA regulations. Consequently, the Appeal presented shall be rejected in full, condemning the Appellant to bear all costs of the proceedings.

III. Appeals Body Competence and Admissibility of the Appeal

14. Article 24 (4) DR states as follows: "The Appeals Body has jurisdiction to hear appeals against decisions by the Control, Ethics and Disciplinary Body and to rule on particular urgent cases referred to it directly by the chairman of the Control, Ethics and Disciplinary Body."
15. The Appeals Body appreciates the circumstance that in this particular case the Appellant submitted its intention to appeal and the consequent appeal brief before having received the grounded decision i.e on 18 August 2015 and the grounded decision was sent on 18 September 2015.
16. The question which is raised now is in which extent lodging the intention of appeal and the appeal brief before receiving a decision with grounds may be admissible in the light of the UEFA Disciplinary Regulations.
17. According to Article 52 (3) UEFA DR, any appeal lodged within the time limit for requesting a decision with grounds is regarded exclusively as a request for a decision with grounds.
18. Further and according to Article 53 (2) UEFA DR, declaration of the intention to appeal against a decision by the Control, Ethics and Disciplinary Body must be lodged with the UEFA administration, in writing, for the attention of the Appeals Body, within three days of notification of the relevant decision with grounds. Competition regulations may, however, shorten this deadline for the sake of the smooth running of the competition in question. Next paragraph of the same provision states that within five days of the expiry of the time limit for the declaration of the intention to appeal, the appellant must file, in writing, the grounds for appeal.
19. The Appeals Body appreciates that in this regard there might be a gap in the wording of the said UEFA Disciplinary Regulations. Admitting that deadlines have been fixed *ad futurum* once a decision without grounds of the UEFA Control, Ethics and Disciplinary Body has been notified i.e three days deadline to request the grounded decision, as well as deadlines related to the moment a grounded decision has been submitted i.e three

days to lodge the intention of appeal and five days more to submit the appeal brief, there is nothing said about which would be the legal situation of an intention of appeal and its corresponding appeal brief in the timeframe between the expiry of the request for a grounded decision and the notification of the latter.

20. This UEFA disciplinary body finds no legal argument as why both the intention of appeal and the appeal brief shall not be accepted in the current proceedings. The fact that the appeal had been lodged before receiving the grounded decision, outside the deadline imposed to request a motivated decision (in which case it would have been considered as a petition of the merits in accordance with Article 53 (3) DR) and before the deadline starting once received the motivated decision, is in the current legal framework open to the appealing party.
21. It seems rather more convenient for the Appellant's interest to wait until having received the grounded decision as it would have the exact knowledge of the legal reasoning behind the first instance body's decision. However, due to the lack of any legal reference in relation to such a situation this shall simply be left to the Appellant's choice.
22. Consequently, the UEFA Appeals Body considers that in the current legal situation both the intention to appeal and the appeal brief lodged on 18 August 2016 are to be accepted.
23. It follows that the Appeals Body has competence to decide on the present appeal and that the appeal is admissible. The Appeals Body may therefore consider its merits and can therefore re-examine the case in full, both factually and legally (Article 58 (2) DR).

IV. Legal Considerations Of The Appeals Body

A. The legal framework.

24. Article 2 DR establishes that:
 1. These regulations apply to any breach of UEFA's Statutes, regulations, directives or decisions, with the exception of any breach of the UEFA Club Licensing and Financial Fair Play Regulations which may be penalised by the Club Financial Control Body in accordance with the Procedural rules governing the UEFA Club Financial Control Body.
 2. Where a case appears to come under the jurisdiction of both the Control, Ethics and Disciplinary Body and the Club Financial Control Body, the chairmen of the two bodies decide at their own discretion which body will deal with the case. If they cannot reach an agreement, the chairman of the Appeals Body decides at his own discretion. Such decisions on jurisdiction may only be appealed against in combination with an appeal against the final decision of the body to which the case was assigned.
 3. These regulations apply to every match and competition organised by UEFA.

4. They also apply to any serious violation of UEFA's statutory objectives, unless that violation is otherwise prosecuted in an appropriate manner by one of UEFA's member associations.
 5. These regulations govern all matters to which the text explicitly or implicitly relates.
25. In accordance with Article 23 (4) DR, the Control, Ethics and Disciplinary Body also has jurisdiction in the event of a UEFA member association and/or its members failing to prosecute, or prosecuting in an inappropriate manner, a serious violation of UEFA's statutory objectives.
26. According to Article 48 DR:
- Proceedings are opened by the UEFA administration:
- a) on the basis of official reports;
 - b) where a protest has been lodged;
 - c) for reported offences falling within the scope of these regulations;
 - d) at the request of the UEFA Executive Committee, the UEFA President or the UEFA General Secretary;
 - e) at the request of an ethics and disciplinary inspector;
 - f) on the basis of documents received from a public authority;
 - g) where a complaint has been filed.
27. According to Article 50 DR:
1. A protest is admissible only if it is based on:
 - a) an ineligible player's participation in a match as a consequence of that player not fulfilling the conditions defined in the relevant competition regulations;
 - b) an unfit field of play, as long as the referee was informed as soon as the problem was reported or observed (whether in writing before the match, or orally by a team captain, in the presence of the captain of the opposing team, during the match);
 - c) an obvious error by the referee as defined by Article 9 of these regulations, in which case the protest may be directed only at the disciplinary consequences of the referee's obvious error;
 - d) an obvious violation of a rule by the referee that had a decisive influence on the final result of the match;
 - e) any other significant incident that had a decisive influence on the final result of the match.
 2. Protests may not be lodged against factual decisions taken by the referee.

28. According to Article 66 DR:

1. The Control, Ethics and Disciplinary Body may extend sanctions imposed by FIFA or a UEFA member association to UEFA competitions at the request of FIFA or the UEFA member association in question, especially in the event of serious offences committed in their respective jurisdictions.
2. The request must be made in writing to UEFA and be accompanied by all documentation relating to the case.
3. An extension is granted if the decision on which the request is based complies with the general principles of law and with UEFA's regulations.
4. In so far as they are compatible with UEFA's rules, measures taken by a government body or another sporting body in relation to doping are recognised by UEFA.
5. The decision to extend a sanction cannot alter the sanction itself.
6. The outcome of any appeal against a sanction applies equally to any decision to extend it.
7. An appeal lodged against a decision to extend a sanction may only be directed against the conditions of such an extension and not against the validity of the sanction itself.

29. In the context of the CONMEBOL Disciplinary Regulations 2014 (CAR), Article 95 establishes that:

Artículo 95. Suspensión provisional optativa basada en un resultado analítico adverso por sustancias específicas de la muestra "A" u otras infracciones de las normas antidopaje.

1. En el caso de resultado analítico adverso de la muestra "A" (resultado positivo) por una sustancia específica o cualquier otra infracción de las normas antidopaje, se podrá imponer una suspensión provisional.
2. El presidente del Tribunal de Disciplina de la Conmebol o quien le sustituya podrá acordar la suspensión sin necesidad de escuchar la versión del jugador."

(free translation done by ethics and disciplinary Inspector)

Article 95. Optional provisional suspension based on an adverse analytical result for specified substances of the “A” sample or other violations of the antidoping regulations.

1. In the case of an adverse analytical result of the “A” sample (positive result) for a specified substance or any other violation of the antidoping regulations, a provisional suspension may be imposed.
2. The president of the CONMEBOL Disciplinary Tribunal or his substitute may impose the suspension without the need to hear the player’s version.” (emphasis added)

30. In the context of the FIFA Anti-doping Regulations (“FIFA ADR”), Article 35 contemplates that:

Optional Provisional Suspension based on an Adverse Analytical Finding for specified substances, Contaminated Products, or other anti-doping rule violations:

1. In the case of an Adverse Analytical Finding for a specified substance, Contaminated Products or other anti-doping rule violations, a Provisional Suspension may be imposed. [...]” (emphasis added)

B. In the case in hand

31. First and foremost it shall be recalled that the UEFA Disciplinary Regulations apply “to every match and competition organized by UEFA” in accordance to Article 2 (3) UEFA DR.
32. Consequently, UEFA has no jurisdiction on competitions not played under its auspices, apart from those situations contemplated in Article 23 (4) DR which involve exclusively one of its member associations (certainly not associations linked to other confederations).
33. Appellant refers in its appeal to the fact that during the Copa America 2015 the player Frederico “Fred” Rodrigues fielded by FC Shakhtar Donetsk tested positive of hydrochlorothiazide.
34. It shall be taken into account that the Copa America is a competition organized by CONMEBOL and not by UEFA. Subsequently, UEFA holds no competence neither over the said competition nor over incidents occurred during the latter.
35. In addition, all the member associations of the CONMEBOL are obviously not members of UEFA, being therefore the exemption contemplated in article 23 (4) UEFA DR providing UEFA with disciplinary powers on incidents occurred in other competitions (mainly domestic competitions organised by UEFA member association and not organized by the latter) to be excluded.

36. Consequently, the legal framework to apply on the alleged infringement of the player Frederico “Fred” Rodrigues is extraneous from UEFA’s material scope of action contemplated in Article 2 UEFA DR.
37. The Appeals Body notes that only in very limited situations a suspension imposed against a player in a domestic competition or a competition organised by FIFA or another confederation, may be extended to UEFA competitions. This is mainly the case of an extension of a sanction by another authority laid down in Article 66 DR.
38. Briefly, the extension of a sanction shall be requested by FIFA or any other UEFA member association in the event of serious offences committed in their respective jurisdictions.
39. It shall be taken into account that the player was not provisionally suspended neither by the CONMEBOL nor by FIFA after his adverse analytical result for a specified substance, let alone by a UEFA member association.
40. In summary, FC Shakhtar Donetsk fielded a player who was not serving any suspension imposed against him for an anti-doping violation, as well as no request has been done by FIFA whatsoever regarding the extension of any decision as to suspend the said FC Shakhtar Donetsk player.
41. However, Appellant stresses that the FC Shakhtar Donetsk player shall have been suspended by the CONMEBOL and/or by FIFA as a result of the negative doping results on the substance hydrochlorothiazide.
42. Without aiming to go very into depth as there is an obvious lack of competence of UEFA on incidents occurred at competitions not organised by the latter in accordance with Article 2 DR and as explained above, this UEFA disciplinary body considers appropriate to comment on Appellant’s approach.
43. The Appeals Body appreciates that the main legal instruments applicable for incidents occurring at the Copa America Chile 2015 are to be summarized as follows: the Copa América Chile 2015 Regulations (“CAR”), CONMEBOL Disciplinary Regulations (“CONMEBOL DR”), CONMEBOL Anti-doping Regulations (“CONMEBOL ADR”) and FIFA Anti-Doping Regulations (“FIFA ADR”).
44. According to Article 34 (1) of the CAR establishes that “doping is strictly prohibited” and adheres that “the CONMEBOL Antidoping Regulations, its Disciplinary Regulations and all other regulations, orders, circulars and directives shall be valid during the Copa América Chile 2015”
45. Article 34 (7) CAR establishes that “in the case of a positive result, after the analysis performed under the Doping Control Regulations, the Disciplinary Bodies of CONMEBOL shall apply the applicable disciplinary measures”.

46. In this context, the CONMEBOL Disciplinary Regulations establish the jurisdiction of its disciplinary bodies in cases of anti-doping rule violations., here, and according to Article 51 (1) CDR:

“The Disciplinary Tribunal is competent to hear of all infractions to the principles of conduct established in Art. 5, the remaining violations described in the present Regulations, unsporting conduct and violations or infractions to the laws of the game and the statutes, regulations, decisions, orders and instructions of CONMEBOL and FIFA, as well as any other violation expressly contained in any of these”.

(free translation)

47. On its side FIFA Anti-doping regulations determine that an anti-doping rule violation shall be confirmed in accordance with Arts. 6-7 FIFA ADR, and the eventual sanction shall be imposed in application of Articles 19 and following of the FIFA ADR.
48. Once clarified the competent bodies and the legal context in this case, a few considerations need to be made in relation to the doping substance found by the adverse analytical finding, here “hydrochlorothiazide”.
49. This substance, hydrochlorothiazide, is categorised as a specific substance. The legal context to be applied to these substances is very particular both from a procedural and a sanctioning perspective.
50. According to Article 95 CONMEBOL ADR, a provisional suspension is optional based on an adverse analytical result for specified substances of the “A” sample or other violations of the anti-doping regulations.
51. In addition, Article 35 FIFA ADR states that optional provisional suspension may be imposed based on an adverse analytical finding for specified substances, contaminated products, or other anti-doping rule violations.
52. Taking the above into account, according to both Article 95 CONMEBOL ADR and Article 35 FIFA ADR, a provisional suspension for an adverse analytical finding for specified substances is optional, i.e. not mandatory and obviously not automatic.
53. It follows that in the case in hand no provisional suspension is required as the substance of hydrochlorothiazide being one categorised as a specified substance by WADA, does not trigger any automatic suspension against the football player.
54. Briefly, the Appeals Body holds that Appellant is wrong when considering that the player shall have been suspended as a consequence of his negative doping results found out during the Copa America Chile 2015.
55. In this context, it needs to be stressed that no such decision has been made against the player neither by the CONMEBOL nor by FIFA. This extent is undisputed by the parties.

56. In this sense, there is no possible reaction to be expected from UEFA as no extension of any decision banning the player to play has been required in accordance with Article 66 DR, obviously because there is no decision in that respect.
57. In any case, as stated above UEFA has no jurisdiction on incidents occurred in other competitions organised by other confederations. Therefore, even if the Appeals Body has slightly entered in the argument about the legality of the lack of any provisional measure imposed against the player it is not under its competence to exert any legally binding comment on this matter, which relies exclusively on those disciplinary bodies competent for it, here the CONMEBOL relevant disciplinary bodies.
58. Appellant also refers to the existence of an alleged directive given by UEFA not to field the player before the match. In order to proof this extent Appellant brings forward a newspaper article which grabs the statement of the coach of the Second Respondent making the allegation that the Club was approach by UEFA in the said manner. Briefly, Appellant holds that the Second Respondent violated Article 11 DR for having contravened the above directive.
59. Obviously, it is the Appellant who has the burden of proof as regards the existence of such a directive. First it needs to proof that such an approach has been made by UEFA as explained by the coach, and secondly, that in fact UEFA exerted a directive in the sense of Article 21 DR .
60. To base this argument solely on a press release and on statements made by the coach is incomplete and obviously too farfetched as to give it any reliability.
61. Furthermore, as it has been very well explained by the ethics and disciplinary inspector in his report, directives are contemplated in Article 7 UEFA DR being closely linked to disciplinary measures and on decisions taken by the UEFA disciplinary bodies, which are, in principle, those entitled to issue the said directives. No decision coming from a disciplinary body in this respect has been made by neither the Control, Ethics and Disciplinary Body and, certainly not by this UEFA Appeals Body.
62. Just a vague argument about the existence of a directive coming from UEFA without any reliable proof of its existence cannot be accepted as a grounded and rightful argument. No violation of Article 11 DR derives from the above examined situation.
63. In summary, FC Shakhtar Donetsk fielded a player who was not serving any suspension imposed against him for an anti-doping violation, as well as no request has been done by FIFA whatsoever regarding the extension of any decision as to suspend the player Frederico "Fred" Rodrigues.
64. Bearing all the above in mind, this UEFA disciplinary body concludes that the player was eligible to play the Champions League 2015/2016 match between Fenerbahçe SK and FC Shakhtar Donetsk.

65. The appeal lodged by Fenerbahçe SK is without merits. Consequently, the appeal is dismissed and the UEFA Control, Ethics and Disciplinary Body's decision of 3 August 2015 confirmed.

V. Costs

66. The allocation of the costs of proceedings before the Appeals Body depends on the outcome of those proceedings. The Appeals Body decides at its own discretion how these costs are to be allocated to the various parties or borne by UEFA. The appeal fee is either deducted from the costs of proceedings or reimbursed (Article 44 (2) DR).

67. On this occasion, it is considered justified to charge all of the costs of this case to the Appellant, less the appeals fee which has already been paid.

68. In the present case, the costs of proceedings are €1,000.

Decision of 16 December 2015

FC Barcelona

(illicit banners and chants)

Circumstances of the case

During the UCL match FC Barcelona v Bayer 04 Leverkusen played on 29 September 2015, in the 17:40 minute of the first and second half of the game chants of independence” were heard around the ground for approximately 10 seconds. “Estelada” flags (yellow, red stripes and blue triangle) were also shown from various sectors of the tribunes.

Legal framework: Article 16 (2) (e) DR

Decision

On 15 October 2015 the Control, Ethics and Disciplinary Body decided that the said conducts are not fit for a sports event due to its political content, and therefore violated Article 16 (2) (e) UEFA Disciplinary Regulations and fined FC Barcelona (hereinafter also as “Appellant” or “the Club”) €40’000.

The appeal lodged by FC Barcelona is dismissed. Consequently, the UEFA Control, Ethics and Disciplinary Body’s decision of 15 October 2015 is confirmed

Ad-hoc Chairman: Michael Maessen (Netherlands)

Vice-Chairman: Levant Bicakci (Turkey)

Members: Björn Ahlberg (Sweden)
Urs Reinhard (Switzerland)

I. Facts Of The Case

1. The elements set out below are a summary of the main relevant facts, as established by the Appeals Body on the basis of the decision rendered by the Control, Ethics and Disciplinary Body on 15 October 2015 (the “Decision”), the official reports, the written submissions of the parties, the exhibits filed and the statements produced in the course of the Appeals Body proceedings. While the Appeals Body has considered all the facts, allegations, legal arguments and evidence submitted by the parties in these proceedings, it refers in the present decision only to the submissions and evidence it considers necessary to explain its reasoning.
2. During the UCL match FC Barcelona v Bayer 04 Leverkusen played on 29 September 2015, in the 17:40 minute of the first and second half of the game chants of independence” were heard around the ground for approximately 10 seconds. “Estelada” flags (yellow, red stripes and blue triangle) were also shown from various sectors of the tribunes.

3. On 15 October 2015 the Control, Ethics and Disciplinary Body decided that the said conducts are not fit for a sports event due to its political content, and therefore violated Article 16 (2) (e) UEFA Disciplinary Regulations (hereinafter also as "DR"), and fined FC Barcelona (hereinafter also as "Appellant" or "the Club") €40'000.
4. The Decision with grounds was notified to the appellant on 30 October 2015.

II. Summary of the proceedings before the Appeals Body

5. On 2 November 2015, FC Barcelona announced its intention to appeal against the Decision.
6. On 9 November 2015, the Appellant filed its grounds for appeal. In its statements, the Appellant, essentially, argued the following:
 - According to FC Barcelona, the displaying of 'estelada' flags and the chants performed by supporters after 17 minutes, 40 seconds of the first and second half were not political acts.
 - FC Barcelona mentions that the freedom of expression enshrined in the Spanish Constitution, the European Convention for the Protection of Human Rights and Fundamental Freedoms, and even the Swiss Constitution supports the displaying of the flag and the chants during football matches.
 - The appellant claims that it cannot meet the requirement laid down in the Disciplinary Regulations without infringing its supporters' fundamental rights and freedom of expression.
 - FC Barcelona holds that the use of 'estelada' flags and the chants of independence were neither aggressive nor provocative.
 - FC Barcelona claims that the UEFA disciplinary bodies should, in view of all the circumstances, refrain from imposing any punishment against it.
7. On 25 November 2015, the UEFA Ethics and Disciplinary Inspector submitted his reply to the appeal, requesting that it be rejected and the costs charged accordingly.

III. Hearing

8. On 16 December 2016, a hearing was held.
9. The ad hoc Chairman of the Appeals Body opened the appeal hearing, noted the presence of the Appellant and the UEFA Ethics and Disciplinary Inspector.
10. Afterwards, the ad hoc Chairman of the Appeals explained the procedure to be followed. He reminded the parties of the composition of the Appeals Body and told them that

everything they and the Appeals Body said during the hearing would be recorded. No objection was raised.

11. The floor was given to the parties, who, in substance, reiterated the arguments given in their written pleadings and developed and maintained their requests.

IV. Appeals Body Competence and Admissibility of the Appeal

12. Article 24 (4) DR states as follows: “The Appeals Body has jurisdiction to hear appeals against decisions by the Control, Ethics and Disciplinary Body and to rule on particular urgent cases referred to it directly by the chairman of the Control, Ethics and Disciplinary Body.”
13. FC Barcelona lodged its grounds for appeal by the set deadline and in the form required. The appeals fee was paid on time.
14. It follows that the Appeals Body has competence to decide on the present Appeal and that the Appeal is admissible. The Appeals Body may therefore consider its merits and can therefore re-examine the case in full, both factually and legally (Article 58 (2) DR).

V. Legal Considerations Of The Appeals Body

A. The legal framework

15. According to Article 52 of the UEFA Statutes, disciplinary measures may be imposed for unsportsmanlike conduct, violations of the Laws of the Game, and contravention of UEFA’s Statutes, regulations, decisions and directives as shall be in force from time to time.
16. According to Article 2 of the UEFA DR, these regulations apply to any breach of UEFA’s Statutes, regulations, directives or decisions. Furthermore, this provision states in its third paragraph that, these regulations apply to every match and competition organised by UEFA.
17. According to Article 16 (2) (e) DR, all associations and clubs are liable for the following inappropriate behaviour on the part of their supporters and may be subject to disciplinary measures and directives even if they can prove the absence of any negligence in relation to the organisation of the match: the use of gestures, words, objects or any other means to transmit any message that is not fit for a sports event, particularly messages that are of a political, ideological, religious, offensive or provocative nature.
18. According to Article 38 DR, facts contained in official UEFA reports are presumed to be accurate. Proof of their inaccuracy may, however, be provided.

B. General principles as regards Article 16 (2) (e) DR

19. This UEFA disciplinary body recalls, as it was done by the Control, Ethics and Disciplinary Body that it cannot allow football matches organised by UEFA to become forums for people who want to abuse the game's popularity to publicise opinions which are not fit for sporting events, irrespective if the latter are from political, religious, offensive, violent, social or whatsoever nature. This is the reason why Article 16 (2) (e) DR expressly forbids the transmission of any message which is not fit for a sport's event during football matches.
20. It would seem that the Club shares the above statements as it completely adheres in that UEFA's objective is reasonable and legitimate in the sense of preserving the competition from questions or episodes of a political nature (see para. 25 appeal brief). However, it contends the fact that the above is done by prohibiting flags and chants and suggests that it was done without having assessed first the circumstances of the case.
21. In this regard, Appellant questions the applicability of Article 16 (2) DR in the given case insofar UEFA does not respect neither the hierarchy of norms nor the freedom of expression contemplated in Swiss law as well as in several international legal instruments, as well as sustains that the notion of what is not fit for a sport's event is undefined, which shall provoked a sort of helplessness.
22. As a starting point, the Panel observes that UEFA is a legal entity domiciled in Switzerland, and as such subject to Swiss law. Under Swiss law- as under most legal systems - sporting associations have a wide margin of autonomy to regulate their own affairs (cf. CAS 2005/C/976&986, with reference to Swiss law)and possess the power (i) to adopt rules of conduct to be followed by their direct and indirect members and (ii) to apply disciplinary sanctions to members who violate those rules, on condition that their own rules and certain general principles of law - such as the right to be heard and proportionality - be respected (cf. CAS 2011/A/2426).
23. The authority by which a sporting association may set its own rules and exert its disciplinary powers on its direct or indirect members does in principle not rest on public or penal law but on civil law. Disciplinary sanctions imposed by associations are subject to the civil law and must be clearly distinguished from criminal penalties. A sanction by a Swiss association is not a criminal punishment (CAS 2005/C/976&986).
24. As regards the restriction of the freedom of expression, the Panel shares the view of the UEFA Ethics and Disciplinary insofar in Swiss law, fundamental rights, more specifically fundamental freedoms such as the freedom of opinion and information (Article 16 of the Swiss Constitution), may be defined as subjective demands for the state to behave in a particular way, generally to refrain from intervening. In other words, fundamental rights must be respected by the state and by those who exercise state responsibility, and are therefore aimed at protecting individuals from abuses of state power. On the other hand, these same fundamental rights are not usually asserted against individuals and cannot generally be relied on in disputes between private individuals.

25. Also important is the reference made to the Swiss Federal Tribunal jurisprudence in that it is accepted by Swiss case law and legal doctrine, that fundamental rights therefore have no horizontal effect (Swiss Federal Supreme Court judgment 111 II). The same is true of the provisions of the European Convention for the Protection of Human Rights and Fundamental Freedoms (see its judgment 111 II 330).
26. Bearing the above in mind, the UEFA Appeals Body considers that Article 16 (2) DR is in line with Swiss law, and is to be deemed as an expression of the autonomy of the associations, in this case of UEFA.
27. In this respect, this UEFA disciplinary body deems that Article 16 (2) (e) DR plays a major role in reaching the objectives determined in its UEFA statutes, i.e. to promote football in Europe in a spirit of peace, understanding and fair play, without any discrimination on account of politics¹ and to prevent all methods or practices which might jeopardise the regularity of matches or competitions or give rise to the abuse of football².
28. As per the notion of what is to be considered as not fit for a sport's event, for the interpretation of regulations/statutes of Swiss associations the UEFA disciplinary bodies have to consider the meaning of the rule, looking at the language used, and the appropriate grammar and syntax. In its search, the adjudicating body will have further to identify the intentions (objectively construed) of the association that drafted the rule, and such body may also take account of any relevant historical background that illuminates its derivation, as well as the entirely regulatory context in which this particular rule is located (CAS 2013/A/3324 & 3369).
29. Furthermore, Article 16 (2) (e) DR contains some examples of conducts which are to be considered as not fit for a sport's event, mainly those of a political, religious or offensive nature.
30. Consequently, in those cases where the political nature of the conduct is established it is evident that the said conduct is not fit for a sport's event in accordance with Article 16 (2) (e) DR.
31. Illustrating of the negative consequences of linking football to politics are the incidents occurred during the UEFA European Championship match played between Serbia vs Albania on 14 October 2014. Summarily, the historical and territorial political conflict between these two countries was reflected at the sport's event in question triggering one of the utmost disgusting and reproachable incidents ever witnessed at a football stadium, involving players being attacked, beaten up and the match to be abandoned. The whole critical situation was triggered after a political banner depicting the idea of "Great Albania" was shown during the match.

¹ Article 2. 1. b) UEFA Statutes

² Article 2.1 e) UEFA Statutes

32. In order to punish and to deter incidents of this kind, the application of the principle of strict liability becomes essential.
33. In short, CAS has steadily confirmed the lawfulness of this principle under Swiss law insofar Articles 8 DR and 16 DR provide that national associations and clubs are strictly liable for the misbehaviour of their supporters. Briefly, it is a fundamental element of the current football regulatory framework, it is also one of the few legal tools available to football authorities to deter hooliganism and other improper conduct on the part of supporters. It shall be noted that it is widely used by many legal systems to deter activity that is seen as being particularly harmful to social values and interests in circumstances in which it would be very difficult to prove the negligence of the responsible party.

C. The “estelada” flags and the chants in favour of independence

34. According to the delegate’s report which is presumed to be accurate (Article 38 DR) and which content has not been contested, at the 17:40 minute of the first and second half of the game chants of independence were heard around the ground for approximately 10 seconds. “Estelada” flags (yellow, red stripes and blue triangle) were also shown from various sectors of the tribunes.
35. The main question in the current proceedings is if those banners called “esteladas” and the chants of independence given by the Club’s supporters have a political nature and are, therefore, not fit for a sport’s event. In the affirmative, the principle of strict liability contemplated in Article 8 DR and picked up by Article 16 DR applies and the Club is to be held responsible for its supporter’s behaviour.
36. Appellant disputes the charges insofar it stresses that only those who are unfamiliar with the social Catalan reality can support such assumption, being the principle of strict liability also not to be taken into account if one examines the context of this situation and the lack of any offensive or provocative content.
37. Regarding the incident with the so called “estelada banners”, this UEFA disciplinary body recalls that it was the Appellant itself who provided a definition by means of its Exhibit 1, which reads as follows:

“is an unofficial flag typically flown by Catalan separatists to express their support for either an independent Catalonia or independent *Països Catalans* (Catalan Countries, i.e. the territories where Catalan is traditionally spoken). The use of this flag as a protest symbol within Catalan nationalism has become more notable since the 1970s’ Spanish transition to democracy.”

38. This definition of the flag includes notions such as “separatists”, “support of either an independent Catalonia” or “the use of this flag as a protest symbol”. Further, the examination of Exhibit 1 of the appeal brief gives clear references to the political nature of this flag, mainly when it expresses that it has been linked to the movement *Front Nacional de Catalunya* which opposed the political regime after the Franco’s dictatorship,

or to different political parties such as *Partit Socialista d'Alliberament Nacional dels Països Catalans* or even a Marxist movement called *Bloc d'Esquerra d'Alliberament Nacional*.

39. Also remarkable is the category in which this definition is allocated in the Wikipedia glossary: "Catalan independence movement- Politics of Catalonia- Catalan symbols- Unofficial flags- 1918 works". It gives a clear hint of what a reasonable and objective observer shall conclude about the nature of this flag, taking for granted that the Appellant understands that this source is objective and reliable.
40. The above-mentioned description of the "estelada" flag seems to be also fully in line with the approach taken by the Appellant before the previous instance (i.e. the CEDB). At that moment, FC Barcelona described the flag in the following way:

"Within this social pro-independence movement, they have had a major role its representative symbols, highlighting the flag called "estelada". This flag isn't the official flag of Catalunya, but has become the flag pro-independence people of Catalonia commonly used by the people that is agree with the independence positions."

"Its design and use has been opposing the use of the official flag of Catalonia (yellow background with four red stripes) that the hardliners in favour of the independence of Catalonia consider the use of the official flag, with the official flag of Spain (in all public institutions are in Catalonia), cancel the power of the official flag as a symbol of a future independent country. This is the explanation of the use of the flag "estelada" to express support for pro-independence of Catalonia postures."

41. Additionally, it is worth noting, that Appellant also established a link between a political event happened in that region only 48 hours prior to the match and the fact that the "estelada" banners were displayed. Briefly it stated that the match was played "after the results of the elections to the Catalan Parliament, which as explained earlier, they had for much of the parties that participated in the elections one goal: to get independence for Catalonia".
42. This obviously adds important elements to the context and, consequently, to the conclusion that the banners have a clear political character.
43. The fact that these banners are exhibited at the houses, streets or different places of Catalonia is not incompatible with the conclusion that by doing so it objectively and reasonably denotes a political approach to the territorial question of Catalonia and its relation to Spain. Briefly and as determined by the Appellant in its statements, the banners shall be embedded in a political context in which some political parties conceived the elections of Catalonia in September as a plebiscite to achieve the said independence, being the flag in accordance to the definition of Exhibit 1 Appeal brief the banner "typically flown by Catalan separatists to express their support for either an

independent Catalonia” or, moreover and before the first instance, “to express support for pro-independence of Catalonia postures”.

44. Bearing in mind all these considerations, there is nothing that may link this flag to a sport event like a UEFA competition match, being not fit for it due to its obvious political nature.
45. Regarding the chants, this Panel complies as well with the appreciation that by chanting “independence” at the minute 17:14 of both first and second half of the mentioned UEFA competition match, the Club’s supporters violated Article 16 (2) (e) DR.
46. Taking the above context into account in which separatists flags were displayed by the supporters, the link established by the Club in its own statements between the chant and the said minute of the match, which refers to the year of an historical battle taken place in that region, and that the nature of this chant has not been reasonable contested, at least in the light of the evidence forwarded by the Appellant, the Appeals Body considers the latter as having an obvious political character.
47. Summarily, it becomes evident that the use of the term “independence” put together with the given context clearly transmits a political statement: “We support the political independence of the region of Catalonia from the Kingdom of Spain”.
48. For the sake of clarity, this Panel complies with the assertion of the Control, Ethics and Disciplinary Body in that the movement of independence referred to by Appellant in its appeal brief is to be put together with other political movements existing in other European countries, see for instance those of the former Yugoslavia or the current situation lived in Ukraine, in which, respectively, territorial claims about Kosovo belonging to Serbia or Ukraine belonging to Russia are repeatedly brought forward at football matches under the auspices of UEFA, and have definitely no place at these events.
49. As a final note, the Appeals Body takes this opportunity to underline that FC Barcelona has already been sanctioned for the exact same incidents, i.e the use of the banners called “esteladas” and the chants of independence at the minute 17:14, this in relation to the UEFA Champions League Final match played between Juventus FC and the Club on 6 June 2015.
50. The Club infers that this situation of recidivism has no relevance as to assess the issue of the current case and its compliance with Article 16 (2) (e) DR.
51. Nevertheless, this UEFA disciplinary body recalls that the Club had already the opportunity to appeal a decision which was based on the exact same factual and legal circumstances, for instance: principle of strict liability and the political nature of both the “estelada” banners and the chants of independence, but refused to do so. It did not even request the grounds of this decision, becoming the said decision final and binding.

52. Briefly, it appears that Barcelona is trying now to apply an exception to a situation already dealt with by the UEFA disciplinary bodies under the same legal and factual circumstances, including here the same Club as well. This is done mainly without giving any explanation to which extent the legal situation differs from the one faced at the previous case, apart from the fact that at that time the organiser was UEFA itself, which is irrelevant as to establish the responsibility of the Club towards the illicit conducts of its supporters.
53. This exception requested by the Club is also to be put in relation to a highly extensive jurisprudence of the UEFA disciplinary bodies on conducts which may appear *prima facie* less political than the ones in hand (see for instance: a “Free Bradley Manning” banner - CEDB decision of 22 August 2013 and Appeals Body decision of 15 October 2013, “No trials free youth” banner - CDB decision of 21 November 2013, and the “Che Guevara” banner - CEDB decision of 13 November 2013).
54. Remarkably the obligation to leave politics out of football is not only contemplated in Article 16 (2) (e) DR, but also in Article 40 UEFA Safety and Security Regulations, which denotes how important it is for UEFA to expel politics from football.
55. In order to avoid the extreme situations referred in previous paragraphs in which violent conducts and conflicts have arisen, it is utterly needed, and as such it has been established by the UEFA regulations, that any message non fit for a sport’s event, and, in particular those of a political nature, are prohibited in football matches and, in particular, those having a political background.
56. Bearing all the above in mind, this UEFA Appeals Body shares the same conclusion of the Control, Ethics and Disciplinary Body in that both the chants and the displaying of the banners violated Article 16 (2) DR.

D. Determination of the disciplinary measure

57. It is the Appeals Body’s constant practice to consider the Control, Ethics and Disciplinary Body’s power of discretion to have been abused or exceeded if the first-instance body bases its decision on untrue or erroneous elements, does not apply fundamental legal principles, considers irrelevant facts or does not consider essential circumstances whose evaluation is compelling. In the opinion of the Appeals Body, none of this applies here.
58. The Appeals Body is of the opinion that the Control, Ethics and Disciplinary Body neither abused nor exceeded its broad powers of discretion. Its decision complies with the principles of legality – to the extent of its power of appreciation – and proportionality.
59. As the Appeals Body considered above (cfr. paragraph 49), the Appellant must be considered as a repeated offender in accordance to Article 19 DR.
60. On the basis of the above, the Appeals Body has no option but to uphold the initial decision and reject the appeal.

VI. Costs

61. The allocation of the costs of proceedings before the Appeals Body depends on the outcome of those proceedings. The Appeals Body decides at its own discretion how these costs are to be allocated to the various parties or borne by UEFA. The appeal fee is either deducted from the costs of proceedings or reimbursed (Article 44.2 DR).
62. It is considered justified to charge all of the costs of this case to the appellant, whose appeal is rejected on all counts.
63. The costs of the proceedings are € 4'000.

Decision of 16 December 2015

Football Association of Serbia

(assault – red card)

Circumstances of the case

In substance, according to the report of the referee, in the 81st minute of the match, the number 21 from the Football Association of Serbia (the “Appellant”), Nemanja Matic (the “player”), was sent off for striking the opponent player with his hand in the moment when the play was stopped (violent conduct). This strike came as a reaction for being fouled by the opponent player. The opponent player did not need any medical help and could continue to play.

Legal framework: Article 15 (1) DR

Decision

In its decision of 22 October 2015, the Control, Ethics and Disciplinary Body considered that the act of the player, as described by the referee above, constitutes an assault under the terms of Article 15 (1) (e) of the UEFA Disciplinary Regulations. As a result, the Control, Ethics and Disciplinary Body decided to suspend the player for three (3) UEFA competition matches for which he would be otherwise eligible.

The appeal of the Football Association of Serbia is rejected. Consequently, the UEFA Control, Ethics and Disciplinary Body’s decision of 22 October 2015, is confirmed

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| Chairman: | Pedro Tomas (Spain) |
| Vice-Chairmen: | Levent Bıçakcı (Turkey) Michael Maessen (Netherlands) |
| Members: | Björn Ahlberg (Sweden) Urs Reinhard (Switzerland) |

I. Facts of the case

1. The elements set out below are a summary of the main relevant facts, as established by the Appeals Body on the basis of the decision rendered by the Control, Ethics and Disciplinary Body on 22 October 2015 (the “Decision”), the official reports, the written submissions of the parties, the exhibits filed and the statements produced in the course of the Appeals Body proceedings. While the Appeals Body has considered all the facts, allegations, legal arguments and evidence submitted by the parties in these proceedings, it refers in the present decision only to the submissions and evidence it considers necessary to explain its reasoning.

2. In substance, according to the report of the referee, in the 81st minute of the match, the number 21 from the Football Association of Serbia (the “Appellant”), Nemanja Matic (the “player”), was sent off for striking the opponent player with his hand in the moment when the play was stopped (violent conduct). This strike came as a reaction for being fouled by the opponent player. The opponent player did not need any medical help and could continue to play.
3. In its decision of 22 October 2015, the Control, Ethics and Disciplinary Body considered that the act of the player, as described by the referee above, constitutes an assault under the terms of Article 15 (1) (e) of the UEFA Disciplinary Regulations. As a result, the Control, Ethics and Disciplinary Body decided to suspend the player for three (3) UEFA competition matches for which he would be otherwise eligible.
4. The Decision with grounds was notified to the Appellant on 10 November 2015.

II. Summary of the proceedings before the Appeals Body

5. On 12 November 2015, the Appellant announced its intention to appeal against the Decision.
6. The grounds for appeal, submitted on 16 November 2015, can be summarized as follows:
 - The facts of the case are not disputed and the Appellant also agrees with the decision of the referee who sent off the player with a red card. However, the Appellant states that the player had no intention to hurt the opponent player. Even though the act of the player was impulsive and certainly wrong, it cannot be characterized as “brutal behavior”.
 - The Appellant argues that the Control, Ethics and Disciplinary Body has not taken mitigating circumstances into account when determining the appropriate disciplinary measure. In particular, the Appellant states that the fact that the player has not received any red cards or commit any similar offense in the last five years in general should be taken into account as mitigating circumstances
 - The player in a written statement apologized for the incident and pointed to the fact that the sanction of a three match suspension would hit him particularly hard, given that he would not be able to play in two of the matches of the 2018 World Cup qualifications
 - In view of the above, the Appellant requests to reduce the sanction to two matches.
7. On 23 November 2015, the UEFA Ethics and Disciplinary Inspector submitted his reply to the appeal, requesting that it be rejected and the costs charged accordingly.

III. Hearing

8. No hearing was held, since the Appellant requested that the proceedings be conducted in writing only and the Appeals Body did not raise any objection to this request.

9. The Appeals Body examined the entire case file, in particular the challenged decision, the grounds for appeal and the Ethics and Disciplinary Inspector's reply to the appeal, on 16 December 2015.
10. The parties' arguments are set out and examined below, in so far as they are relevant to the decision.

IV. Appeals Body Competence and Admissibility of the Appeal

11. Article 24 (4) of the UEFA Disciplinary Regulations states as follows: "The Appeals Body has jurisdiction to hear appeals against decisions by the Control, Ethics and Disciplinary Body and to rule on particular urgent cases referred to it directly by the chairman of the Control, Ethics and Disciplinary Body."
12. Pursuant to Articles 52 and 57 (b) of the UEFA Statutes, as well as Articles 22 and 24 of the UEFA Disciplinary Regulations, the Appeals Body is competent to deal with the case.
13. On 16 November 2015, the Appellant lodged its grounds for appeal by the set deadline and in the form required. The appeals fee was paid on time.
14. It follows that the Appeals Body has competence to decide on the present Appeal and that the Appeal is admissible. The Appeals Body may therefore consider its merits and can therefore re-examine the case in full, both factually and legally (Article 58 (2) of the UEFA Disciplinary Regulations).

V. Legal Considerations Of The Appeals Body

A. The legal framework.

15. According to Article 15 (1) (e) of the UEFA Disciplinary Regulations, suspension for three (3) competition matches or a specified period for assaulting another player present at the match.
16. According to Article 38 of the UEFA Disciplinary Regulations, facts contained in official UEFA reports are presumed to be accurate. Proof of their inaccuracy may, however, be provided.

B. In the case in hand

17. It remained undisputed during these procedures that in the 81st minute of the match, the player was sent off for striking the opponent player with his hand in the moment when the play was stopped. This strike came as a reaction for being fouled by the opponent player. The opponent player did not need any medical help and could continue to play.

18. The Control, Ethics and Disciplinary Body considered the foul play by the player as an assault, considering that the player placed the physical well-being of his opponent in danger, thereby endangering the safety of his opponent.
19. As to the merits of the case, the Appeals Body took into account the arguments of the Appellant and recalled that the facts of the case are not disputed and the Appellant also agreed with the decision of the referee to send off the player with a red card. In this regard, the Appeals Body recalled that the legal assessment of the Control, Ethics and Disciplinary Body who considered the act of the player as an assault in the sense of Article 15 (1) (e) of the UEFA Disciplinary Regulations, was not disputed by the Appellant.
20. Consequently, it therefore remains for the Appeals Body to examine whether the Control, Ethics and Disciplinary Body respected the regulations and legal principles, in particular those of legality and proportionality, or whether it abused its power of discretion by suspending the player for three UEFA competition matches for which he would be otherwise eligible.

C. Determination of the disciplinary measure

21. It is the Appeals Body's constant practice to consider the Control, Ethics and Disciplinary Body's power of discretion to have been abused or exceeded if the first-instance body bases its decision on untrue or erroneous elements, does not apply fundamental legal principles, considers irrelevant facts or does not consider essential circumstances whose evaluation is compelling. In the opinion of the Appeals Body, none of this applies here.
22. The Appeals Body is of the opinion that the Control, Ethics and Disciplinary Body neither abused nor exceeded its broad powers of discretion. Its decision complies with the principles of legality – to the extent of its power of appreciation – and proportionality.
23. In this regard, the Appeals Body recalled the argument of the Appellant who argued that the Control, Ethics and Disciplinary Body in its decision has not taken mitigating circumstances into account when determining the appropriate disciplinary measure. In particular, the Appellant stated that the fact that the player has not received any red cards or commit any similar offense in the last five years in general should be taken into account as mitigating circumstances.
24. However, the Appeals Body firstly emphasized that the absence of red cards during a player's career in general and violations of the UEFA Disciplinary Regulations in particular should be regarded as the basic rules of decorum and fair play that are to be expected of a professional player of his age and experience. In this sense, the absence of aggravating circumstances is generally not considered a mitigating circumstance in itself.
25. In this sense, the Appeals Body further referred to its previous jurisprudence in similar cases and in particular to its decision of 9 August 2012 of FC Chelsea and John Terry, in

which the Appeals Body on a very exceptional basis considered the absence of a previous record of the player as a mitigating circumstance. However, the Appeals Body also stressed that in the aforementioned decision, the player had not received a red card in 169 UEFA competition matches, i.e. the player had a remarkable record during a long career of games played in UEFA competitions. On the contrary, in the case at hand, the player has so far only played in 76 UEFA competition matches, i.e. not even half of the matches John Terry had played unsanctioned. Consequently, the Appeals Body could not consider such exceptional circumstances as stipulated in the John Terry case, which is why the argument made by the Appellant in this regard has to be rejected.

26. Moreover, the Appeals Body stressed that it has been the UEFA disciplinary bodies' long standing practice that in cases of an act of assault such as striking an opponent player, the absence of aggravating circumstances does not per se allow a mitigation of the disciplinary sanction.
27. Moreover, the Appeals Body concluded that the Appellant has not provided any documentary evidence which would allow the Appeals Body to come to the conclusion that the behaviour of the player was not a "brutal behaviour", as it was stated by the Control, Ethics and Disciplinary Body. In this regard, the Appeals Body emphasized that there is no doubt that the act of striking a player, and particularly when the play was stopped, has to be considered a particularly brutal behaviour, given that such behaviour always bears the risk of leading to severe injuries of the opponent player.
28. The Appeals Body first took into account the apology of the player and in this regard referred to the jurisprudence of the CAS (cf. CAS 2014/A/3665, 3666 & 3667 Luis Suarez, FC Barcelona & AUF v. FIFA) where the Panel concluded that *"the remorse and apologies shown by the Player after having already been sanctioned cannot have the same impact as a remorse expressed immediately after the event and before any disciplinary proceeding is started and/or sanction is imposed."* By applying these principles, the Appeals Body noted that the apology of the player was only made during the course of these disciplinary proceedings, which is why such apology cannot change the legal assessment of the act itself and the disciplinary measure which was imposed by the Control, Ethics and Disciplinary Body. In this regard, the Appeals Body.
29. As to the argument of the Appellant that a three-match suspension would have the consequence that the player would miss two of the matches of the 2018 World Cup qualifications, the Appeals Body emphasized that by imposing the minimum three-match suspension on the player, the Control, Ethics and Disciplinary Body did not abuse or exceed its power of discretion, as said Body did not base its decision on untrue or erroneous elements, as it definitely did apply fundamental legal principles considered all the relevant facts and essential circumstances whose evaluation was compelling. In view of the above, the factual consequences are irrelevant as to the determination of the appropriate disciplinary measure.
30. On the basis of the above, the Appeals Body has no option but to uphold the initial decision and reject the appeal.

VI. Costs

31. The allocation of the costs of proceedings before the Appeals Body depends on the outcome of those proceedings. The Appeals Body decides at its own discretion how these costs are to be allocated to the various parties or borne by UEFA. The appeal fee is either deducted from the costs of proceedings or reimbursed (Article 44 (2) of the UEFA Disciplinary Regulations).
32. It is considered justified to charge all of the costs of this case to the Appellant, whose appeal is rejected on all counts.
33. In this case, since these proceedings were conducted by the Appeals Body with a Panel of five members, the costs of the proceedings are € 1'000.

Decision of 16 December 2015

Legia Warszawa

(illicit banner)

Circumstances of the case

During the UEFA Europa League 2015/16 match between FC Midtjylland and Legia Warszawa (the "Appellant") on 17 September 2015, it was reported by the UEFA Security Officer that the Appellant's supporters displayed a banner with a text "Europe wake up!" which hung twice during the first half in front of their section

Legal framework: Article 16 (2) (e) DR

Decision

The Control, Ethics and Disciplinary Body concluded that the banner displayed by the Appellant's supporters contained a political message which was not fit for a sport event and that the club had therefore violated Article 16 (2) of the UEFA Disciplinary Regulations.

The appeal of Legia Warszawa is rejected. Consequently, the UEFA Control, Ethics and Disciplinary Body's decision of 22 October 2015, is confirmed. The cross-appeal of the UEFA Ethics and Disciplinary Inspector is rejected

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| Chairman: | Pedro Tomas (Spain) |
| Vice-Chairmen: | Levent Bıçakcı (Turkey) Michael Maessen (Netherlands) |
| Members: | Björn Ahlberg (Sweden) Urs Reinhard (Switzerland) |

I. Facts Of The Case

1. The elements set out below are a summary of the main relevant facts, as established by the Appeals Body on the basis of the decision rendered by the Control, Ethics and Disciplinary Body on 22 October 2015 (the "Decision"), the official reports, the written submissions of the parties, the exhibits filed and the statements produced in the course of the Appeals Body proceedings. Whilst the Appeals Body has considered all of the facts, allegations, legal arguments and evidence submitted by the parties in these proceedings, it refers in the present decision only to the submissions and evidence it considers necessary to explain its reasoning.
2. During the UEFA Europa League 2015/16 match between FC Midtjylland and Legia Warszawa (the "Appellant") on 17 September 2015, it was reported by the UEFA Security Officer that the Appellant's supporters displayed a banner with a text "Europe wake up!" which hung twice during the first half in front of their section.

3. Disciplinary proceedings were opened against the Appellant on 18 September 2015 and the Control, Ethics and Disciplinary Body convened on 22 October 2015 to decide on the case. The Decision with grounds was notified to the Appellant on 3 November 2015.
4. In the Decision with grounds, the Control, Ethics and Disciplinary Body concluded that the banner displayed by the Appellant's supporters contained a political message which was not fit for a sport event and that the club had therefore violated Article 16 (2) of the UEFA Disciplinary Regulations.

II. Summary of the proceedings before the Appeals Body

5. On 6 November 2015, the Appellant announced its intention to appeal against the Decision.
6. On 10 November 2015, the Appellant filed its grounds for appeal.
7. In its statement, the Appellant argued that it is completely open what the actual meaning of the banner is. It stated that it can also be interpreted in a completely football related manner such as that the performance of the Legia team will be so fantastic that Europe will "wake up", that the Appellant's supporters will be so loud that Europe shall "wake up" or that both other football teams and fans will have to wake up because the Appellant was back in the UEFA Europa League competition.
8. Moreover, the Appellant stated that in view of the fact that the behavior of its supporters was excellent throughout the whole game, and bearing in mind that the content of the banner is completely up to subjective interpretation, i.e. many possible interpretations exist which would speak in favor of the legitimacy of the banner under scrutiny, the banner should not be deemed illicit and no disciplinary sanction should hence be imposed.
9. Finally, the Appellant stressed that it is not understandable how the Control, Ethics and Disciplinary Body was able to evaluate that the banner had a political nature solely on the basis of the photography. The alleged context of the "current political situation" is a purely subjective interpretation of the Control, Ethics and Disciplinary Body without reference to any objective elements of the case. In particular, the Appellant argued that besides the alleged political banner its supporters neither chanted nor by any other means made any political or controversial statements which would not be fit for a sports event.
10. On 20 November 2015, the UEFA Ethics and Disciplinary Inspector submitted her reply to the appeal, requesting that it be dismissed and the costs charged accordingly.
11. Moreover, the UEFA Ethics and Disciplinary Inspector lodged a cross-appeal against the Decision, explaining that directly next to the banner under scrutiny, there was a second

illicit banner, also demonstrated by the Appellant's supporters, indicating "Old fashion man club. Better dead than red" with the symbol of hammer and sickle crossed, which is commonly known as the symbol used by the communist USSR. The symbol was depicted inside of a red circle and crossed out with red line (like a road sign). While considering the case, despite the presence of photos where the second illicit banner is seen, the Control, Ethics and Disciplinary Body failed to consider this fact and thus did not take all the relevant facts into consideration as aggravating factors while applying the sanction to the Appellant.

12. In view of the above, the UEFA Ethics and Disciplinary Inspector deemed that the adequate and proportional disciplinary measure in this case would be to fine the Appellant in amount of no less than 40 000 EUR.

III. Hearing

13. Neither the Appellant nor the UEFA Ethics and Disciplinary Inspector requested a hearing. Consequently, the Appeals Body rendered its decision based on the written statements submitted by the parties.
14. The Appeals Body examined the entire case file, in particular the Decision with grounds, the grounds for appeal and the UEFA Ethics and Disciplinary Inspector's reply to the appeal, on 16 December 2015.
15. The parties' arguments are set out and examined below, insofar as they are relevant to the decision.

IV. Appeals Body Competence and Admissibility of the Appeal

16. Article 24 (4) of the UEFA Disciplinary Regulations states as follows:

"The Appeals Body has jurisdiction to hear appeals against decisions by the Control, Ethics and Disciplinary Body and to rule on particular urgent cases referred to it directly by the chairman of the Control, Ethics and Disciplinary Body."

17. The Appellant lodged its grounds for appeal by the set deadline and in the form required. The appeals fee was paid on time.
18. It follows that the Appeals Body has competence to decide on the present appeal and that the appeal is admissible. The Appeals Body may therefore consider its merits and can therefore re-examine the case in full, both factually and legally, in accordance with Article 58 (2) of the UEFA Disciplinary Regulations.

V. Legal Considerations Of The Appeals Body

A. The legal framework

19. According to Article 8 of the UEFA Disciplinary Regulations, a club that is bound by a rule of conduct laid down in UEFA's Statutes or regulations may be subject to disciplinary measures and directives if such a rule is violated as a result of the conduct of one of its members, players, officials or supporters and any other person exercising a function on behalf of the club concerned, even if the club concerned can prove the absence of any fault or negligence.
20. Under Article 16 (2) of the UEFA Disciplinary Regulations, *"all clubs are liable for the following inappropriate behaviour on the part of their supporters and may be subject to disciplinary measures and directives even if they can prove the absence of any negligence in relation to the organisation of the match: the use of gestures, words, objects or any other means to transmit any message that is not fit for a sports event, particularly messages that are of a political, ideological, religious, offensive or provocative nature."*
21. According to Article 38 of the UEFA Disciplinary Regulations, facts contained in official UEFA reports are presumed to be accurate. Proof of their inaccuracy may, however, be provided.

B. In the case in hand

22. Whilst the Appeals Body acknowledges and agrees that football matches organised by UEFA cannot become forums for people who want to abuse the game's popularity to publicise their political, religious or whatsoever other opinions not related to a sport event, the Appeals Body in its decision considered whether the Appellant has breached Article 16 (2) of the UEFA Disciplinary Regulations on the occasion of the match under scrutiny.
23. Entering into the substance of the case at hand and on a preliminary basis, the Appeals Body recalled the well-established legal principle that the party bearing the burden of evidence, in order to satisfy it, does not need to establish "beyond any reasonable doubts" the facts that it alleges to have occurred; it needs to convince the Appeals Body that an allegation is true by its comfortable satisfaction, even sometimes by a "balance of probability", i.e. that the occurrence of the circumstances on which it relies is more probable than their non-occurrence (cf. CAS 2008/A/1370 & 1376; CAS 2004/A/602; TAS 2007/A/1411 and CAS 2010/A/226). Particularly relevant is in this regard the view of the objective and reasonable observer (cf. CAS 2007/A/1217 and CAS 2014/A/3324&3369).
24. Furthermore, as well expressed by the above-mentioned instance whilst citing CAS 2013/A/3324 & 3369, "context in law is everything". Consequently, it is the Appeals Body's view that the test of whether or not there has been a banner, which was not fit for

a sport event, hence qualifying for sanctions under Article 16 (2) of the UEFA Disciplinary Regulations, is the perception of the reasonable onlooker. It is in that sense objective not subjective (CAS 2013/A/3324 & 3369).

25. As it was established above, the content of the banner needs to be interpreted based on an objective observer's point of view. In this regard, the Appeals Body firstly noticed that the UEFA Security Officer had mentioned the banner under scrutiny in his report as he deemed it potentially problematic, which can already be considered an indication for the illicit nature of the banner.
26. Likewise, the Appeals Body, after thorough analysis of the photo of the banner under scrutiny, on the one hand acknowledged that the banner can potentially be interpreted in more than one way and can therefore have different meanings. However, again referring to the principle that "context in law is everything", the Appeals Body emphasized that the content of a banner, which is potentially of a political nature, obviously needs to be interpreted while taking into account the specific circumstances of the case.
27. In this regard, the Appeals Body agreed with the interpretation of the UEFA Ethics and Disciplinary Inspector who, in her reply, had stated that the displaying of the banner "Europe wake up!" referred to the current "open doors" policy of various countries of the European Union. The Appeals Body recalled that in numerous stadiums across Europe supporters had engaged in pro- as well as anti-refugee expressions of opinions, some of which likewise are being put under scrutiny of the UEFA disciplinary bodies.
28. Having established this, the Appeals Body was convinced that, despite the different interpretations which might be possible as regards the banner in question, to an objective and reasonable onlooker the displaying of the banner by the Appellant's supporters most likely must appear as a reference to the aforementioned political circumstances, i.e. as the expression of a political statement. The Appeals Body was hence not convinced that said banner had anything to do with football in general or the relevant match of the UEFA Europa League itself. The Appeals Body regarded the arguments and interpretation of the Appellant as far-fetched attempt to justify its supporters' behaviour.
29. Subsequently and as to the cross-appeal lodged by the UEFA Ethics and Disciplinary Inspector, the Appeals Body recapitulated that in said cross-appeal the UEFA Ethics and Disciplinary Inspector essentially admonished the Control, Ethics and Disciplinary Body for not taking into account the banners adjacent to the banner under scrutiny. In view of the UEFA Ethics and Disciplinary Inspector, by omitting to address said surrounding banners, the Control, Ethics and Disciplinary Body did not base its decision on all the relevant facts necessary.
30. However, contrary to what the UEFA Ethics and Disciplinary Inspector had stated, the Appeals Body formed the belief that the Control, Ethics and Disciplinary Body was aware of all factual and legal circumstances of the case, given that it was undisputedly able to

take into account the photo of the banner, including the adjacent banners the UEFA Ethics and Disciplinary Inspector has pointed to.

31. The Appeal Body thus concluded that the first instance body based its decision on all the information that was available and necessary and has therefore not omitted to impose further sanctions, but has on the contrary taken a conscious and well-informed decision in this regard by taking into account not only the banner under scrutiny, but also the surrounding banners constituting the necessary context of the relevant banner.
32. Consequently, in view of all of the above, the Appeals Body concluded that the Control, Ethics and Disciplinary Body rightfully decided that, by displaying the banner “EUROPE WAKE UP” under the aforementioned circumstances, the Appellant’s supporters violated Article 16 (2) (e) of the UEFA Disciplinary Regulations.
33. It therefore remains for the Appeals Body to examine whether the Control, Ethics and Disciplinary Body respected the regulations and legal principles, in particular those of legality and proportionality, or whether it abused its power of discretion to fine the Appellant € 25’000 for the aforementioned violation of the UEFA Disciplinary Regulations.

C. Determination of the disciplinary measure

34. It is the Appeals Body’s constant practice to consider the Control, Ethics and Disciplinary Body’s power of discretion to have been abused or exceeded if the first-instance body bases its decision on untrue or erroneous elements, does not apply fundamental legal principles, considers irrelevant facts or does not consider essential circumstances whose evaluation is compelling.
35. Conversely, in the case at hand, the Appeals Body is of the opinion that the Control, Ethics and Disciplinary Body neither abused nor exceeded its broad powers of discretion. Its decision complies with the principles of legality – to the extent of its power of appreciation – and proportionality.
36. In this regard, the Appeals Body recalled the cross-appeal of the UEFA Ethics and Disciplinary Inspector, who had argued that the first instance disciplinary body, when determining the disciplinary measure, omitted to take into account aggravating circumstances.
37. However, as it was already established before, the Appeals Body has come to the conclusion that the Control, Ethics and Disciplinary Body in its decision has not only taken into account all the factual circumstances of the case, but also both aggravating and mitigating circumstances insofar as they were applicable.
38. Regarding the fine in the amount of € 25’000 which was imposed by the Control, Ethics and Disciplinary Body, the Appeals Body was convinced that said fine was not disproportionate, especially in view of the illustrious previous record of disciplinary

sanctions for the displaying of illicit banners by the Appellant's supports. Moreover, the Appeals Body noted that the Appellant has not provided any solid arguments in this regard, which would allow a different interpretation.

39. On the basis of the above, the Appeals Body has no option but to uphold the initial decision and reject both the appeal of the Appellant and the cross-appeal of the UEFA Ethics and Disciplinary Inspector.

VI. Costs

40. The Appeals Body decides at its own discretion how to allocate the costs of proceedings.
41. The appeal fee is either deducted from the costs of proceedings or reimbursed (in accordance with Article 44 (2) of the UEFA Disciplinary Regulations).
42. On this occasion, it is considered justified to charge all of the costs of this case to the Appellant, less the appeals fee which has already been paid.
43. In the present case, the costs of proceedings are €1,000.

Decision of 16 December 2015

Football Federation of FYR Macedonia

(direct red card)

Circumstances of the case

The referee of the above mentioned match reported as follows: at the 74th minute, after a direct free kick was taken by the Macedonian team, the assistant referee Karel De Rocker saw that the Football Federation of Macedonia player Sadiki Nehar intentionally hit with his elbow his opponent in the face, without having the ball in a playing distance.

Legal framework: Article 15 (1)(e)DR

Decision

In its decision of 15 October 2015, the Control, Ethics and Disciplinary Body decided that the Football Federation of FYR Macedonia player Sadiki Nehar intentionally hit with his elbow his opponent in the face, without having the ball in a playing distance, which constitutes assault under the terms of Article 15 (1) (e) DR. The player was sanctioned with a suspension of four (4) UEFA competition matches for which he would be otherwise eligible.

The identical request regarding the Football Federation of FYR Macedonia player Sadiki Nehar lodged by the parties is accepted. Consequently, the UEFA Control, Ethics and Disciplinary Body's decision of 15 October 2015 is amended in relation to this player as follows: to suspend the Football Federation of FYR Macedonia player Sadiki Nehar for one (1) UEFA competition match for which he would be otherwise eligible.

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| Chairman: | Pedro Tomás (Spain) |
| Vice-chairmen: | Michael Maessen (Netherlands) Levant Bicakci (Turkey) |
| Members: | Björn Ahlberg (Sweden) Urs Reinhard (Switzerland) |

I. Facts Of The Case

1. The elements set out below are a summary of the main relevant facts, as established by the Appeals Body on the basis of the decision rendered by the Control, Ethics and Disciplinary Body on 15 October 2015 (the "Decision"), the official reports, the written submissions of the parties, the exhibits filed and the statements produced in the course of the Appeals Body proceedings. While the Appeals Body has considered all the facts, allegations, legal arguments and evidence submitted by the parties in these proceedings,

it refers in the present decision only to the submissions and evidence it considers necessary to explain its reasoning.

2. On 10 October 2015, FYR Macedonia played against Italy an European Under-19 Championship 2016 match.
3. The referee of the above mentioned match reported as follows:

At the 74th minute, after a direct free kick was taken by the Macedonian team, the assistant referee Karel De Rocker saw that the Football Federation of Macedonia player Sadiki Nehar intentionally hit with his elbow his opponent in the face, without having the ball in a playing distance.
4. In its decision of 15 October 2015, the Control, Ethics and Disciplinary Body decided that the Football Federation of FYR Macedonia player Sadiki Nehar intentionally hit with his elbow his opponent in the face, without having the ball in a playing distance, which constitutes assault under the terms of Article 15 (1) (e) DR. The player was sanctioned with a suspension of four (4) UEFA competition matches for which he would be otherwise eligible.
5. The Decision with grounds was notified to the appellant on 10 November 2015.

II. Summary of the proceedings before the Appeals Body

6. On 11 November 2015, the Football Federation of FYR Macedonia lodged its intention to appeal the first instance decision in relation to the sanction imposed to its player Sadiki Nehar.
7. On 13 November 2015, the Appellant submitted its appeal brief. In substance, the Appellant is suggesting in his appeal brief that the offence was not done like it is described in the referee's report. For this purpose it submitted a video footage by means of which it stresses that there is no violent conduct (elbowing) from the Football Federation of Macedonia player Sadiki Nehar challenge.
8. It shall be stressed that the video footage was only provided before this UEFA disciplinary body and not provided before the Control, Ethics and Disciplinary Body.
9. Summarily, it holds that after a challenge for the ball made in the air and once rebound the ball by the player Sadiki Nehar, the latter held the opponent player's shirt which provoked the latter to fall down and impact on Sadiki ' s leg with his head.
10. Appellant holds that the reason for it was the intention of the player to make it difficult for the opponent to reach the ball, maybe in an unsporting behaviour i.e. by holding the shirt, but certainly not for violent conduct.

11. Consequently, Appellant accepts the conduct to be acknowledged as an unsporting behaviour subsumed to Article 15 (1) (a) (5) DR and the player to be suspended for one UEFA competition match in which he would otherwise participate.
12. On 10 December 2015, the UEFA ethics and disciplinary inspector submitted his reply to the appeal, identically requesting that the conduct of the player is dealt with as an unsporting behaviour and sanctioned with the suspension of one UEFA competition match.

III. Hearing

13. No hearing was held, since the Appellant requested that the proceedings be conducted in writing only and the Appeals Body did not raise any objection to this request.
14. The Appeals Body examined the entire case file, in particular the challenged decision, the grounds for appeal and the ethics and disciplinary Inspector's reply to the appeal, on 16 December 2015.
15. The parties' arguments are set out and examined below, in so far as they are relevant to the decision.

IV. Appeals Body Competence and Admissibility of the Appeal

16. Article 24 (4) DR states as follows: "The Appeals Body has jurisdiction to hear appeals against decisions by the Control, Ethics and Disciplinary Body and to rule on particular urgent cases referred to it directly by the chairman of the Control, Ethics and Disciplinary Body."
17. Appellant lodged its grounds for appeal by the set deadline and in the form required. The appeals fee was paid on time.
18. It follows that the Appeals Body has competence to decide on the present Appeal and that the Appeal is admissible. The Appeals Body may therefore consider its merits and can therefore re-examine the case in full, both factually and legally (Article 58 (2) DR).

V. Legal Considerations Of The Appeals Body

A. The legal framework.

19. According to Article 15 (1) (e) DR, suspension for three competition matches or a specified period for assaulting another player or another person present at the match.
20. According to Article 38 DR, facts contained in official UEFA reports are presumed to be accurate. Proof of their inaccuracy may, however, be provided.

21. According to Article 34 (5) DR, if the requests of the parties and the ethics and disciplinary inspector are identical, the disciplinary bodies may consider ruling in accordance with those requests
 - B. In the case in hand
22. First and foremost, it shall be highlighted that both the Appellant and the ethics and disciplinary inspector request the decision of the Control, Ethics and Disciplinary Body to be overturned and that the player to be sanctioned with one (1) UEFA competition match suspension. Both adhere to the conclusion that the player committed an unsporting behaviour.
23. The question here is to assess if the current factual and legal circumstances showed by the video footage and exposed by the parties in their identical request provide the Appeals Body with sufficient elements as to overturn the Control, Ethics and Disciplinary decision and reduce the suspension imposed towards the player down to one (1) UEFA competition match for which he would be otherwise qualified.
24. Both parties share the opinion that the referee's report is inaccurate insofar it could be established by the video footage submitted by Appellant for the first time during this proceedings before the Appeals Body, that in fact the elbow of the player did not hit the opponent's head.
25. The Appeals Body complies with the view of the parties about the inaccuracy of the UEFA referee's report and is comfortably satisfied that in fact the elbow did not hit the opponent's head.
26. However, it shall be pointed out that the attitude of the player of pulling with intensity the jersey of his opponent and provoking hereby the latter to fall down and causing him to impact with his head to the ground/the player's leg, shall at least to be perceived as an unsporting behaviour in the light of Article 15 (1) (a) DR.
27. In this context the Appeals body does not oppose to the identical request insofar there is no particular element which may contend the request of the parties.
28. Bearing the above in mind, the Appeals Body accepts the identical request of the parties and decides to rule accordingly in accordance with Article 34 (5) DR.

Decision of 16 December 2015

KKS Lech Poznań

(illicit banner)

Circumstances of the case

The UEFA delegate at that match reported as follows: “A banner 'Stop Islamisation' with the picture of crossed mosque on it was hanging outside the Stadium's Stand III above the advertisement 'Fit for Free'”.

Legal framework: Article 16 (2) (e) DR

Decision

The Control, Ethics and Disciplinary Body considered that such a message is not fit for a sports event, like the one in question and therefore violated article 16 (2) (e) DR. The Club shall, was fined 25'000€.

The appeal lodged by KKS Lech Poznań is dismissed. Consequently, the UEFA Control, Ethics and Disciplinary Body's decision of 22 October 2015 is confirmed

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| Chairman: | Pedro Tomás (Spain) |
| Vice-chairmen: | Michael Maessen (Netherlands) Levant Bicakci (Turkey) |
| Members: | Björn Ahlberg (Sweden) Urs Reinhard (Switzerland) |

I. Facts Of The Case

1. The elements set out below are a summary of the main relevant facts, as established by the Appeals Body on the basis of the decision rendered by the Control, Ethics and Disciplinary Body's decision of 22 October 2015 (the “Decision”), the official reports, the written submissions of the parties, the exhibits filed and the statements produced in the course of the Appeals Body proceedings. While the Appeals Body has considered all the facts, allegations, legal arguments and evidence submitted by the parties in these proceedings, it refers in the present decision only to the submissions and evidence it considers necessary to explain its reasoning.
2. On 17 September 2015 the KKS Lech Poznań played a UEFA Europa League 2015/2016 match against CF Os Belenenses.
3. The UEFA delegate at that match reported as follows:

"A banner 'Stop Islamisation' with the picture of crossed mosque on it was hanging outside the Stadium's Stand III above the advertisement 'Fit for Free'".

4. On 22 October 2015 the UEFA Control, Ethics and Disciplinary Body considered that such a message is not fit for a sports event, like the one in question and therefore violated article 16 (2) (e) DR. The Club shall, was fined 25'000€.
5. The Decision with grounds was notified to the appellant on 10 November 2015.

II. Summary of the proceedings before the Appeals Body

6. On 13 November 2015, KKS Lech Poznań announced its intention to appeal against the Decision.
7. On 19 November 2015, the Appellant filed its grounds for appeal. In its statements, the Appellant, essentially, argued the following:
 - The banner in question was displayed outside the Gate 26 (i.e. outside the Stadium) one hour before kick-off.
 - Subject to the UEFA Official Delegate Report shortly after receipt of an information about the banner, the delegate went to see it but- as he clearly admits in his report- it was already removed.
 - The incident referred to a small group of people who did not participate in the Match and who were not the Club's supporters.
 - The Club 1) reacted immediately and in no time asked to remove the banner; 2) the group of people did not oppose against the Club's order, promptly removed the banner, left the area outside the Stadium immediately after the incident and did not participate in the Match as spectators; 3) would not allow any illicit banner to be transported inside the Stadium and be exposed there. All this case shall give a strong example of such policy.
 - Having this in regard it shall be stated that in this case there is no evidence that may confirm (to any extent) that people who displayed the banner in question were the Club's supporters.
 - On the contrary, there are facts and confirmations in this case that prove something completely opposite, i.e. that the people who displayed the banner in question were not connected with the Club and were not supporters of KKS Lech Poznan.
8. On 26 November 2015, the UEFA ethics and disciplinary inspector submitted his reply to the appeal, requesting that it be rejected and the costs charged accordingly.
9. On 1 December 2015, the Club submitted a reply to the UEFA ethics and disciplinary inspector's report.

III. Hearing

10. No hearing was held, as the appellant requested the proceedings to be in writing only.

IV. Appeals Body Competence and Admissibility of the Appeal

11. Article 24 (4) DR states as follows: “The Appeals Body has jurisdiction to hear appeals against decisions by the Control, Ethics and Disciplinary Body and to rule on particular urgent cases referred to it directly by the chairman of the Control, Ethics and Disciplinary Body.”
12. Appellant lodged its grounds for appeal by the set deadline and in the form required. The appeals fee was paid on time.
13. As a preliminary remark a decision needs to be taken in relation to the admissibility of the answer submitted by Appellant on 1 December 2015 as a reply to the ethics and disciplinary inspector’s reply sent on 26 November 2015.
14. According to Article 53 DR, “the parties and the ethics and disciplinary inspector are not authorised to produce further written submissions or evidence after the deadline for filing the grounds for appeal. In urgent cases, the chairman may shorten this deadline”.
15. Notwithstanding the above this UEFA disciplinary body considers that the content of the Appellant’s statements does not add new evidence or new arguments to the current proceedings, serving merely to clarify its position providing, amongst others, with a map of the stadium which, for instance, the Appeals Body would have been able to obtain by any other means.
16. Bearing the above in mind, the Appeals Body sees no impediment related to the acceptance of the last document sent by the Appellant.
17. It follows that the Appeals Body has competence to decide on the present Appeal and that the Appeal is admissible. The Appeals Body may therefore consider its merits and can therefore re-examine the case in full, both factually and legally (Article 58 (2) DR).

V. Legal Considerations Of The Appeals Body

A. The legal framework.

18. According to Article 16 (1) DR, host associations and clubs are responsible for order and security both inside and around the stadium before, during and after matches. They are liable for incidents of any kind and may be subject to disciplinary measures and directives unless they can prove that they have not been negligent in any way in the organisation of the match.
19. According to Article 16 (2) (e) DR, all associations and clubs are liable for the following inappropriate behaviour on the part of their supporters and may be subject to

disciplinary measures and directives even if they can prove the absence of any negligence in relation to the organisation of the match: the use of gestures, words, objects or any other means to transmit any message that is not fit for a sports event, particularly messages that are of a political, ideological, religious, offensive or provocative nature;

20. According to Article 44 UEFA Safety and Security Regulations:

The promotion or announcement, by any means, of political messages or of any other political actions inside or in the immediate vicinity of the stadium is strictly prohibited before, during and after the match.

21. According to Article 45 UEFA Safety and Security Regulations:

1. The match organiser, together with the chief police officer or stadium security officer, must prevent any provocative action being taken by spectators inside or in the immediate vicinity of the stadium (unacceptable levels of verbal provocation from spectators towards players or opposing fans, racist behaviour, provocative banners or flags, etc.).
2. Should such action arise, the match organiser, chief police officer or stadium security officer must intervene over the public address system or remove any offensive material.

22. According to Article 26 UEFA Safety and Security Regulations, the match organiser must ensure that: a) the stadium is guarded against unauthorised intrusion for an adequate period before the day of the match; b) an efficient security sweep of the stadium – to search for unauthorised persons or prohibited objects/substances – is carried out before spectators are admitted.

23. According to Article 38 DR, facts contained in official UEFA reports are presumed to be accurate. Proof of their inaccuracy may, however, be provided.

B. In the case in hand

24. First and foremost, it needs to be noted that it is accepted by both parties that the banner hung outside the stadium. There is no doubt in the light of the documents of this case and the map provided by the Appellant that the banner was hung at the vicinity of the stadium in front of one of its gates, and was able to be seen by those supporters approaching to the stadium.

25. In addition, there is no dispute between the parties that a banner with the wording “Stop Islamization” contains a political message, which is not fit for a sport’s event.

26. Both aspects are not disputed by the parties and the Appeals Body adheres to both approaches. No further analysis is needed in this regard.

27. Regarding the responsibility of Appellant in relation to the above mentioned incident, it shall first be emphasized that the UEFA Disciplinary Regulations in its Article 16 contemplate two types of responsibility to be beard by clubs and associations in relation to football matches.
28. The Appeals Body notes that the legal discussion at the current proceedings pivot on three main issues: the scope of Article 16 (1) and (2) DR, and the notion of supporter (in case Article 16 (2) DR is applicable).
29. On the one hand, Article 16 (1) DR determines that host associations and clubs are responsible for order and security both inside and around the stadium before, during and after matches. They are liable for incidents of any kind and may be subject to disciplinary measures and directives unless they can prove that they have not been negligent in any way in the organisation of the match.
30. The above responsibility is not automatic and may only trigger disciplinary measures in case a negligent attitude by a club or an association regarding the organisation is at hand.
31. Interestingly, the spatial enforcement of this type of responsibility beard by the club or the association is determined to “both inside and around the stadium” in accordance to Article 16 (1) DR.
32. Examples of possible infringements in which clubs or associations may incur are those violations against provisions contemplated in the UEFA Safety and Security Regulations. Remarkably, Article 40 UEFA Safety and Security Regulations states as follows:

The promotion or announcement, by any means, of political messages or of any other political actions inside or in the immediate vicinity of the stadium is strictly prohibited before, during and after the match.
33. In case Article 16 (1) DR is foreseen, the task for the UEFA disciplinary bodies is to analyse if the match organiser was diligent whilst organizing and implementing the appropriate security measures.
34. Appellant in this regard holds that it implemented every possible measure to impede the above incident to happen, being the banner removed before the match begun and, even, before the delegate could witness it with his own eyes.
35. This UEFA disciplinary body does not comply with the arguments raised by the Appellant insofar as a negligent attitude may result already from the fact that the match organiser could not prevent a political banner being displayed at the vicinity of the stadium.
36. It shall be underlined that the wording of Article 44 UEFA Safety and Security is clear in that political messages in the immediate vicinity of the stadium are prohibited. Consequently, an infraction of the above provision is at stake once a banner containing

a political message is displayed and the attitude of the match organiser has been proved as negligent. It is irrelevant in this case, if the banner was removed from its location once it was displayed. This will only be taken into account in relation to determine the appropriate disciplinary measure.

37. Therefore, the examination by this UEFA disciplinary body shall be focused on the efficiency and effectivity of the security measures that may have prevented or avoided the occurrence of the said infringement.
38. In this regard, the Appeals Body is comfortable satisfied with the fact that the action of displaying the banner in the vicinity of the stadium was not prevented and/or impeded by the match organiser in any event. Only once it hung the latter reacted and removed it.
39. There are several circumstances in this case that expose the negligent attitude of Appellant. It shall first be taken into account that the banner was, according to the Appellant's own statements, embedded in a "counter-campaign" against the decision of the club to transfer 1€ of each ticket sold to improve the refugee's situation in Poland. This "counter-campaign" was initiated on internet. In this context, the club, or its security personnel, shall have been aware that a campaign initiated on internet requesting people not to attend the match would have reasonably an expression that day of the match. Here, the club shall have instructed its security personnel in the extent that such political expressions are prohibited and not fit for a sport's event inside and around the stadium in accordance to Article 16 (1) DR, ordering any public demonstration to be impeded by any means.
40. Regretfully, Appellant has not provided any evidence in this respect, as well as it has been clearly demonstrated that the banner hung in front of Gate 26, see in front of the security responsible of this gate without any impediment exerted by the latter. No relevant circumstance has been put forward that may lead to the conclusion that it was not possible to impede the banner to be hung. In addition, the security personnel had plenty of time to impede it, bearing in mind the size of the banner, the preparation needed and the time to properly display it.
41. Briefly, as it is to be deducted from the Appellant submission's no measure was taken by the security responsible which may lead to conclude that they may have tried to impede the perpetrators to act in this way, as well as the circumstances of this case do not lead to conclude that the imposition of any preventive action may not in any sort possible.
42. This becomes even more clearer in the light of the Appellant's own statements in that the persons hanging the banner were not violent as they peacefully accepted the indications to remove the banner once it hung on the wall and the realization of the said infringement was committed.
43. Consequently, as the attitude demonstrated of Appellant as regards the current matter was negligent and the conduct undertaken by the persons who hung the banner

infringed both Article 16 (1) DR and 44 UEFA Safety and Security Regulations, the Appellant shall bear responsibility.

44. On the other hand, Article 8 and Article 16 (2) DR contemplate what is commonly known as "principle of strict liability". It means that a member association or club that is bound by a rule of conduct laid down in UEFA's Statutes or regulations may be subject to disciplinary measures and directives if such a rule is violated as a result of the conduct of one of its members, players, officials or supporters and any other person exercising a function on behalf of the member association or club concerned, even if the member association or the club concerned can prove the absence of any fault or negligence.
45. Briefly, a club or an association is responsible for those inappropriate behaviours undertaken by its supporters, even if it is not in fault itself.
46. Regarding the question about the spatial application of Article 16 (2) DR, the Appeals Body deems here as well that it applies both to incidents occurred inside and around the stadium.
47. It is reasonable to conclude that the reference to the location given in Article 16 (1) DR, i.e "inside and outside the stadium" shall also apply to Article 16 (2) DR. It has no sense to limit the enforcement of Article 16 (1) DR and then at the next paragraph without any specific wording restrict even more the spatial application of Article 16 (2) DR.
48. The above becomes evident whilst reading Article 16 (2) (g) DR, which emphasizes that clubs and associations are responsible for "any other lack of order or discipline observed inside or around the stadium" coming from its supporters.
49. Once clarified this extent, the next step is if such a behaviour is to be considered as being committed by an Appellant's supporter.
50. In this context, the view of a reasonable and objective observer becomes decisive as to determine if the persons hanging the banner are to be linked to the Appellant.
51. The Appeals Body complies in this regard with the opinion handed over by the Control, Ethics and Disciplinary Body in its decision of 22 October 2015.
52. Regarding the notion of supporters the CAS jurisprudence has repeatedly stated that this notion is open. UEFA in its regulations leaves an open definition and provides hereby with a more comprehensive and reasonable scope of action on disciplinary matters. The use of the term "supporter" must remain open in order to be able to act against conducts of individuals that could harm the aims and values of UEFA (CAS 2007/A/1217 Feyenoord Rotterdam v/ UEFA).
53. Consequently, the UEFA disciplinary bodies can make use of those elements which may help from the perspective of an objective and reasonable observer to conclude to which group of supporters an infringement is to be attached.

54. Here it comes completely into the front line the relation between the campaign of donating 1 EUR of each ticket sold during the UEFA Europa League matches to the refugees and the “counter-campaign” created against this policy.
55. There is no doubt about the fact that the “counter-campaign” was aimed as to avoid other supporters to enter the stadium which speaks strongly for the argument that indeed these persons are to be linked to the club and consequently to be regarded from a disciplinary point of view as club’s supporters.
56. It needs to be stressed that the aim pursued by these persons was partially achieved as the attendance to the match was significantly lower than in other occasions as reported by the UEFA delegate.
57. As established by the first instance decision, it is to be deemed from a reasonable and objective point of view that a group of persons expressing their political ideas by means of a “counter-campaign” against a decision taken by the management of a club, show, first, a strong interest in the daily administration of the club, second, a particular stance as regards decisions taken by the latter and, third, an obvious intervention in this context not only by demonstrating its political convictions in the vicinity of the stadium, but also influencing directly on the assistance of other supporters to the stadium at an UEFA competition match.
58. Bearing the above in mind, the Appeals Body deems that the group of persons hanging the conflictive banner in the vicinity of the stadium is to be attached to the Appellant’s supporters. Consequently, Appellant is to be deemed responsibly for the violation of Article 16 (2) (e) DR as rightfully understood by the Control, Ethics and Disciplinary Body on 22 October 2015.

C. Determination of the disciplinary measure

59. It is the Appeals Body’s constant practice to consider the Control, Ethics and Disciplinary Body’s power of discretion to have been abused or exceeded if the first-instance body bases its decision on untrue or erroneous elements, does not apply fundamental legal principles, considers irrelevant facts or does not consider essential circumstances whose evaluation is compelling. In the opinion of the Appeals Body, none of this applies here.
60. The Appeals Body is of the opinion that the Control, Ethics and Disciplinary Body neither abused nor exceeded its broad powers of discretion.
61. It shall be taken into account that the Appellant’s previous records show concerning figures, as the displaying of political messages at football matches has been repeatedly undertaken by the Appellant’s supporters during the past seasons and the current one. The question that remains is if in fact only to impose fines would be enough as to reach the expected deterrent effect of the disciplinary measures. This question is obviously not to be answered by this disciplinary body which is attached to the decision of the first

instance and the requests of the parties, none of them contemplating another type of disciplinary measure.

62. Consequently, its decision complies with the principles of legality – to the extent of its power of appreciation – and proportionality.
63. On the basis of the above, the Appeals Body has no option but to uphold the initial decision and reject the appeal.

VI. Costs

64. The allocation of the costs of proceedings before the Appeals Body depends on the outcome of those proceedings. The Appeals Body decides at its own discretion how these costs are to be allocated to the various parties or borne by UEFA. The appeal fee is either deducted from the costs of proceedings or reimbursed (Article 44 (2) DR).
65. On this occasion, it is considered justified to charge all of the costs of this case to the Appellant, less the appeals fee which has already been paid.
66. In the present case, the costs of proceedings are €1,000.

Decision of 16 December 2015

S.S. Lazio

(red card; inadmissibility)

Circumstances of the case

In substance, according to the report of the referee, in the 83rd minute of the match, the S.S. Lazio (“the Appellant”) player wearing number 14, Balde Diao Keita (“the player”), deliberately struck an opposing player in the face with his hand. The player was sent off for violent conduct.

Legal framework: Article 52 DR

Decision

The Control, Ethics and Disciplinary Body considered that the act of the player, as described by the referee above, constitutes an assault under the terms of Article 15 (1) (e) of the Disciplinary Regulations. As a result, the Control, Ethics and Disciplinary Body decided to suspend the player for four (4) UEFA competition matches for which he would be otherwise eligible.

The appeal of S.S. Lazio is declared inadmissible. Consequently, the UEFA Control, Ethics and Disciplinary Body’s decision of 11 November 2015, is confirmed

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| Chairman: | Pedro Tomas (Spain) |
| Vice-Chairman: | Michael Maessen (Netherlands) |
| Members: | Björn Ahlberg (Sweden) Urs Reinhard (Switzerland) |

I. Facts of the case

1. The elements set out below are a summary of the main relevant facts, as established by the Appeals Body on the basis of the decision rendered by the Control, Ethics and Disciplinary Body on 11 November 2015 (the “Decision”), the official reports, the written submissions of the parties, the exhibits filed and the statements produced in the course of the Appeals Body proceedings. While the Appeals Body has considered all the facts, allegations, legal arguments and evidence submitted by the parties in these proceedings, it refers in the present decision only to the submissions and evidence it considers necessary to explain its reasoning.
2. In substance, according to the report of the referee, in the 83rd minute of the match, the S.S. Lazio (“the Appellant”) player wearing number 14, Balde Diao Keita (“the player”),

deliberately struck an opposing player in the face with his hand. The player was sent off for violent conduct.

3. In its decision of 11 November 2015, the Control, Ethics and Disciplinary Body considered that the act of the player, as described by the referee above, constitutes an assault under the terms of Article 15 (1) (e) of the Disciplinary Regulations. As a result, the Control, Ethics and Disciplinary Body decided to suspend the player for four (4) UEFA competition matches for which he would be otherwise eligible.
4. On 12 November 2015 at 10:43 a.m., the operative part of the decision of the Control, Ethics and Disciplinary Body was sent to the Appellant.
5. On 12 November 2015 at 15:11 p.m., S.S. Lazio requested the motivated decision, stating that *"by this email we are going to ask for the written grounds of the decision in order to lodge an appeal"*.
6. On 12 November 2015 at 16:25 p.m., UEFA forwarded the decision with grounds passed by the Control, Ethics and Disciplinary Body to the Appellant.
7. On 16 November 2015, the Appellant sent its grounds for the appeal to UEFA.

II. Summary of the proceedings before the Appeals Body

8. The grounds for appeal, submitted on 16 November 2015, can be summarized as follows:
 - The Appellant stated that the action of the player falls under the scope of Article 15 (1) (e) of the Disciplinary Regulations, i.e. under the scope of violent conduct / assault, but stressed that it cannot be considered as a "serious attack". Following a free-kick which was awarded to the opponent team, the player involuntarily touched the opponent player who was on the ground, the latter then quickly getting up engaging into a quarrel with the player, who was then trying to move away the opponent player with a knock to the face.
 - The Appellant's team was leading 2-0 at the time when the incident occurred, i.e. the player had no justified reason for this agitation.
 - The player has no previous record and was always behaving well, which is why a four match suspension is excessive and disproportionate.
9. On 24 November 2015, the UEFA Ethics and Disciplinary Inspector submitted her reply to the appeal, requesting that it be rejected and the costs charged accordingly, while stating the following:

Regarding the admissibility of the Appeal:

- According to the Art. 53 (2) of the UEFA Disciplinary Regulations, following the receipt of the motivated Control, Ethics and Disciplinary Body's decision, a

possible appellant has 3 days to send the intention to appeal, and following the intention to appeal 5 more days to send the grounds for the appeal.

- On 12 November 2015, the operative part of the decision of the Control, Ethics and Disciplinary Body was sent to the Appellant and on 12 November 2015, the Appellant requested the motivated decision, stating that “by this email we are going to ask for the written grounds of the decision in order to lodge an appeal”. Then, on 12 November 2015, UEFA forwarded the decision with grounds passed by the Control, Ethics and Disciplinary Body to the Appellant, and on 16 November 2015, the Appellant sent its grounds for the appeal.
- The UEFA Ethics and Disciplinary Inspector referred to Article 52 (3) of the UEFA Disciplinary Regulations and stated that the request for the motivated decision is only to be regarded as a request for grounds. Therefore, the Appellant was obliged to send its intention to appeal within three days following the notification of the motivated Control, Ethics and Disciplinary Body decision, but only sent its appeal on 16 November 2015, i.e. four days after the notification of the motivated Control, Ethics and Disciplinary Body decision. Therefore, the appeal is inadmissible.

Regarding the merits of the case:

- The player’s act of striking an opponent in the face, which did not occur while trying to win the ball and has nothing to do with the game, is an act by which the physical well-being of an individual is deliberately attacked and therefore constitutes an assault, which is punishable by a standard three-match suspension or a specified period under the terms of Article 15 (1) (e) of the UEFA Disciplinary Regulations. Besides, it is apparent from the footage that the player was not in effort to move away his opponent, as alleged by the Appellant.
 - As pointed out by the Control, Ethics and Disciplinary Body in the motivated decision, it is also true that the face of a person is to be considered physically dangerous and also shocking in terms of the public’s perception. The player directly targeted the dangerous part, so that he placed the physical well-being of his opponent in danger. In view of that violent conduct aimed to the particularly dangerous part of an opponent is to be considered as an aggravating circumstance.
 - According to the well-established practice of the Control, Ethics and Disciplinary Body, a clean history can be taken into consideration as a mitigating factor only in exceptional cases. The situation of the player who participated only in six UEFA matches and sent off in the last match, cannot be considered as good record and mitigating factor accordingly.
10. On 26 November 2015, the Appellant submitted its final position regarding the admissibility of the Appeal, stating that its request to receive the motivated Control, Ethics and Disciplinary Body decision explicitly contained the intention to appeal, since it was stated “(...) *in order to lodge an appeal.*” Therefore, the Appellant stressed that it observed all procedural deadlines, and in particular the three day deadline to send the intention to appeal and the five day deadline to send the grounds for the appeal.

III. Hearing

11. No hearing was held, since the Appellant requested that the proceedings be conducted in writing only and the Appeals Body did not raise any objection to this request.
12. The Appeals Body examined the entire case file, in particular the challenged decision, the grounds for appeal and the Ethics and Disciplinary Inspector's reply to the appeal, on 16 December 2015.
13. The parties' arguments are set out and examined below, in so far as they are relevant to the decision.

IV. Appeals Body Competence and Admissibility of the Appeal

14. Article 24 (4) of the UEFA Disciplinary Regulations states as follows: "The Appeals Body has jurisdiction to hear appeals against decisions by the Control, Ethics and Disciplinary Body and to rule on particular urgent cases referred to it directly by the chairman of the Control, Ethics and Disciplinary Body."
15. The Appeals Body acknowledged that the admissibility of the present Appeal is at dispute in the present proceedings and consequently the Panel thoroughly analysed the submissions of the Appellant, and in particular its dates and content.
16. In this regard, the Appeals Body recalled that on 12 November 2015, the dispositive part of the decision of the Control, Ethics and Disciplinary Body was sent to the Appellant, who subsequently and also on 12 November 2015 requested the motivated decision, stating that *"by this email we are going to ask for the written grounds of the decision in order to lodge an appeal"*.
17. In view of the above, the Appeals Body referred to the content of Article 52 (3) of the UEFA Disciplinary Regulations, where it is stated that *"any appeal lodged within the time limit for requesting a decision with grounds is regarded exclusively as a request for a decision with grounds"*. Based on the content of the aforementioned provision, the Appeals Body concluded that the Appellant's e-mail dated 12 November 2015 which was sent to the UEFA administration before the motivated decision with grounds was sent to the Appellant, can only be regarded as a request for a decision with grounds. The Appeals Body was convinced that the UEFA Disciplinary Regulations in Article 52 (3) clearly and with all distinction provide a rule of interpretation which has to be applied in the present case.
18. In this context, the Appeals Body emphasized that the content and wording of the Appellant's request for grounds is irrelevant as to the qualification of said e-mail, given that Article 52 (3) of the UEFA Disciplinary Regulations exactly orders how such request

has to be qualified. The Appellant, by stating in said e-mail that it was asking “*for the grounds of the decision in order to lodge an appeal*”, the Appellant was merely quoting and repeating the step-by-step procedures before the Appeals Body, given that requesting the motivated Control, Ethics and Disciplinary Body decision is an obligatory requirement for lodging an appeal.

19. The Appeals Body then recalled that following the receipt of the motivated Control, Ethics and Disciplinary Body decision on 12 November 2015, the Appellant had a first deadline it needed to observe and respect, which was the three-day deadline stipulated in Article 53 (2) of the UEFA Disciplinary Regulations, in order to lodge its declaration of the intention to appeal with the UEFA administration.
20. In this context, the Appeals Body recalled that the Appellant’s next submission was only lodged with the UEFA administration on 16 November 2015, i.e. four days after the receipt of the motivated Control, Ethics and Disciplinary Body decision on 12 November 2015. Given that the Appellant’s e-mail dated 12 November 2015, as it was established above, can only be regarded as a request for the motivated Control, Ethics and Disciplinary Body decision, the Appeals Body concluded that the Appellant did not lodge the obligatory declaration of the intention to appeal with the UEFA administration within the deadline stipulated in Article 53 (2) of the UEFA Disciplinary Regulations.
21. Moreover, the Appeals Body explained that Article 53 (3) (1) of the UEFA Disciplinary Regulations, which gives an additional deadline of five days to file the grounds for the appeal, are only applicable when the three-day deadline of Article 53 (2) of the UEFA Disciplinary Regulations has been respected. Consequently, the Appeals Body concluded that the grounds for the appeal which were sent by the Appellant to UEFA on 16 November 2015, could therefore not be taken into consideration.
22. Finally, the Appeals Body concluded that according to Article 53 (5) of the UEFA Disciplinary Regulations, given that these deadlines are not observed as it was established above, the Appeal is to be declared inadmissible.

V. Costs

23. The allocation of the costs of proceedings before the Appeals Body depends on the outcome of those proceedings. The Appeals Body decides at its own discretion how these costs are to be allocated to the various parties or borne by UEFA. The appeal fee is either deducted from the costs of proceedings or reimbursed (Article 44 (2) of the UEFA Disciplinary Regulations).
24. It is considered justified to charge all of the costs of this case to the Appellant, whose appeal is declared inadmissible.
25. In this case, since these proceedings were conducted by the Appeals Body with a Panel of five members, the costs of the proceedings are € 1’000.

Decision of 16 December 2015

Austrian Football Association

(assault)

Circumstances of the case

In substance, according to the report of the referee, in the 91st minute of the match, the player wearing no. 14, Fila Bernhard (the “player”) of the Austrian Football Association (the “Appellant”), was sent off for violent conduct. According to the report of the referee, the player kicked his opponent with brutality and without possibility to play the ball.

Legal framework: Article 15 (1) DR

Decision

The Control, Ethics and Disciplinary Body considered that the act of the player, as described by the referee above, constitutes an assault under the terms of Article 15 (1) (e) of the UEFA Disciplinary Regulations. As a result, the Control, Ethics and Disciplinary Body decided to suspend the player for three (3) UEFA competition matches for which he would be otherwise eligible

The appeal of the Austrian Football Association is rejected. Consequently, the UEFA Control, Ethics and Disciplinary Body’s decision of 16 November 2015, is confirmed.

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| Chairman: | Pedro Tomás (Spain) |
| Vice-chairmen: | Michael Maessen (Netherlands) Levant Bicakci (Turkey) |
| Members: | Björn Ahlberg (Sweden) Urs Reinhard (Switzerland) |

I. Facts of the case

1. The elements set out below are a summary of the main relevant facts, as established by the Appeals Body on the basis of the decision rendered by the Control, Ethics and Disciplinary Body on 16 November 2015 (the “Decision”), the official reports, the written submissions of the parties, the exhibits filed and the statements produced in the course of the Appeals Body proceedings. While the Appeals Body has considered all the facts, allegations, legal arguments and evidence submitted by the parties in these proceedings, it refers in the present decision only to the submissions and evidence it considers necessary to explain its reasoning.
2. In substance, according to the report of the referee, in the 91st minute of the match, the player wearing no. 14, Fila Bernhard (the “player”) of the Austrian Football Association

(the “Appellant”), was sent off for violent conduct. According to the report of the referee, the player kicked his opponent with brutality and without possibility to play the ball.

3. In its decision of 16 November 2015, the Control, Ethics and Disciplinary Body considered that the act of the player, as described by the referee above, constitutes an assault under the terms of Article 15 (1) (e) of the UEFA Disciplinary Regulations. As a result, the Control, Ethics and Disciplinary Body decided to suspend the player for three (3) UEFA competition matches for which he would be otherwise eligible.
4. The Decision with grounds was notified to the Appellant on 27 November 2015.

II. Summary of the proceedings before the Appeals Body

5. On 30 November 2015, the Appellant announced its intention to appeal against the Decision.
6. In the grounds for appeal, submitted on 1 December 2015, the Appellant stated that the act of the player did not constitute an assault but only an unsporting conduct, given that the player tried to play the ball but unfortunately arrived a bit late. In this context, the Appellant emphasized that the act of the player was not performed with brutality. Therefore, the Appellant stated that the sanction should be reduced to a two match suspension.
7. On 3 November 2015, the UEFA Ethics and Disciplinary Inspector submitted his reply to the appeal, requesting that it be rejected and the costs charged accordingly.

III. Hearing

8. No hearing was held, since the Appellant requested that the proceedings be conducted in writing only and the Appeals Body did not raise any objection to this request.
9. The Appeals Body examined the entire case file, in particular the challenged decision, the grounds for appeal and the Ethics and Disciplinary Inspector’s reply to the appeal, on 16 December 2015.
10. The parties' arguments are set out and examined below, in so far as they are relevant to the decision.

IV. Appeals Body Competence and Admissibility of the Appeal

11. Article 24 (4) of the UEFA Disciplinary Regulations states as follows: “The Appeals Body has jurisdiction to hear appeals against decisions by the Control, Ethics and Disciplinary

Body and to rule on particular urgent cases referred to it directly by the chairman of the Control, Ethics and Disciplinary Body.”

12. Pursuant to Articles 52 and 57 (b) of the UEFA Statutes, as well as Articles 22 and 24 of the UEFA Disciplinary Regulations, the Appeals Body is competent to deal with the case.
13. On 16 November 2015, the Appellant lodged its grounds for appeal by the set deadline and in the form required. The appeals fee was paid on time.
14. It follows that the Appeals Body has competence to decide on the present Appeal and that the Appeal is admissible. The Appeals Body may therefore consider its merits and can therefore re-examine the case in full, both factually and legally (Article 58 (2) of the UEFA Disciplinary Regulations).

V. Legal Considerations Of The Appeals Body

A. The legal framework.

15. According to Article 15 (1) (e) of the UEFA Disciplinary Regulations, suspension for three (3) competition matches or a specified period for assaulting another player present at the match.
16. According to Article 38 of the UEFA Disciplinary Regulations, facts contained in official UEFA reports are presumed to be accurate. Proof of their inaccuracy may, however, be provided.

B. In the case in hand

17. It remained undisputed during these procedures that in the 91st minute of the match, the player was sent off for fouling the opponent player. However, while the Control, Ethics and Disciplinary Body considered the act of the player an assault, given that the referee had reported that the player did not have the possibility to play the ball, the Appellant had argued that the player tried to play the ball but unfortunately arrived a bit late and did not commit the foul with brutality.
18. Subsequently, the Appeals Body took into account the arguments of the Appellant and took note of the video footage which was provided by the Appellant and which shows the incident under scrutiny.
19. After a thorough analysis of the video footage, the Appeals Body recapitulated the circumstances of the case at hand as follows. In view of the Appeals Body, after the team of the Appellant lost possession of the ball, it appears like some of the Appellant’s players were unhappy with the decision of the referee to not award a free-kick to the Appellant. When the opposing team started their counter attack, the player starting running back,

aiming directly to interfere with the opponent player who was pushing the ball deep into the Appellant's half.

20. The Appeals Body then came to the conclusion that when the player and his opponent finally made contact, not only did the player not have the possibility to play the ball, but also did he engage in the tackle in a very untypical way. The Appeals Body was convinced that by engaging in the tackle like the player did, it was clear that the player's only intention was to foul the player, be it to either stop the counter-attack or to rather take vengeance for the missed foul-call from before. The latter alternative is supported by the behaviour of the player who, after he committed the foul, immediately starts complaining to the referee about the alleged missed foul-call of the referee from the situation before.
21. In any case, without further engaging in any speculations about the player's true intention, the Appeals Body concurred with the conclusions of the Control, Ethics and Disciplinary Body, and in particular with the observation that the player did not have the possibility to play the ball, that he kicked the opponent in a brutal and reckless way and committed the foul intentionally.
22. Consequently, the Appeals Body came to the conclusion that the Control, Ethics and Disciplinary Body rightfully deemed that the act committed by the player constituted an assault in the sense of Article 15 (1) (e) of the UEFA Disciplinary Regulations.
23. Consequently, it therefore remains for the Appeals Body to examine whether the Control, Ethics and Disciplinary Body respected the regulations and legal principles, in particular those of legality and proportionality, or whether it abused its power of discretion by suspending the player for three UEFA competition matches for which he would be otherwise eligible.

C. Determination of the disciplinary measure

24. It is the Appeals Body's constant practice to consider the Control, Ethics and Disciplinary Body's power of discretion to have been abused or exceeded if the first-instance body bases its decision on untrue or erroneous elements, does not apply fundamental legal principles, considers irrelevant facts or does not consider essential circumstances whose evaluation is compelling. In the opinion of the Appeals Body, none of this applies here.
25. The Appeals Body is of the opinion that the Control, Ethics and Disciplinary Body neither abused nor exceeded its broad powers of discretion. Its decision complies with the principles of legality – to the extent of its power of appreciation – and proportionality.
26. In this regard, the Appeals Body recalled the argument of the Appellant who argued that the due to the lack of brutality of the act of the player, the sanction should be reduced to a two match suspension.

27. However, the Appeals Body recalled that the three-match suspension is the minimum sanction for an assault. Given that the Appeals Body had confirmed the decision of the Control, Ethics and Disciplinary Body and concurred in the view that the act of the player was performed with brutality, the Appeals Body deemed that the first instance body has complied with the principles of legality – to the extent of its power of appreciation – and proportionality. Moreover, the Appeals Body acknowledged that the Appellant failed to provide any further mitigating circumstances which would justify a reduction of the sanction which was imposed by the Control, Ethics and Disciplinary Body.
28. On the basis of the above, the Appeals Body has no option but to uphold the initial decision and reject the appeal.

VI. Costs

29. The allocation of the costs of proceedings before the Appeals Body depends on the outcome of those proceedings. The Appeals Body decides at its own discretion how these costs are to be allocated to the various parties or borne by UEFA. The appeal fee is either deducted from the costs of proceedings or reimbursed (Article 44 (2) of the UEFA Disciplinary Regulations).
30. It is considered justified to charge all of the costs of this case to the Appellant, whose appeal is rejected on all counts.
31. In this case, since these proceedings were conducted by the Appeals Body with a Panel of five members, the costs of the proceedings are € 1'000.

Decision of 16 December 2015

Borussia Dortmund

(illicit banner)

Circumstances of the case

In substance, according to the report of the UEFA match delegate, in the South Stand where the ultras fans of the home-team Borussia Dortmund (the “Appellant”) are located, a banner with the phrase “FREIHEIT FÜR BASTI” (FREEDOM TO BASTI) was displayed.

Legal framework: Article 16 (2) (e) DR

Decision

The Control, Ethics and Disciplinary Body considered that the flag displayed constituted an illicit banner which therefore fell under the scope of Article 16 (2) (e) of the UEFA Disciplinary Regulations. As a result, the Control, Ethics and Disciplinary Body decided to fine the Appellant € 10'000.

The appeal of Borussia Dortmund is rejected. Consequently, the UEFA Control, Ethics and Disciplinary Body’s decision of 19 November 2015, is confirmed.

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| Chairman: | Pedro Tomás (Spain) |
| Vice-chairmen: | Michael Maessen (Netherlands) Levant Bicakci (Turkey) |
| Members: | Björn Ahlberg (Sweden) Urs Reinhard (Switzerland) |

I. Facts Of The Case

1. The elements set out below are a summary of the main relevant facts, as established by the Appeals Body on the basis of the decision rendered by the Control, Ethics and Disciplinary Body on 19 November 2015 (the “Decision”), the official reports, the written submissions of the parties, the exhibits filed and the statements produced in the course of the Appeals Body proceedings. While the Appeals Body has considered all the facts, allegations, legal arguments and evidence submitted by the parties in these proceedings, it refers in the present decision only to the submissions and evidence it considers necessary to explain its reasoning.

2. In substance, according to the report of the UEFA match delegate, in the South Stand where the ultras fans of the home-team Borussia Dortmund (the “Appellant”) are located, a banner with the phrase “FREIHEIT FÜR BASTI” (FREEDOM TO BASTI) was displayed.
3. In its decision of 19 November 2015, the Control, Ethics and Disciplinary Body considered that the flag displayed constituted an illicit banner which therefore fell under the scope of Article 16 (2) (e) of the UEFA Disciplinary Regulations. As a result, the Control, Ethics and Disciplinary Body decided to fine the Appellant € 10’000.
4. The Decision with grounds was notified to the Appellant on 30 November 2015.

II. Summary of the proceedings before the Appeals Body

5. On 2 December 2015, together with its declaration of intention to appeal, the Appellant filed its grounds for appeal. In its statements, the Appellant, essentially, argued the following:
 - The banner has in fact something to do with football, given that the banner is designed in the colours of the Appellant (black and yellow) and the name “Basti” stands for a supporters of the Appellant whom the Appellant’s supporters want to remember.
 - The slogan which was displayed on the banner is in accordance with the fair play motto of UEFA because the statement incorporated on the banner advertises understanding, i.e. something peaceful. In any case, the statement “Freiheit für Basti” does not contain a statement or meaning which would infringe the peace of UEFA competitions.
 - Article 16 (2) of the UEFA Disciplinary Regulations needs to be applied respecting the legal principles proportionality and adequacy. In view of the basic right for freedom of speech, and by applying the aforementioned legal principles, not every expression of opinion should be banned.
 - The banner was displayed in the German “Bundesliga” and the German cup competition “DFB Pokal” for years. However, no disciplinary proceedings have ever been opened against the Appellant, despite the fact that the German Football Federation (DFB) and the German Football League (DFL) have a longstanding jurisprudence of banning illicit banners.
6. On 10 December 2015, the UEFA Ethics and Disciplinary Inspector submitted his reply to the appeal, requesting that it be rejected and the costs charged accordingly.

III. Hearing

7. No hearing was held, since the Appellant requested that the proceedings be conducted in writing only and the Appeals Body did not raise any objection to this request.
8. The Appeals Body examined the entire case file, in particular the challenged decision, the grounds for appeal and the UEFA Ethics and Disciplinary Inspector's reply to the appeal, on 16 November 2015.
9. The parties' arguments are set out and examined below, in so far as they are relevant to the decision.

IV. Appeals Body Competence and Admissibility of the Appeal

10. Article 24 (4) of the UEFA Disciplinary Regulations states as follows: "The Appeals Body has jurisdiction to hear appeals against decisions by the Control, Ethics and Disciplinary Body and to rule on particular urgent cases referred to it directly by the chairman of the Control, Ethics and Disciplinary Body."
11. The Appellant lodged its grounds for appeal by the set deadline and in the form required. The appeals fee was paid on time.
12. It follows that the Appeals Body has competence to decide on the present appeal and that the appeal is admissible. The Appeals Body may therefore consider its merits and can therefore re-examine the case in full, both factually and legally (Article 58 (2) of the UEFA Disciplinary Regulations).

V. Legal Considerations Of The Appeals Body

A. The legal framework.

13. According to Article 16 (2) (e) of the UEFA Disciplinary Regulations, all associations and clubs are liable for the following inappropriate behaviour on the part of their supporters and may be subject to disciplinary measures and directives even if they can prove the absence of any negligence in relation to the organisation of the match: the use of gestures, words, objects or any other means to transmit any message that is not fit for a sports event, particularly messages that are of a political, ideological, religious, offensive or provocative nature.
14. According to Article 38 of the UEFA Disciplinary Regulations, facts contained in official UEFA reports are presumed to be accurate. Proof of their inaccuracy may, however, be provided.

B. In the case in hand

15. To begin with, the Appeals Body recalled that the presence of the banner under scrutiny was not disputed by the Appellant. Therefore, the Appeals Body concluded that the only question in the case hand was whether the said banner was of an illicit nature and would therefore violate Article 16 (2) (e) of the UEFA Disciplinary Regulations.
16. Subsequently, the Appeals Body turned his attention to the first argument of the Appellant that the banner was displayed in the German “Bundesliga” and the German cup competition “DFB Pokal” for years without provoking any disciplinary proceedings in the process.
17. In this regard, the Appeals Body emphasized that it is neither bound by decisions taken by disciplinary bodies in the respective member associations, nor by any “non-decisions”, i.e. the decision not to open disciplinary proceedings for certain behaviours. The Appeals Body stressed that what might be regarded as acceptable or appropriate and might therefore be tolerated in stadiums in UEFA’s member associations and the domestic competitions is not necessarily and automatically regarded equally in UEFA competitions. Reference in this regard is made for an example to the decision of the UEFA Appeals Body in the disciplinary case 28736, by means of which FC Barcelona was sanctioned for displaying the Estelada, a Catalonian pro-independence flag which is apparently commonly displayed in the Spanish domestic competitions without provoking any legal procedures. Further reference is made to the disciplinary case 28221 involving FC Zenith, in which the latter club was sanctioned by the UEFA disciplinary bodies for displaying a banner showing a greater Russian Empire, a flag which was commonly accepted in stadiums in Russia.
18. As to the Appellant’s argument that Article 16 (2) (e) of the UEFA Disciplinary Regulations needs to be interpreted by also taking into account the basic right of freedom of speech, the Appeals Body could not concur with said argument.
19. In this regard, the Appeals Body stressed that the freedom of speech is a construct and a principle which is generally applied when determining the legal relationship between the state and privates. However, and without engaging in a theoretical and dogmatic discussion about the third-party applicability of fundamental legal or basic rights between privates, it still needs to be emphasized that UEFA is a private Swiss association entered in the register of companies under the terms of Article 60 et seq. of the Swiss Civil Code, which is why the said basic right and principle is not to be applied in the present case which clearly and solely concerns the legal relationship between two private parties. Even it would be applied, UEFA’s genuine interest in promoting football in Europe in a spirit of peace, understanding and fair play, without any discrimination on account of politics, gender, religion, race or any other reason, needs to be valued higher than the interest of supporters to commemorate criminals in football stadiums.
20. The Appeals Body further concluded that the question whether a banner is illicit in accordance with Article 16 (2) (e) of the UEFA Disciplinary Regulations needs to be analysed from an objective standpoint and looking at the particular circumstances of the

relevant situation which must be assessed. In this regard, it is not necessary that a flag subjectively intends to have a message which is not fit for a sports event, as it is only necessary to appear inappropriate to an objective observer.

21. According to Article 1 (1) of the UEFA Statutes, UEFA shall be neutral, politically and religiously. This general principle accomplished in the first article of the UEFA Statutes is fully in line with the already mentioned statutory objectives of this association, which prevails in Article 2 (1) (b), *inter alia*, that the objectives of UEFA shall be to: “promote football in Europe in a spirit of peace, understanding and fair play, without any discrimination on account of politics, gender, religion, race or any other reason”.
22. Moreover, the Appeals Body recalled that it cannot allow football matches organised by UEFA to become forums for people who want to abuse the game’s popularity to publicise their political or religious opinions. This is the reason why Article 16 (2) (e) of the UEFA Disciplinary Regulations expressly forbids the transmission of any message which is not fit for football during football matches.
23. Under this legal context, the UEFA disciplinary bodies had developed over the years a long standing case law as regards the use of banners at European football stadiums which are not fit for sport events. In this regard, the UEFA disciplinary bodies have considered that football stadiums are not the right place to display political, religious and ideological or any other messages that are not fit for sport events. In the eyes of the UEFA disciplinary bodies, the relevant factor in each case is the relationship between the potential message and the football match and how the said potential message can be understood not only by the home and away supporters at the stadium also by the objective viewers on television. This principle is even more relevant in a competition like the UEFA Champions League, which is followed by millions of supporters all around the world by different platforms.
24. In this context, which must be considered coherent and fully in line with the UEFA statutory objectives, the UEFA disciplinary bodies have considered banners in breach of Article 16 (2) (e) of the UEFA Disciplinary Regulations in a longstanding and consistent jurisprudence (e.g. in the disciplinary case 26518 involving Legia Warszawa), featuring banners by means of which clubs’ supporters commemorated convicted criminals who were currently in jail. From the report of the UEFA Ethics and Disciplinary Inspector, who did a thorough research in this matter, it can be clearly seen that the mentioned “Basti” is a convicted criminal who is currently serving jail time.
25. The Appeals Body further took into account that pretty obviously such conviction was not related to football whatsoever, which supports the argumentation of the Control, Ethics and Disciplinary Body which had stressed that the Appellant failed to explain why and how such banner could possibly be related to football. The slogan “freedom to Basti” is not only meant to remember the said “Basti”, but rather constitutes a direct claim which is somewhat directed against the German justice system and hence constitutes a claim with no relation to football whatsoever. The alleged fact that said Basti might also be a supporter of the Appellant cannot change this legal assessment of the circumstances at hand.

26. In view of all of the above, the Appeals Body could only conclude that the said banner is not fit for a sports event and violates Article 16 (2) (e) of the UEFA Disciplinary Regulations, thus having the consequence that the appellant should be sanctioned in accordance with such provision.
27. It therefore remains for the Appeals Body to examine whether the Control, Ethics and Disciplinary Body respected the regulations and legal principles, in particular those of legality and proportionality, or whether it abused its power of discretion to fine the appellant € 10'000.

C. Determination of the disciplinary measure

28. It is the Appeals Body's constant practice to consider the Control, Ethics and Disciplinary Body's power of discretion to have been abused or exceeded if the first-instance body bases its decision on untrue or erroneous elements, does not apply fundamental legal principles, considers irrelevant facts or does not consider essential circumstances whose evaluation is compelling. In the opinion of the Appeals Body, none of this applies here.
29. In this regard, the Appeals Body recalled that the appeal of the appellant was only directed against the question whether the two banners under scrutiny had met and therefore violated the requirements of Article 16 (2) (e) DR, whereas it was not directed against the sanction itself and against its proportionality.
30. In view of the above, the Appeals Body is of the opinion that the Control, Ethics and Disciplinary Body neither abused nor exceeded its broad powers of discretion. Given the moderate amount by which the appellant was fined, the decision of the Control, Ethics and Disciplinary Body decision complies with the principles of legality – to the extent of its power of appreciation – and proportionality.
31. On the basis of the above, the Appeals Body has no option but to uphold the initial decision and reject the appeal.

VI. Costs

32. The allocation of the costs of proceedings before the Appeals Body depends on the outcome of those proceedings. The Appeals Body decides at its own discretion how these costs are to be allocated to the various parties or borne by UEFA. The appeal fee is either deducted from the costs of proceedings or reimbursed (Article 44.2 DR).
33. It is considered justified to charge all of the costs of this case to the appellant, whose appeal is rejected on all counts.
34. In this case, since these proceedings were conducted by the Appeals Body with a Panel of five members, the costs of the proceedings are € 1'000.



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