



INTEGRITY DIVISION

DISCIPLINARY AND ETHICS UNIT

CASE LAW

Control, Ethics and Disciplinary Body Appeals Body CFCB Adjudicatory Chamber

WE CARE ABOUT FOOTBALL

July - December 2017

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Foreword

Dear Sir or Madam,

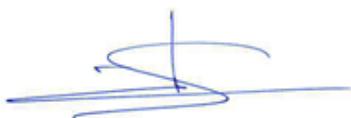
I am pleased to provide you with the case law of the UEFA Control, Ethics and Disciplinary Body, the UEFA Appeals Body, and starting with this publication the Club Financial Control Body (CFCB) Adjudicatory Chamber for the period July-December 2017.

According to Article 5& 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 and the CFCB Adjudicatory Chamber during this time period.

Yours faithfully,

U E F A

A handwritten signature in blue ink, appearing to be 'Emilio García', written over a horizontal line.

Emilio García
Managing Director 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 7 July 2017

FK Crvena Zvezda

(stairways blocked; doping control issues)

Circumstances of the case

The UEFA match delegate reported that in the central section of the North Stand of the stadium, FK Crvena Zvezda supporters were standing and blocking stairways during the whole game, impeding the free flow of spectators. Also, it was reported that during the half time break the club's supporters in the front row of the North Stand displayed a small flag featuring a portrait of Dragoljub Mihailović, a Yugoslav Serb general during the World War II involved in ethnic cleansing. FK Crvena Zvezda supporters also displayed a large text banner reading "*Let babies be born, it is the message of the North [stand], we do not want Serbia to be a land of faggots*") and chanted the same slogan. Regarding the alleged homophobic message, the club stated that the violation was rather discriminatory than racist. The club denies the occurrence of the racist incident, arguing that an interpretation was given to the Mihailović banner which did not reflect the truth. Regarding the blocking of stairways, the club stated that the incident occurred solely on one tribune

Legal framework Article 14 UEFA Disciplinary Regulations and Article 38 Safety and Security Regulations

Decision

In the present case, the CEDB recalled that the fight against racism and any form of xenophobic behaviour is a high priority for UEFA. UEFA has a policy of zero tolerance towards racism and discrimination on the pitch and in the stands. With regard to the homophobic banner, the CEDB could not make any sense of which the club would point to the assumption that the incident was rather discriminatory than racist, when both behaviours would obviously violate Art. 14 of the DR. Regarding the banner showing Dragoljub Mihailović, the CEDB was however not convinced whether such banner was in fact racist or discriminatory, given that there were in fact several possible interpretations which could possibly be given to the banner. Bearing in mind the previous record of the club with regard to Art. 14 DR violations, the CEDB decided to order the partial closure of the club's stadium during the next UEFA competition match in which the club would play as the host club, and in particular of the entire North Stand. Regarding the blocking of stairways, the CEDB decided that that a fine of € 8'000 is the adequate sanction.

Chairman:

Partl Thomas (AUT)

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 (hereinafter "CEDB") on the basis of the official reports, the written submissions, the exhibits filed and the statements produced in the course of the CEDB 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 as established by the official reports from the UEFA match delegate present at the match between FC Crvena Zvezda (hereinafter: "the club") and Floriana FC on 29 June 2017, can be summarized as follows:

Report of the UEFA match delegate:

- Central section North Stand the club's fans standing blocking stairways whole game impeding the free flow of spectators;
- FARE Observer has advised me of homophobic chanting, full details to follow;
- Banners held aloft early second half referring to homosexuals and one mentioning Kosovo, full details to follow and from Fare observer;
- FARE observer has advised me of an image of a war criminal held aloft, full details to follow.

Observations of the FARE observer

- At 21:20, during the half time break the club's supporters in the front row of the North Stand displayed a small flag featuring a portrait of Dragoljub Mihajlovic, a Yugoslav Serb general during the World War II, leader of the Chetniks - pro-axis movement in WWII Yugoslavia involved in ethnic cleansing. After the war, Mihailović was tried and convicted of high treason and war crimes. On 14 May 2015 Mihailović was rehabilitated after a ruling by the Supreme Court of Cassation, the highest appellate court in Serbia. The flag remained on display until the final whistle.
- At 21:38, i.e. approximately in the 53rd minute of the match, the club's supporters in the North Stand displayed a large text banner reading: *"Бебе нек' се рађају, порука је Севера, нећемо да Србија буде земља педера!"* (English translation: *"Let babies be born, it is the message of the North [stand], we do not want Serbia to be a land of faggots"*) and chanted the same slogan. The text banner remained on display for approximately two minutes, photos attached.

Additional report of the UEFA match delegate:

- I have to report that in the North Stand, and certainly in all the central sections, (occupied by the the club's ultras grouping) that all stairways were blocked by fans standing in them for the full duration of the game and this impeded the free flow of spectators. Photographs also attached of this.

II. The Respondent's position

3. The club in its statements dated on 6 July 2017 essentially stated the following:
 - The club denies the occurrence of the racist incident, pointing to the fact that more than 50 players of African descent have been members of the club and never encountered any problems in connection with racism.
 - The UEFA match delegate did not observe any racist chanting himself and only makes reference to the observations from the FARE observer. The delegate's statement in referring to the FARE observations is to be considered as hearsay and should consequently not be taken into account (lack of any proof).
 - Regarding the alleged homophobic message, the club stated that the violation was rather discriminatory than racist.
 - Regarding the banner showing General Dragoslav Mihajlovic, the club emphasized that it is very biased from FARE to merely display him as a war criminal, given that the group led by said general which was later turned into a royalist/nationalist Serb resistance movement was first a Yugoslav resistance movement. After he was initially sentenced for war crimes by the communist authorities, in 2015 the Belgrade High Court fully rehabilitated Dragoslav Mihajlovic. Also, he was awarded numerous medals posthumously, e.g. by the American president Harry Truman in 1948 for organizing and leading force in the resistance against the enemy who occupied Yugoslavia as well as saving Americans.
 - Regarding the blocking of stairways, the club stated that the incident occurred solely on one tribune. The reasoning behind the lack of intervention is that this represents a part of tradition for the hardcore fans and any intervention by the stewards or the police would be considered a provocation which would lead to potential clashes.
4. 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.

5. Pursuant to Article 52 of the UEFA Statutes, as well as Article 29 of the UEFA Disciplinary Regulations (hereinafter: "DR"), the CEDB is competent to deal with the case.
6. In light of the above, the UEFA Statutes, rules and regulations, in particular the DR and the UEFA Safety and Security Regulations are applicable to these proceedings.

B. The banners

a) Applicable legal framework and general remarks

7. 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.

8. 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.
9. 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.
10. According to Article 45 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

11. 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).
12. The fight against racism and any form of xenophobic behaviour 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/discriminatory 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.
13. In the case at hand, it was reported that at 21:38, i.e. approximately in the 53rd minute of the match between the club and Floriana FC, the club's supporters in the North Stand displayed a large banner reading: "Бебе нек' се рађају, порука је Севера, нећемо да Србија буде земља педера!" (translation: "Let babies be born, it is the message of the North [stand], we do not want Serbia to be a land of faggots") and chanted the same slogan. It was further reported that the banner remained on display for approximately two minutes.
14. The club stated that the occurrence of such reported incident was only observed by the FARE observer, which means that the delegate's statement in referring to the FARE observations is to be considered only as hearsay and should consequently not be taken into account. Therefore, the club argued that there was no proof for such incident. Regarding the alleged homophobic message, the club further stated that the violation was rather discriminatory than racist, while pointing to the fact that the club had many players of African origin and was obviously not racist.

15. The CEDB could not concur with the arguments of the club. The panel took into account that the initial report was undoubtedly provided by the FARE observer, while the UEFA match delegate however also stated that he saw the banner himself and even took a photo of the reported banner, the content of which was taken into account by the CEDB.
16. After having carefully evaluated the content of the banner, the CEDB came to the conclusion that the report of the UEFA match delegate and of the FARE observer were accurate and that the club failed to provide proof for a potential inaccuracy of the official reports. Quite on the contrary, the evidence on file speaks for itself and clearly proves the occurrence of the reported event. The CEDB could not make any sense of which the club would point to the assumption that the incident was rather discriminatory than racist, when both behaviours would obviously violate Art. 14 of the DR. Also, the club's explanation as to the high number of players of African origin were irrelevant as to the violation of Article 14 DR based on the display of a homophobic banner.
17. Given that the term "Fagot" usually refers to gay men in particular and is also used as a pejorative term for a "repellent male" or a homosexual person, this obviously constitutes an insult which is directed against the human dignity and is hence discriminatory. Therefore, this UEFA disciplinary body is convinced that the description provided by the UEFA delegate falls under the scope of Article 14 (1) DR and that the banner under scrutiny clearly contains a discriminatory, homophobic message which cannot be tolerated at an UEFA competition match.
18. Consequently, bearing in mind the principle of strict liability as mentioned before, as the discriminatory behaviour of the home-team supporters has been established, the club shall be held responsible for its supporters' discriminatory behaviour and must be sanctioned accordingly.
19. With regard to the banner showing an image of General Dragoslav Mihajlovic, the CEDB was however not convinced whether such banner was in fact racist or discriminatory, given that there were in fact several possible interpretations which could possibly be given to the banner. The CEDB gave the benefit of the doubt to the club who had given an explanation for the banner which seemed reasonable to the panel. Therefore, the CEDB decided not to impose an additional sanction on the club for the banner showing the image of General Dragoslav Mihajlovic.

C. Blocking of stairways

a) Applicable legal framework and general remarks

20. According to Article 38 UEFA Safety and Security Regulations, 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.
21. According to Article 45 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

22. The purpose of the UEFA Safety and Security Regulations is to maintain the safety and security of everyone present at the match (Article 2 of the UEFA Safety and Security Regulations). In order to achieve this goal, there are several provisions concerning spectator control at the stadium.
23. The CEDB 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 the contrary.
24. In the present case, in the North Stand and other central sections which were occupied by the club's ultras grouping, all stairways were blocked for the full duration of the game and this impeded the free flow of spectators.
25. The club argues that would not send any stewards into the ultra-section, as this would have created an additional security risk and potential clashes between the club's ultra-supporters and the stewards or police.
26. Indeed, the statement put forward by the club may even provide more concerns related to security issues that the club is facing, since the club implies that during games it is not in a position to ensure the implementation of the security measures as constituted by the UEFA Safety and Security Regulations, due to even more severe potential problems with its "ultra-supporters", increasing the chances that in emergency situations blocked stairways may impede the free flow of spectators.
27. In view of the above, the club as the host and match organiser, therefore violated the above-mentioned regulations and must be punished accordingly.

IV. The determination of the appropriate disciplinary measure

28. Regarding the discriminatory behaviour, the CEDB 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/discriminatory behaviour has entered into a new stage. It has resulted in more severe sanctions towards racist/discriminatory 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.
29. In the case in hand, the home-team supporters displayed a homophobic banner with a message with a clearly discriminatory, xenophobic, homophobic message. These circumstances were clearly established by the Delegates report.

30. Consequently, the CEDB recalled the content of Article 14 (2) DR where it is stipulated that the aforementioned violation is sanctioned with a minimum of a partial stadium closure.
31. Moreover, the CEDB referred to its previous jurisprudence in similar cases in which the partial closure of the stadium normally covered the section from which the discriminatory message has been displayed in order to directly target and sanction the part of the club's supporters which engaged in such xenophobic behaviour. Therefore, the CEDB considered that the closure of the entire North stand of the Rajko Miti stadium should be considered the appropriate and adequate sanction.
32. Bearing in mind the above, the CEDB decides to order the partial closure of the Rajko Miti stadium during the next (1) UEFA competition match in which the club would play as the host club, and in particular of the entire North Stand (emphasis added).
33. Regarding the blocking of the stairways, based on Article 17 DR, the CEDB 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.
34. In the present case, the CEDB identified and took into account the seriousness of the offence committed and deemed that a fine of € 8'000 is the adequate sanction.

Decision of 20 July 2017

Linfield FC

(Throwing of objects; field invasions by supporters)

Circumstances of the case

As a reaction to the second goal scored by Celtic FC, the club's players were celebrating at the corner flag in front of the North stand. Supporters of Linfield FC threw a plastic bottle and a cigarette lighter onto the pitch without hitting any player. In numerous occasions during the match, Linfield FC supporters threw items such as coins and plastic bottles towards the player, some of the items hitting the respective players. In the 73rd minute, a Linfield FC supporter jumped from the stand to pitch level but was immediately caught and pushed back into the stand by stewards. The club in its statements referred to the intensive security measures it implemented in such a high risk match, pointing to the fact that most of the incidents were a reaction to previous provocations by Celtic FC players.

Legal framework Article 16 (2) UEFA Disciplinary Regulations.

Decision

With regard to the throwing of objects, the CEDB noted that a large number of object were thrown onto the field of play on several occasions. In particular, when a specific Celtic FC player wanted to take a corner kick during the match, the club's supporters threw a large number of objects towards him, some of them according to the UEFA security officer hitting the player. The question as if those objects hit the player is irrelevant when assessing the responsibility of the club for the misconduct contemplated in Article 16 (2) (b) DR. The same stands as for the arguments referring to a previous provocation of the Celtic FC player, as well as for the pitch invasion which was admitted by the club. In view of the seriousness and multiplicity of the offences committed and the club's previous record, the CEDB decided to order the partial closure of the Linfield FC Stadium during the next UEFA competition match in which Linfield FC would play as the host club, and, in particular Linfield FC shall closed South stand lower sector I of the stadium. In addition, the club is fined €10'000.

Chairman: Partl Thomas (AUT)

Vice-Chairmen: Berzi Sándor (HUN)
Hansen Jim Stjerne (DEN)

Members: Gea Tomás (AND)
Leal João (POR)
Řepka Rudolf (CZE)
Wolff Joël (LUX)

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:

Reaction to Celtic second goal - Celtic players were celebrating at the corner flag in front of North stand lower sector I. Supporters of Linfield threw 1 plastic bottle and 1 cigarette lighter onto the pitch without hitting any player. 61 min - Player no 9 Celtic taking a corner kick in front of South stand lower sector I and the Linfield supporters in this sector threw 5 small items (coins) towards the player. According to the security officer (SO) some of the items hit the player. 65 min - Similar incident happened in the same zone to the same player taking a corner kick. At least 3 plastic bottles and 1 full coffee cup and multiple number of small objects were thrown at the player some hitting him. The referee gave the player a yellow for delaying the kick. 73 min - South stand lower sector I again - Acc. to SO: Linfield supporter jumped from the stand to pitch level but was immediately caught and pushed back into the stand by stewards. 77 min - South stand lower sector I again - Acc. to SO: Number of items were thrown towards a Celtic player taking a corner kick. He was not hit.

II. The Respondent's position

3. The Club in its statements dated on 18 July 2017 stresses the high risk category match it played in its stadium against Celtic FC on 14 July 2017. The club refers to the historical background of both clubs which is characterized by the fact that their main supporters are from opposing religion believes. This elevates the risks attached to potential conflicts between both fan groups.
4. The club points to the unprecedentedly detailed and extensive match security plan implemented during the match. It shall demonstrate that Linfield FC treated this game with the highest of priorities.
5. As well as the match safety preparations, Linfield engaged a Public Relations Agency, MCE Public Relations, at further considerable cost, and as part of our strategy to engage with a wider support base to pre-empt any possible crowd misbehavior. It included leaflets distributed to supporters upon the entrance to the stadium.
6. On the day of the game Linfield had engaged and paid for 272 professional stewards via "Eventsec" (including 136 Security Industry Authority ("SIA") accredited Stewards), 10 Linfield Club Stewards, and over 60 PSNI personnel including 50 Tactical Support Group ("TSG") PSNI officers, 12 Police spotters and Control Room staff.

7. In the build-up to the match Linfield received intelligence that a notorious Rangers fan (Celtic's bitter rivals from Scottish football) would try to seek entry and stadium safety was briefed to deny him entry. Also match PSNI and Security intelligence also indicated that individuals connected with local paramilitary and criminal organisations had infiltrated the Linfield support and had congregated at Section I of the South- West corner of the ground.
8. Regarding the throwing of objects incident, the club opposes to the fact that any of those objects hit the player Celtic FC player Leigh Griffiths as also established by the referee in his report. Indeed, the player received a yellow card, rightly for delaying the match.
9. The club connects the throwing of objects and the field invasion incident, with the attitude of the Celtic FC player Leigh Griffiths, who is in the origin of both incidents. In substance, the player's behavior was exceptionally antagonistic. It included religious/sectarian gestures towards the Linfield support and necessitated the deployment of further stewarding to calm tempers in that area.
10. This attitude caused also the limited pitch invasion as it came in the immediate aftermath of a yet further incident involving the Celtic FC number 9, Leigh Griffiths.
11. 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.

12. 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.
13. In light of the above, the UEFA Statutes, rules and regulations, in particular the UEFA Disciplinary Regulations are applicable to these proceedings.

B. The inappropriate behaviour of supporters: throwing of objects, crowd disturbances and field invasions

a) Applicable legal framework and general remarks

14. According to Article 16 (2) DR (emphasis added):

"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."*

15. According to Article 8 DR, which stipulates the principle of strict liability, and Article 16 (2) DR, which builds on this principle, a club is to be held responsible for the improper conduct of its supporters even if it might not be at fault itself.
16. According to Article 45 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

Remarks on the principle of strict liability

17. The club insists in that the incidents occurred during the match it implemented extensive and comprehensive security measures. The characteristics of the match offered a complex context from an organizational point of view due to the historical rivalry between the fans religious ideology and the proximity of an historical event, which had eventually risen up the potential risks connected to the match. It is according the club's perception that there is nothing in the preparation and in the implementation of the match to blame to the club.
18. Bearing the above in mind, this UEFA disciplinary body wishes to take this opportunity to address the question of the responsibility of away teams for the inappropriate behaviour of its supporters.
19. The Control, Ethics and Disciplinary Body recalls that 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 and in away matches. Indeed, it has long been established in case law that strict liability applies regardless of fault (*CAS 2013/A/3047 FC Zenit St. Petersburg vs Football Union of Russia*).
20. Further, the Control, Ethics and Disciplinary Body recalls that UEFA in its regulations to the notion of supporters leaves an open definition and provides UEFA 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 those conducts by individuals that could harm the aims and values of UEFA.

21. With this premises, the Control, Ethics and Disciplinary Body will proceed to analyse the different incidents occurred at the match.

Throwing of objects and crowd disturbances

22. Throwing of objects 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 attending the match, i.e other spectators, officials and even the players on the pitch. For this reason, throwing of objects is strictly forbidden.
23. Furthermore, UEFA cannot allow that violent actions, commonly known as “hooliganism” take place at football stadiums. Such attitudes go against the spirit of fair play and respect several times defended by UEFA in its Statutes, regulations and outside the strictly legal context.
24. In the case at hand, a large number of object were thrown onto the field of play on several occasions. In particular, when a specific Celtic FC player wanted to take a corner kick during the match, the club’s supporters threw a large number of objects towards him, some of them according to the UEFA security officer hitting the player.
25. According to Article 45 DR, facts contained in official UEFA reports are presumed to be accurate. Proof of their inaccuracy may, however, be provided, which in this particular case has not been done by the club.
26. Generally, the club holds that none of the objects thrown towards the player hit the latter. This extent had been expressed by the referee himself in the official report.
27. This UEFA disciplinary body deems that none of the arguments put forward by the club contests the fact that indeed objects were thrown against the player.
28. The question as if those objects hit the player is irrelevant when assessing the responsibility of the club for the misconduct contemplated in Article 16 (2) (b) DR. This can eventually play a role when determining the appropriate disciplinary measure.
29. The same stands as for the arguments referring to a previous provocation of the Celtic FC player, being this player the cause of the incidents. In this regard, it is standing practice of the UEFA disciplinary bodies not to accept provocation as an exonerating reason. Summarily, it is not acceptable to balance a wrong attitude with a wrong reaction. In this context, incidents would be endless and very likely to be justified if UEFA now accepts provocation as a factor. This is simply opposing the aim of UEFA’s disciplinary system i.e. the implementation of coercive and deterrent means to prevent and discipline infringement to its rules.
30. Bearing the above in mind, the Control, Ethics and Disciplinary Body recalls its previous consideration on the applicability of the principle of strict liability. Briefly, again, clubs and member associations are to be held liable for the conduct of their supporters, even if they are themselves not at fault. Consequently, he club is to be held responsible for the improper

conduct of its supporters in accordance with Article 16 (2) (b) DR and must be punished accordingly.

The field invasion

31. Because of the potential risk of invasions for security reasons, as nobody is aware of the real intentions of the intruders at the time of the incident, as well as the possible disturbances that may be attached with such conducts, invasions are strictly forbidden.
32. It is however not necessary that any person is injured or any further security issue may result from these actions, before a sanction can be taken. In addition, both the attempt of field invasion as well as the field invasion in itself are under the scope of action of Article 16 (2) DR.
33. In the case in hand, a Linfield supporter jumped from the stand to pitch level.
34. The above mentioned facts have been established by the UEFA delegate in his report and admitted by the club. The latter repeats again the same arguments as for the throwing of objects, which need to be rejected based on the above legal reasoning.
35. Consequently, the arguments of the club are irrelevant. The club is strictly liable for the misconducts committed by its supporter and nothing derives from the fact that this action, as the one of throwing of objects was the consequence of a previous and constant provocation of the Celtic FC player. The club in accordance with the above provisions shall be sanctioned accordingly.

IV. The determination of the appropriate disciplinary measure

36. Based on Article 23 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.
37. The UEFA disciplinary body recognises the efforts implemented by the club whilst organising the above mentioned match. However, it wishes to express his sorrow about the circumstances witnesses during the above mentioned match. The conduct of the supporters when throwing a large number of objects to the field of play and at the direction of an opponent player, shows a complete lack of respect of the UEFA regulations and of any civic behaviour.
38. The club infers that these supporters were provoked by the Celtic FC player and that none of the objects hit him. Truth is that the referee stated in his report that none of them hit the player, whereas the UEFA security officer expressly stated that at least in two occasions during the match some objects did. Accepting the fact that the objects didn't hit the player, which is arguably in the given circumstances, the incident already presents serious elements of consideration such as the throwing of a large number of dangerous objects, such as coins

and bottles. For their composition and the aim chased by the supporters these objects were certainly thrown a highly dangerous manner. It clearly threatened the integrity of the player in an extremely serious way.

39. 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 club's previous record: the club has already been punished for the inappropriate behaviour of its supporters, and, in particular, for the throwing of objects and setting and field invasion;
 - the fact that threw a large number of dangerous objects towards a player;
 - the fact that objects hit the player while he wanted to take a corner kick;
 - the insistent violent attitude from the supporters, deriving in a field invasion aimed at attacking the football player.

40. In the light of the above considerations, the Control, Ethics and Disciplinary Body decides to order the partial closure of the Linfield FC Stadium during the next (1) UEFA competition match in which Linfield FC would play as the host club, and, in particular Linfield FC shall closed South stand lower sector I of the stadium. In addition, the club is fined €10'000.

Decision of 20 July 2017

Linfield FC

(Throwing of objects; field invasions by supporters)

Circumstances of the case

In the 51st minute of the match between VPS Vaasa and Brøndby IF on 20 July 2017, the player Jan Kliment *"[w]ith ball not in playing distance kicked the legs of the opponent player with violence"* and was shown a red card by the referee for "violent conduct". In its statement, the club presented an explanation from the player, stating that *"[a]s I tried to run towards their goal, the opponent grabbed and held me for 3 seconds – and in the attempt to speed up I held my arm out and he fell to the ground"*.

Legal framework Article 15 (1) (e) UEFA Disciplinary Regulations.

Decision

The CEDB noted that none of the evidence provided by the club successfully rebuts this presumption of accuracy stipulated in Art. 45 DR. Indeed, the statement from the player does not even address the kick to his opponent. Based on the referee's report, this is a clear case of the player trying to physically harm his opponent. Consequently, the CEDB decided that player's behaviour during the Match constituted assault under the terms of Article 15 (1) (e) DR and needs to be punished with a three match suspension.

Chairman: Partl Thomas (AUT)

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 (the "**CEDB**") on the basis of the official reports, the written submissions, the exhibits filed and the statements produced in the course of the CEDB proceedings.
2. Whilst the CEDB has considered all of the facts, allegations, legal arguments and evidence submitted in these proceedings, it refers in the present decision only to the submissions and evidence it considers necessary to explain its reasoning.
3. The key facts of the present case can be summarised as follows:
 - in the 51st minute of the UEFA Europa League 2017/2018 match between VPS Vaasa and Brøndby IF (the "**Club**") on 20 July 2017 (the "**Match**"), the player Jan Kliment (the "**Player**") "*[with ball not in playing distance kicked the legs of the opponent player with violence*" and was shown a red card by the referee for "*violent conduct*".

II. The Respondent's position

4. In its statement dated 26 July 2017, the Club presented the following explanation from the Player:

"As I tried to run towards their goal, the opponent grabbed and held me for 3 seconds – and in the attempt to speed up I held my arm out and he fell to the ground".
5. The more detailed arguments made by the Club are set out below in so far as they are relevant.

III. Merits of the Case

A. UEFA's competence

6. Pursuant to Article 52 of the UEFA Statutes, as well as Article 29 of the UEFA Disciplinary Regulations (the "**DR**"), the CEDB is competent to deal with the case.
7. In light of the foregoing, UEFA's statutes, rules and regulations (in particular the DR) are applicable to these proceedings.

B. The Player

a) Applicable legal framework and general remarks

8. According to Article 15 (1) (e) DR, a suspension for three competition matches (or a specified period) applies in respect of the assault of another player (or another person present at the match).
9. According to Article 45 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

10. 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 a game, constitutes serious unsporting conduct to be classified under the general term “*assault*” in accordance with Article 15 (1) (e) DR.
11. According to the consistent 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.
12. In the present case, the Player kicked the legs of his opponent “*with violence*” in a situation where he could not play the ball. This act is described in the referee’s report, which carries the presumption of accuracy. None of the evidence provided by the Club successfully rebuts this presumption. Indeed, the statement from the Player does not even address the kick to his opponent. Based on the referee’s report, this is a clear case of the Player trying to physically harm his opponent.
13. Consequently, the Player’s behaviour during the Match constitutes assault under the terms of Article 15 (1) (e) DR and needs to be punished accordingly.

IV. The determination of the appropriate disciplinary measures

14. Based on Article 23 DR, the CEDB 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. Disciplinary measures can be reduced or increased by the competent disciplinary body on the basis of the circumstances of the specific case.
15. In the present case, the CEDB applies the three match suspension expressly provided for in Article 15 (1) (e) DR.

Decision of 20 July 2017

AS Monaco FC

(Setting off of fireworks; Doping Control issue - Anti-doping reg)

Circumstances of the case

Several pyrotechnical devices were set off by AS Monaco supporters during the match, some of which with smoke development. Also, the AS Monaco players Valère Germain and Benjamin Mendy who were picked for a doping control, did not directly go to the DC room but went to their dressing room instead. The club in its statements argues that Valère Germain doesn't speak English and could therefore not understand immediately what the assistant doping control officer told him. Regarding the player Mendy Benjamin, he had to leave the field of play at the 55th minute due to an injury. The player got the treatment immediately in the dressing room and he was only aware about the doping control after he was told when he got out of the "cold bath".

Legal framework Article 16 (2) UEFA Disciplinary Regulations, Article 6 of the UEFA Anti-Doping Regulations.

Decision

The CEDB underlined that it is of utmost importance in order to ensure the functioning and efficiency of the UEFA anti-doping programme that clubs respect and follow the regulations and directives set out by UEFA and act diligently when implementing such regulations. With regard to Mr. Germain, the CEDB deems that the above arguments put forward by the club are not sufficient to mitigate the fact that the player did not report to the doping control station immediately after the match, stating that understanding the language it is normally not necessary when approached by someone with a bib containing the wording "doping" on it. Regarding Mr. Mendy, the CEDB noted that the player was injured during the match and was already inside the dressing room when the draw took place. Hence, the CEDB deems that here the responsibility laid on the side of the club who was not able to properly inform the player in a timely manner. Thus, the club bears the responsibility over the incident. Overall, the CEDB decides to fine Mr. Germain € 5'000. In addition, the club is fined € 7'000 for its responsibility deriving from doping infringement and the improper conduct of its supporters.

<u>Chairman:</u>	Partl Thomas (AUT)
<u>Vice-Chairmen:</u>	Berzi Sándor (HUN) Hansen Jim Stjerne (DEN)
<u>Members:</u>	Antenen Jacques (SUI) Gea Tomás (AND) Leal João (POR) Řepka Rudolf (CZE)

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 contained in the UEFA delegate's report can be summarized as follows:

At 22nd min., red smoke bomb was lit in the visiting supporters sector 110 (the picture attached). As a result, a red smoke cloud developed over the upper tier of this and other sectors (picture attached). 2. At 38th min., white smoke bomb was lit in the visiting supporters sector 110 (picture attached). 3. At 69th min., straight after the visiting team had scored the goal, a red smoke bomb was lit in the visiting supporters sector 110.

3. Further on, the doping control officer stated the following:

After the end of the match, doctor Radivojevic, DC Assistant and I waited for the players in the tunnel. First came a player of FC Monaco No. 18 Valère Germain. DC assistant tried to inform him that he is selected for doping control and that must come together with him in DC station but the player ignored hurrying proceed to the dressing room. I tried to explain him that must come directly to the doping room, but he did not want to stand up, shook his hand and went into the dressing room. Dr. Radivojevic entered into dressing room to take him out and after a minute both of them went to DC room. After that, came the players of Juventus and escorted by DC Assistant went to DC room. I stayed in the tunnel to wait for Mendy Benjamin second player of FC Monaco selected for doping. All players passed, but there was no player Mendy Benjamin. The doctor of FC Monaco was with me, so I asked him where is the player. He replied that the player is already in the doping control room. I went into the DC room but the player was not there. I came back and again asked the doctor where is the player. He replied uncertainly that the player is probably still on the pitch. I went to the pitch but there were no longer any one player. I went back again to the doctor of FC Monaco, who all the time was standing in front of the dressing room of FC Monaco, and told him that the player is no in the pitch and that he must find him and bring to doping control. At that moment one masseur of FC Monaco said that Benjamin is in the dressing room and he invite him to come. Benjamin came to us and we went together to the DC room. I asked him why did not come directly to DC room after the end of the match for doping control. He told me he had been replaced in minute 55 and had gone to the dressing room for the cold bath and that no one informed him that had been selected for DC. I asked also the doctor of FC Monaco, who was briefed by my side about the procedure of notifying the players selected for DC and the that they must come directly to DC room. The doctor

explained that the player was replaced at minute 55 and had gone in the dressing room for treatment with cold bath. After that he has not seen him and forgot to inform that had been selected for doping control.

II. The Respondent's position

4. The Club in its statements dated on 23 Mai 2017 argues that its player Valère Germain doesn't speak English and could therefore not understand immediately what the assistant doping control officer told him. This is the reason why he entered previously to the dressing room.
5. Regarding the player Mendy Benjamin, he had to leave the field of play at the 55th minute due to an injury. The player got the treatment immediately in the dressing room and he was only aware about the doping control after he was told when he got out of the "cold bath".
6. Regarding the fireworks incident, the club states that the persons responsible for the incident have been arrested by the police and a procedure has been opened to ban them from entering any stadium in Italy, being another process opened in Monaco.
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 29 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 obligation to report directly to the doping control office

a) Applicable legal framework and general remarks

10. According to Article 6.01 of the UEFA Anti-Doping Regulations (the "**ADR**"), national associations and clubs participating in UEFA competitions undertake to assist UEFA in the implementation of its anti-doping programme described in these regulations.
11. According to Article 6.04 ADR, every player and team representative must comply with any instructions given by the doping control officer.

12. According to Article 6 .05 ADR:

"Every player designated to undergo a doping control:

is personally responsible for reporting immediately to the doping control station as notified (...);

is obliged to undergo any medical examination considered necessary by the DCO and to cooperate with the latter in this respect;

is obliged to provide a sample as directed by the DCO."

13. According to Appendix B (17) ADR, the teams or national associations concerned are responsible for ensuring that the players drawn to undergo doping controls are taken by the respective team representatives to the doping control station straight from the pitch as soon as the match is over. This applies even when chaperones are appointed by UEFA.

b) The responsibility of the club and the players

14. The Control, Ethics and Disciplinary Body underlines that it is of utmost importance in order to ensure the functioning and efficiency of the UEFA anti-doping programme that clubs respect and follow the regulations and directives set out by UEFA and act diligently when implementing such regulations.
15. It is also crucial that every player who is selected to participate in doping control reports to the doping control station immediately - otherwise the *ratio legis* of Article 7 (5) (a) ADR and the accuracy and integrity of the testing procedure is undermined.
16. As regards the player Valère Germain, the Club argues that he didn't understand when he was asked to go to the doping control room, because he can't speak English. Once he realised that he had to go to the doping control room he immediately went there.
17. The Control, Ethics and Disciplinary Body deems that the above arguments put forward by the Club are not sufficient to mitigate the fact that Valère Germain did not report to the doping control station immediately after the match.
18. In this regard, the Control, Ethics and Disciplinary Body wishes to emphasise again that, in order to comply with Article 7 (5) (a) ADR, it is the player's obligation to immediately report to the doping control station. In this regard, it does not matter if the player couldn't understand the language as it is normally not necessary when approached by someone with a bib containing the wording "doping" on it. Also the language confusion argument is not very convincing, since the words "doping control" resemble to the French translation "control du dopage". The player in these circumstance in which he is approached by someone wearing the said bib and referring to terms like "doping", which in the very end strongly resembles to the French translation – as stated above, should give an indication that he is required for something relating to this matter. If a case of confusion had arisen he should have seek for an explanation either from the doping assistant or even from his

team officials. The regulations are clear in this regard – players must immediately report to the doping control station, and Valère Germain did not.

19. As regards the case of Benjamin Mendy, the situation here is more complex. The player was injured during the match and was already inside the dressing room when the draw took place. In this regard, allegedly the player knew about the doping control request after receiving a treatment for his injury. This was confirmed by the club and also reflected in the doping control officer report.
20. Bearing the above in mind, the Control, Ethics and Disciplinary Body deems that here the responsibility laid on the side of the club who was not able to properly inform the player in a timely manner. Thus, the club bears the responsibility over the incident protagonized by its player.
21. Further to the analysis of the responsibility of the Club, it is recalled that clubs are responsible for ensuring that the players selected to undergo doping controls are taken by the respective team representative to the doping control station straight as the match is over in accordance with Appendix B (17) ADR. The Club was therefore responsible for making sure that both players went immediately to the doping control station, which he did not.
22. Bearing the above in mind, the Control, Ethics and Disciplinary Body considers that both the Club and the player Valère Germain shall be punished for violating the ADR.

C. The improper conduct of supporters: setting off fireworks

a) *Applicable legal framework and general remarks*

23. According to Article 16 (2) DR (emphasis added):

“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.”*

24. 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

25. Setting off fireworks is a very serious offence because not only can it disrupt the orderly running of the match but also, and more importantly, it can endanger the physical integrity of the perpetrator(s), other spectators, officials and even the players on the pitch. For this reason, the use of pyrotechnic devices in stadia is strictly forbidden.
26. According to Article 8 DR, which stipulates the principle of 'strict liability', and Article 16 (2) DR, which builds on this principle, a club is to be held responsible for the improper conduct of its supporters, even if it might not be at fault itself.
27. It has long been established in case law that strict liability applies regardless of fault. As a matter of fact, a 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).
28. In the present case, fireworks were lit by the Club's supporters.
29. This UEFA disciplinary body has taken into consideration the arguments brought forward by the club. However, even if it applauds the initiative of the club, this is not enough to exonerate the club's responsibility. The CEDB deems that this is an obvious example of a lack of discipline from the Club's supporters as such behavior could have endangered the physical integrity of those present in the stadium, as well as showing a complete disregard for any civic rules.
30. Consequently, according to Article 16(2)(c) DR above, the Club is to be held responsible for the misconduct of its supporters and must be penalised accordingly.

IV. The determination of the appropriate disciplinary measure

31. Based on Article 23 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.
32. With regard to the offences under the ADR, the Control, Ethics and Disciplinary Body has taken into consideration the fact that the Club and the player have no previous record from the last five years, however, given the nature of the infringements, this is not enough to justify a reduction in the punishment. The Control, Ethics and Disciplinary Body also took into account the seriousness of the offence committed, noting that every anti-doping violation is considered to be severe.
33. With regard to the fireworks, in the present case, the Control, Ethics and Disciplinary Body identified and took into account the seriousness of the offence.

34. In the light of the above considerations, the Control, Ethics and Disciplinary Body decides to fine AS Monaco FC player Valère Germain € 5'000. In addition, the club is fined € 7'000 for its responsibility deriving from doping infringement and the improper conduct of its supporters.

Decision of 11 August 2017

PFC Ludogorets 1945

(Direct red card; stairways blocked; improper conduct of the team)

Circumstances of the case

PFC Ludogorets 1945 supporters blocked the stairways and the emergency exit gate in 'Sector A2-A3' (behind the goal) throughout the Match. No effort was made by the club's stewards to address the problem. Also, the club's player Nascimento Da Costa Marcelo was dismissed by the referee for "violent conduct" after hitting an opponent. In addition, four yellow cards were issued to the club's players by the referee. PFC Ludogorets 1945 stated that the incident involving the Player involved "no excessive force or brutality", and argues that the offence should be considered only to be "rough play" or "unsporting behavior". The club also provides a video of the incident.

Legal framework Article 15 (1) (e) UEFA Disciplinary Regulations, Article 15 (4) UEFA Disciplinary Regulations, Article 38 UEFA Safety and Security Regulations.

Decision

The CEDB reviewed the video evidence and noted that the player hit an opponent on the head. This act is described in the referee's report as "violent conduct", and this report carries the presumption of accuracy. Further, the video provided by the club clearly shows the player hitting an opponent. Consequently, the player's behaviour during the match constitutes assault under the terms of Art. 15 (1) (e) DR and needs to be punished accordingly, in the present case with a three match suspension. With regard to the blocking of stairways and the blocking of stairways, the CEDB deemed a fine of €13'250 to be appropriate.

Chairman: Partl Thomas (AUT)

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 (the "**CEDB**") on the basis of the official reports, the written submissions, the exhibits filed and the statements produced in the course of the CEDB proceedings.
2. Whilst the CEDB has considered all of the facts, allegations, legal arguments and evidence submitted in these proceedings, it refers in the present decision only to the submissions and evidence it considers necessary to explain its reasoning.
3. According to the delegate's report for the UEFA Champions League 2017/2018 match between PFC Ludogorets 1945 (the "**Club**") and Hapoel Beer-Sheva FC on 2 August 2017 (the "**Match**"):
 - The Club's supporters blocked the stairways and the emergency exit gate in 'Sector A2-A3' (behind the goal) throughout the Match. No effort was made by the club's stewards to address the problem.
4. According to the referee's report for the Match:
 - The Club's player Nascimento Da Costa Marcelo (the "**Player**") was dismissed by the referee for "*violent conduct*" after hitting an opponent.
 - In addition, four (4) yellow cards were issued to the Club's players by the referee.

II. The Respondent's position

5. In its statement dated 8 August 2017, the Club states that the incident involving the Player involved "*no excessive force or brutality*", and argues that the offence should be considered only to be "*rough play*" or "*unsporting behaviour*". The Club also provides a video of the incident.
6. The more detailed arguments made by the Club are set out below in so far as they are relevant.

III. Merits of the Case

A. UEFA's competence

7. Pursuant to Article 52 of the UEFA Statutes, as well as Article 29 of the UEFA Disciplinary Regulations (the "**DR**"), the CEDB is competent to deal with the case.
8. In light of the foregoing, UEFA's statutes, rules and regulations (in particular the DR) are applicable to these proceedings.

B. The Player

a) Applicable legal framework and general remarks

9. According to Article 15 (1)(e) DR, a suspension for three competition matches (or a specified period) applies in respect of the assault of another player (or another person present at the match).
10. According to Article 45 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

11. 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 a game, constitutes serious unsporting conduct to be classified under the general term “*assault*” in accordance with Article 15 (1)(e) DR.
12. According to the consistent 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.
13. In the present case, the Player hit an opponent on the head. This act is described in the referee’s report as “*violent conduct*”, and this report carries the presumption of accuracy. Further, the video provided by the Club clearly shows the Player hitting an opponent.
14. It is clear to the CEDB that such an act interferes with the physical well-being of the opponent player. It is obviously very dangerous to hit the face/head of a person, and this cannot be explained away by claiming a player is nervous (as suggested by the Club in its statement). Here, the Player was clearly reckless in his actions.
15. Consequently, the Player’s behaviour during the Match constitutes assault under the terms of Article 15(1)(e) DR and needs to be punished accordingly.

C. Insufficient organisation

a) Applicable legal framework and general remarks

16. According to Article 49 of the UEFA Safety and Security Regulations (the “**SSR**”), any breach of the SSR may be penalised in accordance with the DR.

17. Article 38 SSR 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”*.
18. Under Article 45 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

19. Under Article 2 SSR, the purpose of the regulations is to maintain the safety and security of everyone present at the match. In order to achieve this goal the SSR contain several provisions concerning spectator control at the stadium (including Article 38 SSR).
20. It is well established that UEFA is entitled to put in place and enforce regulations aimed at protecting the safety of spectators, including the requirement that the organisers of football matches must keep stairways free of obstruction (in this regard, see the recent case of *CAS 2015/A/3926 FC Gelsenkirchen-Schalke 04 v UEFA*).
21. In the present case, according to the delegate, stairways were blocked during the Match.
22. Accordingly, the Club (as the host and match organiser) violated Article 38 SSR and must be punished accordingly.

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

a) Applicable legal framework

23. According to Article 15(4) DR a sanction can be imposed on a club if individual disciplinary sanctions were imposed by the referee on at least five players during the relevant match.

b) The responsibility of the Club

24. In the present case, four (4) of the Club’s players were cautioned by the referee during the Match and a red card was issued to the Player.
25. Accordingly, the Club is to be held responsible for the misconduct of its players and must be punished accordingly.

IV. The determination of the appropriate disciplinary measures

26. Based on Article 23 DR, the CEDB 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. Disciplinary measures can be reduced or increased by the competent disciplinary body on the basis of the circumstances of the specific case.

27. In the present case, for the Player, the CEDB applies the three (3) match suspension expressly provided for in Article 15(1)(e) DR.
28. With regard to the blocked stairways, the CEDB took into account the seriousness of the offence (noting that it poses a significant threat to the health and safety of supporters, players and other persons in the stadium).
29. Regarding the improper conduct of the team during the Match, the CEDB took into account the previous record of the Club.

Decision of 11 August 2017

FC Viktoria Plzeň

(Direct Red Card; Throwing of objects; Stairways blocked; improper conduct of the team)

Circumstances of the case

FC Viktoria Plzeň supporters blocked stairways in the North stand during the Match and a plastic cup was thrown onto the pitch by one of the club's supporters in the North stand in the 78th minute of the Match. Also, the club's player Krmencik Michal (the "Player") was dismissed by the referee because he "hit with his arm using excessive force against the face of his opponent". In addition, eight (8) yellow cards were issued to the Club's players by the referee. In its statement, the club suggests that the throwing of objects was not serious and claims that the delegate's report is confusing as regards the duration of the blocked stairways.

Legal framework Article 16 (2) UEFA Disciplinary Regulations, Article 6 of the UEFA Anti-Doping Regulations.

Decision

Regarding the red card, the CEDB noted that hitting an opponent in the face is obviously very dangerous and that Player was clearly reckless in his actions, which constitutes an assault (Art. 15 (1) (e) DR) and decided to punish the player with a three-match suspension. With regard to the throwing of objects and the blocking of stairways the CEDB noted that the club did not provide any evidence which would prove the inaccuracy of the official reports and thought, also taking into account the improper conduct of the team, that a fine of €28'000 is the appropriate sanction.

Chairman: Partl Thomas (AUT)

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 (the "**CEDB**") on the basis of the official reports, the written submissions, the exhibits filed and the statements produced in the course of the CEDB proceedings.
2. Whilst the CEDB has considered all of the facts, allegations, legal arguments and evidence submitted in these proceedings, it refers in the present decision only to the submissions and evidence it considers necessary to explain its reasoning.
3. According to the delegate's report for the UEFA Champions League 2017/2018 match between FC Viktoria Plzeň (the "**Club**") and Fotbal Club FCSB on 2 August 2017 (the "**Match**"):
 - The Club's supporters blocked stairways in the North stand during the Match.
 - A plastic cup was thrown onto the pitch by one of the Club's supporters in the North stand in the 78th minute of the Match.
4. According to the referee's report for the Match:
 - The Club's player Krmencik Michal (the "**Player**") was dismissed by the referee because he *"hit with his arm using excessive force against the face of his opponent"*.
 - In addition, eight (8) yellow cards were issued to the Club's players by the referee.

II. The Respondent's position

5. In its statement dated 6 August 2017, the Club suggests that the throwing of objects was not serious and claims that the delegate's report is confusing as regards the duration of the blocked stairways.
6. The more detailed arguments made by the Club are set out below in so far as they are relevant.

III. Merits of the Case

A. UEFA's competence

7. Pursuant to Article 52 of the UEFA Statutes, as well as Article 29 of the UEFA Disciplinary Regulations (the "**DR**"), the CEDB is competent to deal with the case.
8. In light of the foregoing, UEFA's statutes, rules and regulations (in particular the DR) are applicable to these proceedings.

B. The Player

a) *Applicable legal framework and general remarks*

9. According to Article 15(1)(e) DR, a suspension for three competition matches (or a specified period) applies in respect of the assault of another player (or another person present at the match).
10. According to Article 45 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*

11. 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 a game, constitutes serious unsporting conduct to be classified under the general term “*assault*” in accordance with Article 15(1)(e) DR.
12. According to the consistent 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.
13. In the present case, the Player hit an opponent in the face. This act is described in the referee’s report as involving “*excessive force*”, and this report carries the presumption of accuracy. It is clear to the CEDB that such an act interferes with the physical well-being of the opponent player. It is obviously very dangerous to hit the face/head of a person. Here, the Player was clearly reckless in his actions.
14. Consequently, the Player’s behaviour during the Match constitutes assault under the terms of Article 15(1)(e) DR and needs to be punished accordingly.

C. Insufficient organisation

a) *Applicable legal framework and general remarks*

15. According to Article 49 of the UEFA Safety and Security Regulations (the “**SSR**”), any breach of the SSR may be penalised in accordance with the DR.
16. Article 38 SSR 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*”.
17. Under Article 45 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

18. Under Article 2 SSR, the purpose of the regulations is to maintain the safety and security of everyone present at the match. In order to achieve this goal the SSR contain several provisions concerning spectator control at the stadium (including Article 38 SSR).
19. It is well established that UEFA is entitled to put in place and enforce regulations aimed at protecting the safety of spectators, including the requirement that the organisers of football matches must keep stairways free of obstruction (in this regard, see the recent case of *CAS 2015/A/3926 FC Gelsenkirchen-Schalke 04 v UEFA*).
20. In the present case, according to the delegate, stairways were blocked during the Match.
21. Accordingly, the Club (as the host and match organiser) violated Article 38 SSR and must be punished accordingly.

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

a) Applicable legal framework

22. According to Article 15(4) DR a sanction can be imposed on a club if individual disciplinary sanctions were imposed by the referee on at least five players during the relevant match.

b) The responsibility of the Club

23. In the present case, eight (8) of the Club's players were cautioned by the referee during the Match and a red card was issued to the Player.
24. Accordingly, the Club is to be held responsible for the misconduct of its players and must be punished accordingly.

E. The throwing of objects

a) Applicable legal framework and general remarks

25. 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; ...".*

26. According to Article 45 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

27. Throwing objects is a serious offence because not only can it disrupt the orderly running of the match but also, and more importantly, it can potentially endanger the physical integrity of other spectators, officials and even the players on the pitch. For this reason, the throwing of objects in stadia is strictly forbidden.
28. Further, the Club does not deny the offence.
29. The CEDB considers that such incident shows a lack of discipline from the Club's supporters and wishes to stress that there is an inherent risk to health and safety when objects are thrown in stadia.
30. According to Article 16(2)(b) DR, the Club is to be held responsible for the misconduct of its supporters and must be penalised accordingly.

IV. The determination of the appropriate disciplinary measures

31. Based on Article 23 DR, the CEDB 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. Disciplinary measures can be reduced or increased by the competent disciplinary body on the basis of the circumstances of the specific case.
32. In the present case, for the Player, the CEDB applies the three (3) match suspension expressly provided for in Article 15(1)(e) DR.
33. With regard to the blocked stairways and throwing of objects, the CEDB took into account the seriousness of the offences (noting that such behaviour poses a significant threat to the health and safety of supporters, players and other persons in the stadium) and the Club's previous records.
34. Regarding the improper conduct of the team during the Match, the CEDB took into account the previous record of the Club.

Decision of 17 August 2017

KKS Lech Poznań

(Setting off of fireworks)

Circumstances of the case

It was reported by the UEFA match delegate that the KKS Lech Poznań supporters lit around 45 Bengal lights in the 47th minute of the match at the exact same time. The club stated that it is disappointed by the behavior of this small group of supporters, however underlining that the incident did not result in any significant disturbance of the game, such as game stoppage or reduction of the TV coverage and that none of these Bengal lights were thrown.

Legal framework Article 16 (2) UEFA Disciplinary Regulations.

Decision

The CEDB referred to the principle of strict liability enshrined in Art. 8 and 16 (2) DR, noting that the club did not put forward any arguments in the present case which would breach the accuracy of the official UEFA report which expressly refers to the setting off of fireworks and is presumed to be accurate under Article 45 DR. The club merely referred to circumstances like that no major incidents derived from the ignition of the fireworks that are irrelevant for the assessment of the incident. The CEDB further recalled the previous record of the club, the very high number of fireworks and the potential risks created by doing so at the occasion of an away-match, and though that a fine of €30'000 and banning the club from selling tickets to its supporters for the next UEFA competition away match is the appropriate sanction.

Chairman: Partl Thomas (AUT)

Vice-Chairman: Hansen Jim Stjerne (DEN)

Members: Antenen Jacques (SUI)
Gea Tomás (AND)
Leal João (POR)
Lorenz Hans (GER)
Wolff Joël (LUX)

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:

Around 45 bengal lights in the 47th minute were lit at exact same time. No bengal light was thrown.

II. The Respondent's position

3. The Club in its statements dated on 3 August 2017, argues that it is disappointed by the behavior of this small group of supporters. However, the club underlines that the incident did not result in any significant disturbance of the game, such as game stoppage or reduction of the TV coverage. It stresses that none of these Bengal lights were thrown.
4. 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.

5. Pursuant to Article 52 of the UEFA Statutes, as well as Article 29 of the UEFA Disciplinary Regulations (DR), the Control, Ethics and Disciplinary Body is competent to deal with the case.
6. In light of the above, the UEFA Statutes, rules and regulations, in particular the UEFA Disciplinary Regulations are applicable to these proceedings.

B. The improper conduct of supporters: the setting off of fireworks

a) Applicable legal framework and general remarks

7. According to Article 16 (2) DR (emphasis added):

“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.”*

8. According to Article 8 DR, which stipulates the principle of ‘strict liability’, and Article 16 (2) DR, which builds on this principle, a club is to be held responsible for the improper conduct of its supporters, even if it might not be at fault itself.
9. According to Article 45 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

10. Setting off fireworks is a serious offence because not only can it disrupt the orderly running of the match but also, and more importantly, it can endanger the physical integrity of the persons who are lighting the fireworks, other spectators, officials and even the players on the pitch. For this reason, the use of pyrotechnic devices in stadiums is strictly forbidden.
11. In the present case, supporters threw a large number of Bengal lights.
12. Applying the principle of strict liability as described in Articles 8 and 16(2) DR, the club shall be held liable for the conduct of its supporters, even if it is not at fault itself. Indeed, it has long been established in case law that strict liability applies regardless of fault (in this regard, see page 12 of the Court of Arbitration for Sport case *CAS 2002/A/423 PSV Eindhoven*).
13. Further, the club did not put forward any arguments in the present case which would breach the accuracy of the official UEFA report which expressly refers to the setting off of fireworks and is presumed to be accurate under Article 45 DR. In particular, the club refers to circumstances like that fact that no major incidents derived from the ignition of the fireworks that are irrelevant for the assessment of the incident.
14. In light of the foregoing, the club is to be held responsible for the improper conduct of its supporters in accordance with Article 16 (2) (c) DR and must be punished accordingly.

IV. The determination of the appropriate disciplinary measure

15. Based on Article 23 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.
16. The Control, Ethics and Disciplinary Body is concerned about the dramatic images witnessed during the match. The large number of fireworks ignited in a restricted and small area of the stadium presents a highly dangerous situation. This UEFA disciplinary body recalls that this is not the first serious incident protagonized by the Lech supporters in the recent years. This, added to the fact that situations as the ones above mentioned match evidence the fact that supporters of the club at this away match did not respect the UEFA regulations or any civic rules. It is a surprise that no emergency situation derived from the above incidents, which was due more to luck than based on any proactive measure implemented by the club.
17. In the present case, the Control, Ethics and Disciplinary Body identified and took into account the following concrete circumstances:
 - the seriousness of the offence committed;
 - the club's previous record: the club has already been punished for the inappropriate behaviour of its supporters, and, in particular, for the ignition of fireworks.
 - the highly dangerous situation created by the fact of igniting a large number of fireworks in a restricted and small zone of the stadium.
 - the fact that it occurred at an away match, being these supporters completely disrespectful towards UEFA rules or any civic behaviour.
18. Bearing in mind the above, this UEFA disciplinary body considers that, as a warning to future events linked to the conduct of the club's supporters at away matches, a strong sanction is required. It is recalled that UEFA can't and doesn't accept situations as those witnessed during the match at its competitions.
19. In the light of the above considerations, the Control, Ethics and Disciplinary Body deems that 30'000€ shall be deemed as the adequate disciplinary measure. In addition KKS Lech Poznan is banned from selling tickets to its supporters for the next UEFA competition away match.

Decision of 25 August 2017

GNK Dinamo

(Setting off of fireworks; racist behaviour)

Circumstances of the case

The CEDB noted that the GNK Dinamo supporters displayed a banner in east stand with a "Celtic-cross". Likewise, approximately in the 46th minute into the game, several hundred of the club's supporters started chanting "Mamiću, cigane, odlazi iz svetinje!" (Translation: "Mamić, you gypsy, get out of our shrine"). The chant was repeated several times during the 46th and 48th minutes into the game. Also six fireworks were lit by the club's supporters. The club stated regarding the Celtic cross that this was the first time that its supporters have displayed such banner and that as soon as the UEFA Security Officer has noticed the banner and informed, the club's security officer removed it. Regarding the chants directed against Mr. Mamic, the club explained that this is still used by the group of ultras as an expression of fight against the club's ex-president, Mr. Zdravko Mamic and that this is not a case of classic racism.

Legal framework Article 16 (2) UEFA Disciplinary Regulations; Article 14 UEFA Disciplinary Regulations.

Decision

Regarding the Celtic cross, the CEDB that this is a symbol used by neo-Nazis worldwide and denotes "the supremacy of the white race", i.e. a clearly racist symbol. AS regards the chants, the CEDB recalls that the Court of Arbitration for Sport already had the opportunity to examine the nature of this chant in the light of Article 14 DR. It concluded that the chant was of a racist nature. Briefly, supporters by using the term "gypsy" in an insulting manner denigrated hereby an ethnic group, thereby also violating Art. 14 DR. Since this case concerns a first infringement of Article 14(1) DR, the CEDB decided that the Club shall be punished with a partial stadium closure, as provided for in Article 14(2) DR. For the setting off of fireworks, the club was punished with a fine of €5'000.

Chairman: Partl Thomas (AUT)

Vice-Chairman: Berzi Sándor (HUN)

Member: Larumbe Beain Kepa (ESP)

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:
 - A banner in east stand with "celtic-cross";
 - 73' 1 flare - 74' 1 Little smoke bomb - 79' 4 flares all in North stand but no affect to the match;
 - Approximately in the 46th minute into the game, several hundred Dinamo Zagreb supporters in the North Stand, started chanting 'Mamiću, cigane, odlazi iz svetinje!'. ("Mamić, you gypsy, get out of our shrine") The chant was repeated several times during 46th and 48th minutes into the game.

II. The Respondent's position

3. The club in its statements dated on 22 August 2017, argued that Dinamo has undertaken all the best practices in the organization of the match and in the prevention of the problems.
4. The club is aware of the danger of pyrotechnics and is strongly fighting against it. However, it emphasizes that on the above-mentioned match firelights were not thrown into the pitch and haven't endangered any spectator.
5. Regarding the celtic cross banner, the club deems that this was the first time that its supporters have displayed such banner. As soon as the UEFA Security Officer has noticed the banner and informed the security officer of Dinamo, the club has removed it. The mentioned cross was the part of one letter in the banner. There were no security risks or incidents marked in connection to this banner.
6. Regarding the chants directed against Mr Mamic, this is still used by the group of ultras as an expression of fight against our ex-president, Board adviser Mr Zdravko Mamic. UEFA is familiar with this situation as Dinamo has explained that this is not a case of classic racism. Therefore the club requests that UEFA doesn't consider these chants as racist behaviour described in Art 14 DR, if they were considered at all.
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 29 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 improper conduct of supporters: setting off fireworks

a) Applicable legal framework and general remarks

10. According to Article 16 (2) DR (emphasis added):

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 a provocative message that is not fit for a sports event, particularly provocative messages that are of a political, ideological, religious or offensive nature;*
- f) acts of damage;*
- g) causing a disturbance during national anthems;*
- h) any other lack of order or discipline observed inside or around the stadium.*

11. According to Article 45 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

12. Setting off fireworks is a serious offence because not only can it disrupt the orderly running of the match but also, and more importantly, it can endanger the physical integrity of the persons who are lighting the fireworks, other spectators, officials and even the players on the pitch. For this reason, the use of pyrotechnic devices in stadiums is strictly forbidden.
13. In the present case, the club's supporters ignited several fireworks during the above mentioned match.

14. Applying the principle of strict liability as described in Articles 8 and 16(2) DR, the club shall be held liable for the conduct of its supporters, even if it is not at fault itself. Indeed, it has long been established in case law that strict liability applies regardless of fault (in this regard, see page 12 of the Court of Arbitration for Sport case *CAS 2002/A/423 PSV Eindhoven*).
15. Further, the club did not put forward any arguments in the present case which would breach the accuracy of the official UEFA report which expressly refers to the setting off of fireworks and is presumed to be accurate under Article 45 DR.
16. Hence, the club is responsible for any violation conducted by its supporters against the UEFA Disciplinary Regulations. It includes the setting off of fireworks in accordance to Article 16 (2) (c) DR (*CAS 2013/A/3047 FC Zenit St. Petersburg vs Football Union of Russia*).
17. In light of the foregoing, the club is to be held responsible for the improper conduct of its supporters in accordance with Article 16 (2) (c) DR and must be punished accordingly.

C. The racist behaviour

a) Applicable legal framework and general remarks

18. 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.
19. According to 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.
20. Under 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 shall be punished with a minimum of a partial stadium closure.
21. According to Article 45 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

22. Article 14 DR is a special rule (building on the principle set out in Article 8 DR) which stipulates that clubs are responsible for the racist conduct of their supporters.
23. 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').

24. It is recalled that it has long been established in case law that strict liability applies regardless of fault (emphasis added). 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).
25. UEFA has a policy of zero tolerance towards racism and discrimination on the pitch and in the stands. Racist behaviour is considered a serious offence under the DR and must be punished (having regard to the circumstances and the relevant club's previous record) with the utmost severe sanctions.
26. In the present case, the club supporter's displayed a banner containing the celtic cross.
27. The Celtic Cross is a symbol used by neo-Nazis worldwide and denotes "the supremacy of the white race". It is one of the most widely used racist symbols. In football stadiums it often appears on banners, signs, scarves or stickers. It is often used as a replacement for the letter "O".
28. It is recalled that this kind of imagery is an instantly recognisable form of racism which draws upon the repugnant imagery of Nazism. The CEDB again emphasized that such behaviour is completely unacceptable and has no place in football.
29. In addition to the above, during the same match the club's supporters chanted several times 'Mamiću, cigane, odlazi iz svetinje!'. ("Mamić, you gypsy, get out of our shrine").
30. The CEDB recalls that the Court of Arbitration for Sport already had the opportunity to examine the nature of this chant in the light of Article 14 DR. It concluded that the chant was of a racist nature. Briefly, supporters by using the term "gypsy" in an insulting manner denigrated hereby an ethnic group.
31. Bearing the above in mind, this UEFA disciplinary body has no doubt that the chants given by the club's supporters fit with the wording of Article 14 DR and are to be deemed as discriminatory chants.
32. Further, the Club has not provided any evidence that would breach the accuracy of the UEFA delegate's official report and, as a matter of fact, has not disputed the occurrence of the reported incidents, which clearly states that the banner was displayed by its supporters and which is supported by the photographic evidence presented by the delegate and, as regards the chant, by a video footage provided by the FARE observer.
33. In light of the foregoing, the CEDB concludes that the conduct of the Club's supporters violated Article 14 (1) DR and must be punished accordingly.

IV. The determination of the appropriate disciplinary measure

34. Based on Article 23 DR, the CEDB 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.
35. With regard to the racist behaviour, the CEDB draws attention to the fact that following the implementation of the 2013 edition of the DR (and as subsequently confirmed again in the 2014 and 2016 editions 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.
36. Since this case concerns a first infringement of Article 14(1) DR, the Club shall be punished with a partial stadium closure (specifically the North Stand), as provided for in Article 14(2) DR.
37. Regarding the setting off fireworks incident and based on Article 23 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.
38. In the present case, the Control, Ethics and Disciplinary Body identified and took into account the following concrete circumstances:
 - the seriousness of the offence committed;
 - the club's previous record: the club has already been punished for the improper conduct of its supporters and, in particular, for the setting off of fireworks.
39. In the light of the above considerations, the Control, Ethics and Disciplinary Body deems that 5'000 shall be deemed as the adequate disciplinary measure.

Decision of 17 August 2017

Legia Warszawa

(Setting off of fireworks; illicit banner)

Circumstances of the case

It was reported by the UEFA match delegate that the Legia Warszawa supporters staged an anti-UEFA protest about 30 minutes before kick-off, unfurling a banner making reference to the €35'000 fine imposed on the club by UEFA. As the teams entered the pitch, a large banner was displayed implying that UEFA are pigs, additionally holding up blow-up plastic pigs. As the teams entered the pitch, a large amount of flares were ignited on either side of the banner. It was impossible to count the number, but it was more than likely to be in excess of 50.

Legal framework Article 16 (2) UEFA Disciplinary Regulations.

Decision

With regards to the banner, the CEDB takes this opportunity to recall, that it cannot allow football matches organized by UEFA to become forums for people who want to abuse the game's popularity to publicize their political or religious opinions. The CEDB further recalled that the setting off fireworks is a serious offence because not only can it disrupt the orderly running of the match but also, and more importantly, it can endanger the physical integrity of the persons who are lighting the fireworks, other spectators, officials and even the players on the pitch. In view of the long previous record of the club and the very negative picture and attitude of both the club supporters and the club itself, who is not able or willing to face a dramatic situation relating to the attitude of its supporters and to accept to comply with the UEFA disciplinary measures imposed against it, the CEDB deems that a partial closure and a fine €50'000 shall be deemed as the adequate disciplinary measures.

Chairman: Partl Thomas (AUT)

Vice-Chairman: Berzi Sándor (HUN)

Member: Larumbe Beain Kepa (ESP)

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:

Fans staged an anti UEFA protest before the commencement of the match. About 30 minutes before kick off, the fans in the North Stand unfurled a banner making reference to the 35,000 Euro fine imposed on the club by UEFA. As the teams entered the pitch, a large banner was produced implying that UEFA are PIGS. At this stage, they also held up blow up plastic pigs. As the teams entered the pitch and after the the UEFA PIG banner was produced., a large amount of flares were ignited on either side of the banner. It was impossible to count the number, but it was more than likely to be in excess of 50.

II. Merits of the Case

A. UEFA's competence.

3. Pursuant to Article 52 of the UEFA Statutes, as well as Article 29 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 improper conduct of supporters: the setting off of fireworks

a) Applicable legal framework and general remarks

5. According to Article 16 (2) DR (emphasis added):

"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 a provocative message that is not fit for a sports event, particularly provocative messages that are of a political, ideological, religious or offensive nature;*
- f. *acts of damage;*
- g. *causing a disturbance during national anthems;*
- h. *any other lack of order or discipline observed inside or around the stadium.*

6. According to Article 8 DR, which stipulates the principle of 'strict liability', and Article 16 (2) DR, which builds on this principle, a club is to be held responsible for the improper conduct of its supporters, even if it might not be at fault itself.
7. According to Article 45 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

8. In the present case, club supporters implemented a choreography which combined the setting of a large number of fireworks with the displaying of a banner as stated by the UEFA official delegate making reference to the 35,000 Euro fine imposed on the club by UEFA earlier this day. As the teams entered the pitch another large banner was produced implying that UEFA are PIGS.
9. Regarding the setting off fireworks is a serious offence because not only can it disrupt the orderly running of the match but also, and more importantly, it can endanger the physical integrity of the persons who are lighting the fireworks, other spectators, officials and even the players on the pitch. For this reason, the use of pyrotechnic devices in stadiums is strictly forbidden.
10. With regards to the banner, 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) of the UEFA Disciplinary Regulations expressly forbids the transmission of any message which is not fit for football during football matches.
11. Applying the principle of strict liability as described in Articles 8 and 16(2) DR, the club shall be held liable for the conduct of its supporters, even if it is not at fault itself. Indeed, it has long been established in case law that strict liability applies regardless of fault (in this regard, see page 12 of the Court of Arbitration for Sport case *CAS 2002/A/423 PSV Eindhoven*).
12. The Control, Ethics and Disciplinary Body reinstates the fact that the Club is responsible for any violation conducted by its supporters against the UEFA Disciplinary Regulations. It includes the setting off of fireworks in accordance to Article 16 (2) (c) DR. This has been confirmed by CAS award (*CAS 2013/A/3047 FC Zenit St. Petersburg vs Football Union of Russia*).

13. In light of the foregoing, the club is to be held responsible for the improper conduct of its supporters in accordance with Article 16 (2) (c) and (e) DR and must be punished accordingly.

III. The determination of the appropriate disciplinary measure

14. Based on Article 23 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.
15. The Control, Ethics and Disciplinary Body regards the incident occurred during the above mentioned match with great concern. The combination of setting off a large number of fireworks with the displaying of an offensive message as the one witnessed during the game is already shocking. In addition, the supporters were able to display a banner containing the quantity of a fine which coincides with a fine imposed against the club some hours before the match. In this regard, all the elements in the file, i.e. a large amount of fireworks, a extremely large banner and a message relating to a very recent fine, point to the cooperation of the club in the events that took place at the game, or at least to the acceptance in some degree of the club with the outcome of said incidents.
16. The above added to the fact that the club has already been punished for the improper conduct of its supporters in a several matches draws a very negative picture of the attitude of both the club supporters and the club itself, who is not able or willing to face a dramatic situation relating to the attitude of its supporters and to accept to comply with the UEFA disciplinary measures imposed against it.
17. Again, this UEFA disciplinary body is shocked about the reaction of the club towards the conduct of the supporters, permitting them to display such a large banner, which almost covers the whole sector, as well as to allow the entrance of the numerous fireworks, let alone the doubt cast about a possible cooperation of the club in the incidents occurred during the match, e.g. informing about the quantity of a fine imposed against the latter earlier this same day.
18. In the light of the above considerations, the Control, Ethics and Disciplinary Body deems that a partial closure and a fine €50'000 shall be deemed as the adequate disciplinary measures.

Decision of 21 September 2017

FC Spartak Moskva

(Setting off of fireworks; throwing of objects)

Circumstances of the case

In the 15th minute of the match, between 10-15 flares and Bengal lights were identified in the visiting sector of Spartak Moskva, followed by one rocket that was clearly fired from the stands in the direction of the pitch. The rocket followed the length of the pitch in direction of the center circle where the referee was positioned, missing the referee. According to the referee, the rocket missed him by approximately 5 meters. Following the incident, the match was immediately stopped for 2mins and 30 secs. In the 59th minute of the match, several red and white flares were again seen in the Spartak Moskva sector at the moment the away team scored 0-1. At the same time, some plastic cups were thrown on the pitch from the same North stands. The club argued that the incidents were caused by breaches of the host-team, allowing a large amount of unauthorized persons to get into the visiting sectors. Therefore, the missile which was shot into the direction of the referee was fired by a supporter of the club which was not among the club's supporters who had received the tickets from the official ticket quota.

Legal framework Article 16 (2) UEFA Disciplinary Regulations.

Decision

The CEDB stresses that an act such as firing fireworks onto the pitch has to be regarded as particularly dangerous and as a malicious act of violence and hooliganism which has no place in football in general and in the UEFA competitions such as the UEFA Champions League in particular. The CEDB further emphasized that any potential misconduct from the match organizer does not discharge the club from its responsibility regarding the behaviour of its supporters. Moreover, the CEDB could not concur with the differentiation made by the club between supporters who had purchased match tickets from the official ticket quota allocated to the club and "other supporters", who had purchased their tickets through other channels. Bearing in mind the long previous record of the club and the seriousness of the incidents, the CEDB considers that, as a warning to future events linked to the conduct of the club's supporters at away matches, a strong sanction is required, and deems that 60'000€ shall be deemed as the adequate disciplinary measure. In addition, the club is banned from selling tickets to its supporters for the next UEFA competition away match.

<u>Chairman:</u>	Partl Thomas (AUT)
<u>Vice-Chairmen:</u>	Berzi Sándor (HUN) Hansen Jim Stjerne (DEN)
<u>Members:</u>	Gea Tomás (AND) Larumbe Beain Kepa (ESP) Leal João (POR) Řepka Rudolf (CZE)

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 (the "**CEDB**") on the basis of the official reports, the written submissions, the exhibits filed and the statements produced in the course of the CEDB 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 as established by the reports from the UEFA match delegate present at the UEFA Champions League 2017/2018 match ("**the match**") between NK Maribor and FC Spartak Moskva ("**the club**") on 13 September 2017 can be summarized as follows:
 - *In the 15th minute 10-15 flares/bengals were clearly identified by MD on the stands at the North side visiting sector Spartak Moskva, (...) immediately followed by one rocket that was clearly fired from the stands in the direction of the pitch. The rocket followed the length of the pitch in direction of the center circle where the referee was positioned at that time. As per my sight from the VIP stand at that moment the rocket missed the referee. Immediately after this incident I moved to pitch side to have a better overview of the situation. According to the referee at half time the rocket missed him by approximately 5 meters. At this incident the match was immediately stopped for 2mins and 30 secs.*
 - *In the 59th/60th minute several red and white flares were clearly identified (picture) on the North Stands (visiting sector Spartak Moskva) at the moment the away team scored 0-1. At the same time some plastic cups were thrown on the pitch from the same North stands, which were immediately removed from the pitch by stewards.*

II. The club's position

3. The club in its statements dated on 18 September 2017, argued that the reported incidents were considerably caused by breaches of the host team with regard to the organization of security in the stadium, and in particular with regard to the measures taken to ensure adequate control over pass of the spectators to the visiting sectors of the stadium.
4. As a consequence of the above, many more than "*the owners of the tickets allocated within visiting quote (642 tickets totally) but for large amount of unauthorized person*" were admitted into the stadium and the visiting sectors which is why such sectors were largely overcrowded. In this regard, the club argued that the missile which was shot into the direction of the referee was fired by a supporter of the club which was not among the club's supporters who had received the tickets from the official ticket quota.
5. The club's security officers and stewards attending the match were always fully cooperating with the host club and did their best to stop offences committed by the spectators and to prevent offences, such as potentially illicit flags or further incidents involving fireworks.

6. 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.

7. Pursuant to Article 52 of the UEFA Statutes, as well as Article 29 of the UEFA Disciplinary Regulations ("DR"), the Control, Ethics and Disciplinary Body is competent to deal with the case.
8. In light of the above, the UEFA Statutes, rules and regulations, in particular the UEFA Disciplinary Regulations are applicable to these proceedings.

B. The improper conduct of supporters: the setting off and throwing of fireworks

a) Applicable legal framework and general remarks

9. According to Article 16 (2) DR (emphasis added):

"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."*

10. According to Article 8 DR, which stipulates the principle of 'strict liability', and Article 16 (2) DR, which builds on this principle, a club is to be held responsible for the improper conduct of its supporters, even if it might not be at fault itself.
11. According to Article 45 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

12. Setting off and throwing of fireworks is a serious offence because not only can it disrupt the orderly running of the match but also, and more importantly, it can endanger the physical integrity of the persons who are lighting the fireworks, other spectators, officials and even the players on the pitch. For this reason, the use of pyrotechnic devices in stadiums and the throwing of objects in general is strictly forbidden.
13. In the present case, it remained undisputed that the club's supporters ignited a large number of fireworks throughout the match, while one rocket was fired onto the pitch in the direction of the referee, barely missing the latter. Also, plastic cups were thrown on the pitch by the club's supporters.
14. The CEDB acknowledged the arguments provided by the club according to which the incidents could only occur due to the negligence from the organizing home-club, which allowed the club's supporters to bring fireworks into the stadium and to eventually set those off and fire one of them onto the pitch.
15. On a preliminary basis, the CEDB wanted to stress that an act such as firing fireworks onto the pitch has to be regarded as particularly dangerous and as a malicious act of violence and hooliganism which has no place in football in general and in the UEFA competitions such as the UEFA Champions League in particular.
16. In this regard, the CEDB emphasized that any potential misconduct from the match organizer does not discharge the club from its responsibility regarding the behaviour of its supporters. Possible violations of the UEFA Disciplinary Regulations by the host club are dealt with in separate proceedings with the party concerned. Hence, the CEDB referred to the long established case law by the Court of Arbitration for Sport where it is established that strict liability applies regardless of fault (cf. page 12 of the case *CAS 2002/A/423 PSV Eindhoven*). Applying the principle of strict liability as described in Articles 8 and 16 (2) DR, the club shall be held liable for the conduct of its supporters, even if it is not at fault itself.
17. Moreover, the CEDB could not concur with the differentiation made by the club between supporters who had purchased match tickets from the official ticket quota allocated to the club and "other supporters", who had purchased their tickets through other channels. The UEFA Disciplinary Regulations do not provide for such distinction, given that a club is responsible for the behaviour of all its supporters and not only a chosen few.
18. The CEDB established that the club did not put forward any arguments in the present case which would breach the accuracy of the official UEFA report which expressly refers to the setting off and firing off of fireworks as well as to the throwing of objects and is presumed to be accurate under Article 45 DR. Quite on the contrary, the club admitted the occurrence of these events.
19. In particular, the club refers to circumstances like that the club's security officers and stewards were always fully cooperating with the host club and did their best to stop offences committed by the spectators and to prevent offences, such as potentially illicit flags or further firework incidents. The CEDB acknowledged such positive efforts from the club, but

could only emphasize that as welcome as such efforts obviously were, this had no influence on the fact that fireworks were set off and even fired onto the pitch.

20. In light of the foregoing, the club is to be held responsible for the improper conduct of its supporters in accordance with Article 16 (2) (b) and (c) DR and must be punished accordingly.

IV. The determination of the appropriate disciplinary measure

21. Based on Article 23 DR, the CEDB 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.
22. The CEDB is concerned about the dramatic images witnessed during the match. The number of fireworks ignited in the stadium already presents a dangerous situation, but the fact that one firework was even shot in the direction of the referee like a rocket is shocking, extremely dangerous, putting the health of any protagonists on the pitch at stake, which itself is despicable to say the least. It is a surprise that no emergency situation derived from the above incidents, which was due more to luck than based on any proactive measure implemented by the club.
23. In the present case, the CEDB identified and took into account the following concrete circumstances:
 - the seriousness of the offence committed;
 - the club's previous record: the club has already been punished for the inappropriate behaviour of its supporters, and, in particular, for the ignition of fireworks.
 - the highly dangerous situation created by the fact that the missile was shot in the direction of the referee.
 - the fact that it occurred at an away match, being these supporters completely disrespectful towards UEFA rules or any civic behaviour.
24. Bearing in mind the above, this UEFA disciplinary body considers that, as a warning to future events linked to the conduct of the club's supporters at away matches, a strong sanction is required. It is recalled that UEFA can't and doesn't accept situations as those witnessed during the match at its competitions.
25. In the light of the above considerations, the Control, Ethics and Disciplinary Body deems that 60'000€ shall be deemed as the adequate disciplinary measure. In addition, the club is banned from selling tickets to its supporters for the next UEFA competition away match.

Decision of 21 September 2017

England Women

(Doping Control issue; Insulting / molesting acts)

Circumstances of the case

In the 60th min of the match, the England official Mark Sampson was verbally abusive to the UEFA VD, telling her "You better sit down, you little shit!" After the match, the Referee Liaison Officer was standing outside the referee changing room when the same official shouted aggressively at her: "You're a fucking disgrace, it's a fucking shame". He then picked up a metal pillar raising it above his head aggressively before throwing it down hard against the floor, shutting the door to the corridor, saying, "I'm going to close the fucking door in your fucking face". Also, the England player Jade Moore was selected for doping control. Instead of going directly to the Doping Control Room, she went to the team dressing room, followed by the chaperone. The association argues that neither the venue director or referee observer was a match official according to the UEFA regulations, i.e. Art. 15 (1) (d) DR does not apply. The association accepted the use of inappropriate language by its official as well as the metal pole interaction described in the delegate's report while however pointing to a number of factual discrepancies between statements and the delegate's report. Finally, Mr. Sampson apologizes for any inappropriate language he used both during and after the game. With regard to the doping control, the failure to go straight from the pitch to the doping control room was the result of an honest mistake following defeat in a semi-final and Ms Moore was only in the dressing room for a very short period of time.

Legal framework Article 13 UEFA Disciplinary Regulations; Article 15 (1) (d) UEFA Disciplinary Regulations; Article 6 of the UEFA Anti-Doping Regulations.

Decision

The CEDB explained that Art. 15 DR should be understood as an attempt by UEFA to protect officials who, in the context of a match, exercise a function that warrants particular respect. If UEFA would accept that officials act in the aggressive, insulting and insistent manner, then the needed relation of respect will end instantaneously. With regard to the doping-control incident, the CEDB emphasized that it is crucial that every player who is selected to participate in doping control reports to the doping control station immediately - otherwise the accuracy and integrity of the testing procedure is undermined. Regarding the England official, the CEDB deemed that a three match suspension is the adequate disciplinary measure regarding the circumstances of this case. The CEDB further warned the England player for her behaviour.

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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:
 - *Just before the 60th min of the match, coach of ENG was verbally abusive to UEFA VD, saying to her "You better sit down, you little shit!" After the match, the Referee Liaison Officer, Fijke Hoogendijk, was standing outside the referee changing room when the ENG coach approached her and shouted aggressively at her and with aggressive body language. He was shouting, "Your a fucking disgrace", "It's a fucking shame". He then picked up a metal pillar raising it above his head aggressively before throwing it down hard against the floor. Fijke was concerned he was going to strike her. He also shut the door to the corridor saying, "I'm going to close the fucking door in your fucking face". Fijke felt intimidated and offended by his actions.*
 - *No 11 ENG was selected for doping control. Instead of going directly to the Doping Control Room, she went to the team dressing room, followed by the chaperone. This was witnessed by the UEFA TV crew who were filming to ensure she went directly to the Doping Control Room.*

II. The Respondent's position

3. Regarding the incident involving the official Mr Mark Simpson, the association in its statements dated on 1 September 2017, argues that neither of the individuals, i.e. the venue director and the referee observer, towards the coach addressed his conduct was a match official according to the UEFA regulations or the IFAB Laws of the Game. Consequently, article 15 (1) (d) DR does not apply in this particular case.
4. The association accepts the use of inappropriate language towards the venue director and at the vicinity of the referee's observers, as well as he oved the metal pole described in the delegate's report in order to close the door between the tunnel and the corridor leading to the England player's changing room. In this regard, the associations points to a number of factual discrepancies between Mr Simpson statements and the delegate's report, such as the exact wording of his incorrect language and the action relating to the metal pole, i.e at no point he did lift the pole above his head, given its weight, this would have been impossible, as well as he denies having said "I'll shut this door in your fucking face".
5. In addition, the club refers to some mitigating circumstances:

- The build-up to the game had been particularly stressful with travel to the stadium disrupted and preparation time considerably reduced
 - The Disciplinary Body is respectfully reminded of the context to these incidents.
 - The incident involving the Venue Director came at a crucial time of the match with England trailing 1-0 with only 30 minutes left to play
 - The actions of the UEFA cameraman after the game are incredibly concerning and clearly aggravated the situation after the match
 - In his statement Mr. Sampson unreservedly apologises for any inappropriate language he used both during and after the game.
 - The incident after the match was inside the stadium and not in view of the public or media.
6. Regarding the doping issue, the association accepts that Ms Moore did not go directly from the pitch to the doping control room at the end of the match, but insists on the existence of some mitigating circumstances:
- The failure to go straight from the pitch to the doping control room was the result of an honest mistake following defeat in a European Championship semi-final.
 - Ms Moore only went into the players' changing room once the chaperone appointed to her had confirmed that she would accompany her.
 - Ms Moore was only in the dressing room for a very short period of time (a matter of seconds) and was accompanied at all times by her chaperone.
 - This is both The FA's and Ms Moore's first offence of this nature.
7. The more detailed arguments made by the association 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 29 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 misconduct of the official

a) Applicable legal framework and general remarks

10. According to Article 11 (1) of the UEFA Disciplinary Regulations, 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.
11. As for Article 11 (2) DR, a breach of this principles is committed by anyone: (b) whose conduct is insulting or otherwise violates the basic rules of decent conduct.
12. Pursuant to Article 15 (1) DR, "The following suspensions apply for competition matches:
(...)
(b) suspension for two competition matches or a specified period for directing abusive language at a match official;

(...)
(d) suspension for three competition matches or a specified period for insulting any match official".
13. According to Article 45 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 Coach

14. In the case in hand and according to the official reports, just before the 60th min of the match, Mr Mark Sampson, coach of the English team, was verbally abusive to UEFA VD, saying to her "You better sit down, you little shit!". Furthermore, after the match the head coach shouted aggressively against the referee liason officer "*Your a fucking disgrace*", "*It's a fucking shame*". Following this event, he picked up a metal pillar raising it above his head aggressively before throwing it down hard against the floor. Finally, the head coach shut the door to the corridor saying, "I'm going to close the fucking door in your fucking face".
15. It shall be recalled that according to Article 45 DR, facts contained in official UEFA reports are presumed to be accurate. Proof of their inaccuracy may, however, be provided.
16. The association does not object to the picture drawn by the UEFA official in his report. However, it denies the accuracy of the report insofar the official did not raise the metal pillar above his head and the wording he used against the referee liason officer was not the one contemplated in the official report. It also addresses to other factors such as stressful build up to the game, importance of this match for the club, a situation with the cameraman entering the dressing room of the team. These shall make understandable or justify in some extent the reaction of the head coach.
17. The association contests the fact that both the venue director and the referee's observer should be considered a match official, within the context of Article 15 DR. However the regulatory provisions cited by the club appear unconvincing, in so far as they have no

particular link with Article 15 DR. More importantly, Article 15 DR should be understood as an attempt by UEFA to protect officials who, in the context of a match, exercise a function that warrants particular respect. This includes the referee and assistant referees, but also officials such as the delegate, the venue director, the referee observer, the security officer and the doping control officer.

18. The need to protect these people and ensure they are respected by the players and the teams therefore justifies appropriate disciplinary measures under Article 15 DR. This is the only way to ensure that such officials can perform their duties, which are fundamental to the orderly running of matches.
19. Even accepting the theory of the association –quad non, and as a subsidiary consideration, even if the (irrelevant) legal reasoning put forward by the association in relation to match officials were to be accepted, the head coach official's behaviour would inevitably fall within the scope of Article 11 DR, specifically paragraph 2(b) thereof. The language he used and his attitude grossly violated the basic rules of decent conduct and his behaviour was insulting.
20. The Control, Ethics and Disciplinary Body after analyzing the official reports considers that the official incurred in an evident unsporting behavior, as recognized by the official himself, breaching the general principles of conduct. In this regard, any individual must comply with the principles of ethical conduct, loyalty, integrity and sportsmanship.
21. It must be stressed that the circumstances of this incident draws a picture in which the attitude of the team official is not to be accepted at football matches. Briefly, the UEFA officials and UEFA is not to be undermined by any person participating at a match. If UEFA would accept that officials act in the aggressive, insulting and insisting manner as it was done in the case in hand, then the needed relation of respect will end instantaneously.
22. Consequently, the actions of the club official Mr Mark Sampson as described by the referee above constitute an insulting conduct under the terms of Article 15 (1) (b) of the UEFA Disciplinary Regulations and needs to be punished accordingly.

C. The obligation to report directly to the doping control room and the misconduct of the players

a) Applicable legal framework and general remarks

23. According to Article 6.01 of the UEFA Anti-Doping Regulations (the "**ADR**"), national associations and clubs participating in UEFA competitions undertake to assist UEFA in the implementation of its anti-doping programme described in these regulations.
24. According to Article 6.04 ADR, every player and team representative must comply with any instructions given by the doping control officer.

25. According to Article 6 .05 ADR:

"Every player designated to undergo a doping control:

is personally responsible for reporting immediately to the doping control station as notified (...);

is obliged to undergo any medical examination considered necessary by the DCO and to cooperate with the latter in this respect;

is obliged to provide a sample as directed by the DCO."

26. According to Appendix B (17) ADR, the teams or national associations concerned are responsible for ensuring that the players drawn to undergo doping controls are taken by the respective team representatives to the doping control station straight from the pitch as soon as the match is over. This applies even when chaperones are appointed by UEFA.

27. Pursuant to Article 15 (1) DR, "The following suspensions apply for competition matches:

(...)

(b) suspension for two competition matches or a specified period for directing abusive language at a match official;

(...)

(d) suspension for three competition matches or a specified period for insulting any match official".

b) The responsibility of the club and the players

The association

28. In the case at hand, Ms Moore was selected for doping control. Instead of going directly to the Doping Control Room, she went to the team dressing room, followed by the chaperone.

29. The Control, Ethics and Disciplinary Body underlines that it is of utmost importance in order to ensure the functioning and efficiency of the UEFA anti-doping programme that clubs respect and follow the regulations and directives set out by UEFA and act diligently when implementing such regulations.

30. It is also crucial that every player who is selected to participate in doping control reports to the doping control station immediately - otherwise the *ratio legis* of Article 6.05 (a) ADR and the accuracy and integrity of the testing procedure is undermined.

31. It is recalled, once again, that clubs are responsible for ensuring that the players selected to undergo doping controls are taken by the respective team representative to the doping control station straight from the pitch as soon as the match is over in accordance with

Appendix B (17) ADR. The club was therefore responsible for making sure that Jade Moore went immediately to the doping control station, which he did not.

32. Bearing the above in mind, the Control, Ethics and Disciplinary Body considers that the association shall be punished for violating the ADR.

The player Jade Moore

33. The association accepts the fact that Ms Moore was selected for doping control. Instead of going directly to the Doping Control Room, she went to the team dressing room, followed by the chaperone.
34. In this regard, the Control, Ethics and Disciplinary Body wishes to emphasise again that, in order to comply with Article 6.05 (a) ADR, it is the player's obligation to immediately report to the doping control station. In this regard, it does not matter if the player is upset or frustrated. Nor does it matter if the player enters for any reason to the dressing room and happens shortly after to be in view of the doping control officer. The regulations are clear in this regard – players must immediately report to the doping control station, and Jade Moore did not.
35. Bearing the above in mind, the Control, Ethics and Disciplinary Body considers that the player Jade Moore shall be punished for violating the ADR.

IV. The determination of the appropriate disciplinary measure

36. Based on Article 23 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.
37. Regarding the misconduct of the coach, as underlined in the previous section the Control, Ethics and Disciplinary Body regards with great concern the fact that the head coach of an important football association as it is the English one behaved in the above described manner. It is without hesitation a cause of sorrow that persons deployed at matches who have no relation to the football performance of the teams are attacked in such an aggressive manner by team's officials. Even accepting the statements of the coach in full it can't be permitted that UEFA officials like the venue director and the referee liason officer endure the aggressive manners of others present at the match, let alone the head coach of one of the teams.
38. As stated above, applying either Article 11 DR or 15 DR would have the same outcome in the sense that the factual circumstances of this case draw a highly negative picture:
 - The aggressive and insulting attitude of Mr Sampson.

- The multiplicity of the events of the same nature addressed to different UEFA officials.
 - The fact that the head coach was using a metal object while addressing to the UEFA officials, which, at least, has been an element that threatened the integrity of the UEFA official as expressed by the delegate in the report.
39. Bearing the above circumstances in mind, the Control, Ethics and Disciplinary Body can't comply that the other circumstances submitted by the association have a mitigating nature as they do not tender the serious and despicable description of the facts in this case.
40. It is recalled that if this UEFA disciplinary body would impose a sanction separately for each of the insulting, aggressive and insistent actions addressed to each of the UEFA officials the sanction would go up to at least six matches of suspension. However, the Control, Ethics and Disciplinary Body is willing to examine jointly the different behaviours and consider a different punishment.
41. Consequently, In the light of the above, the Control, Ethics and Disciplinary Body deems that a three match suspension is the adequate disciplinary measure regarding the circumstances of this case.
42. With regard to the offences under the ADR, the Control, Ethics and Disciplinary Body has taken into consideration the fact that the association and the player have no previous record. The Control, Ethics and Disciplinary Body also took into account the seriousness of the offence committed, noting that every anti-doping violation is considered to be severe.
43. In the light of the above considerations, the Control, Ethics and Disciplinary Body warns the player and the association as regards the violation of the ADR in accordance with the standard disciplinary measure contemplated in Annex I of the DR.

Decision of 21 September 2017

PK-35 Vantaa

(Insulting / molesting acts; dismissal from the bench)

Circumstances of the case

According to the referee's report and the delegate's report, Mr. Pasi Jaakosaari, PK-35 Vaanta assistant coach, was dismissed in the 83rd minute for showing dissent to the referee. Mr. Jari Vaisanen, PK-35 Vantaa Coach, after the final whistle entered the referee's room without permission behaving in unsporting and aggressive manner.

Legal framework Article 11 (1) UEFA Disciplinary Regulations; Article 15 (1) (a) UEFA Disciplinary Regulations.

Decision

The CEDB, after analysing the official reports, considers that both officials incurred in an unsporting behaviour breaching the general principles of conduct. In this regard, any individual must comply with the principles of ethical conduct, loyalty, integrity and sportsmanship. The circumstances of this incident draws a picture in which, mainly the attitude of the head coach is not to be accepted at football matches. The authority of the referees, the officials and UEFA is not to be undermined by any person participating at a match. If UEFA would accept that coaches and officials show dissent in the aggressive, insulting, insisting and threatening manner as it was done in the case in hand, that would have an impact on the performance of the referees and the competition itself which is completely unacceptable, violating Art. 15 (1) (a) and (d) of the UEFA Disciplinary Regulations. Regarding Mr. Pasi Jaakosaari, the CEDB is not comfortable satisfied as to increase the standard minimum sanction of one match suspension. For Mr. Jari Vaisanen, the CEDB is impressed by the highly violent, insisting and aggressive behavior, warranting for a two-match suspension.

<u>Chairman:</u>	Partl Thomas (AUT)
<u>Vice-Chairmen:</u>	Berzi Sándor (HUN) Hansen Jim Stjerne (DEN)
<u>Members:</u>	Gea Tomás (AND) Larumbe Beain Kepa (ESP) Leal João (POR) Lorenz Hans (GER) Řepka Rudolf (CZE)

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:

Referee report:

Following warnings from the fourth official, Pasi Jaakosaari, PK-35 Vaanta assistant coach, persisted to show dissent towards me. He stepped out to beyond the dugout, remaining within the technical area, but leaving his allocated position with his arms raised, shouting in an aggressive manner, why not the same rules? repeatedly. Consequently, he was dismissed in the 83rd minute. After the game when I was in the dressing room, Jari Vaisanen, PK-35 Vantaa Coach, opened the door of the dressing room without my permission in an aggressive manner and shouted at me, my player has a broken ankle and you do nothing! He also shouted, you apply different rules for the two teams. He was politely asked to leave the room by the referee observer who happened also to be in the room after the match.

Delegate report:

Misconduct of 2 officials. Mr. Pasi Jaakosaari, PK-35 Vaanta assistant coach was dismissed in the 83rd minute by showing dissent to the referee. Mr. Jari Vaisanen, PK-35 Vantaa Coach, after the final whistle entered the referee's room without permission behaving in unsporting and aggressive manner (please refer to the Referee's report). According to the referee's report on incidents faced by the referees team stating as follows: "Following warnings from the fourth official, Pasi Jaakosaari, PK-35 Vaanta assistant coach, persisted to show dissent towards me. He stepped out to beyond the dugout, remaining within the technical area, but leaving his allocated position with his arms raised, shouting in an aggressive manner, why not the same rules? repeatedly. Consequently, he was dismissed in the 83rd minute. After the game when I was in the dressing room, Jari Vaisanen, PK-35 Vantaa Coach, opened the door of the dressing room without my permission in an aggressive manner and shouted at me, my player has a broken ankle and you do nothing! He also shouted, you apply different rules for the two teams. He was politely asked to leave the room by the referee observer who happened also to be in the room after the match". After the match I spoke with the referees team and the RO Ms Esther Azzopardi (MLT) who advised and confirmed me that the Coach Jari Vaisanen, PK-35 Vantaa Coach entered the room without any permission and started to shout in aggressive manner to the Referee. After the RO asked him to leave the referee's room politely he insisted that the Referee told him to come in. But the RO underlined with the referees team

that at no point in time the referee gave permission to him to go into the dressing room. The steward standing on duty and Mr. David Arthurs/Seaview stadium Match director/witnessed that after the final whistle Mr.Jari Vaisanen, PK-35 Vantaa Coach directed to referees room. The steward tried to stop him, he went back to the pitch. But after when he saw that the steward was occupied with his duties returned back indiscreet manner and it was then he managed to enter the dressing room of referees. The RO explained as well why she asked for identification of the Mr.Jari Vaisanen, PK-35 Vantaa Coach, after the incident with his entering thedressing room of referees without permission because the forth official at this match Ms.Ruthanne Wright could not identify precisely all the officials who were sitting on the substitute bench which could lead to mistake with caution and suspension and asked he RO kindly assist her.

II. Merits of the Case

A. UEFA's competence.

3. Pursuant to Article 52 of the UEFA Statutes, as well as Article 29 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 misconduct of the official

a) Applicable legal framework and general remarks

5. According to Article 11 (1) of the UEFA Disciplinary Regulations, 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.
6. As for Article 11 (2) DR, a breach of this principles is committed by anyone: (b) whose conduct is insulting or otherwise violates the basic rules of decent conduct.
7. Pursuant to Article 15 (1) (d) DR, "The following suspensions apply for competition matches: (b) suspension for two competition matches or a specified period for directing abusive language at a match official; (d) suspension for three competition matches or a specified period for insulting any match official".
8. Regarding Article 17 DR, 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.

9. According to Article 45 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 Coach

10. In the case in hand and according to the referee's report and the delegate's report, Mr.Pasi Jaakosaari, PK-35 Vaanta assistant coach was dismissed in the 83rd minute for showing dissent to the referee. Mr.Jari Vaisanen, PK-35 Vantaa Coach, after the final whistle entered the referee's room without permission behaving in unsporting and aggressive manner. This is described in detail above.
11. It shall be recalled that according to Article 45 DR, facts contained in official UEFA reports are presumed to be accurate. Proof of their inaccuracy may, however, be provided.
12. The Control, Ethics and Disciplinary Body after analyzing the official reports considers that both officials incurred in an unsporting behavior breaching the general principles of conduct. In this regard, any individual must comply with the principles of ethical conduct, loyalty, integrity and sportsmanship.
13. It must be stressed that the circumstances of this incident draws a picture in which, mainly the attitude of the head coach is not to be accepted at football matches. Briefly, the authority of the referees, the officials and UEFA is not to be undermined by any person participating at a match. If UEFA would accept that coaches and officials show dissent in the aggressive, insulting, insisting and threatening manner as it was done in the case in hand, that would have an impact on the performance of the referees and the competition itself which is completely unacceptable.
14. In this regard this disciplinary body wishes to remark that the status of the referees and UEFA officials require a special protection. Hence, any infraction committed against the latter entail strong disciplinary measures.
15. Consequently, the actions of Mr.Pasi Jaakosaari, PK-35 Vaanta assistant coach and Mr.Jari Vaisanen, PK-35 Vantaa Coach, as described by the referee and the delegate constitute a misconduct under the terms of Article 15 (1) (a) and (d) of the UEFA Disciplinary Regulations and needs to be punished accordingly.

III. The determination of the appropriate disciplinary measure

16. Based on Article 17 of the UEFA Disciplinary Regulations, 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.
17. Regarding the sending off of the assistant coach Pasi Jaakosaari, the Control, Ethics and Disciplinary Body recalls that the sanction contemplated in Article 15 (1) (a) (3) DR

constitutes the minimum punishment. Should the circumstances so dictate, the relevant disciplinary body may extend the duration of this suspension (article 17 DR).

18. Team officials as a leading and highly exposed figure in football matches bears a higher standard of responsibility as regards to his actions in compliance with the values of respect and fair play constantly remarked by UEFA.
19. Bearing the above in mind, this UEFA Control, Ethics and Disciplinary Body is not comfortable satisfied as to increase the standard minimum sanction of one match suspension. Even assuming that dissenting against the referee's decision in the manner it was done during the above mentioned match is not acceptable, it shall also be taken into account that the assistant coach was deprived from participating during the final minutes of the match as well as at the next UEFA competition match in which they would participate. The sanction is therefore already serious enough and comports the willing deterrent effect. Consequently, this UEFA disciplinary body deems that the standard minimum sanction of one UEFA competition match suspension is the adequate disciplinary measure.
20. Regarding the misconduct of the head coach Mr.Jari Vaisanen, the Control, Ethics and Disciplinary Body is impressed by the highly violent and insisting. Not only the coach as stated by the official reports gives a completely unacceptable attitude, but added to it his attitude was certainly aggressive.
21. In the light of the above, and considering that the coach bears a higher standard of responsibility as regards to his actions in compliance with the values of respect and fair play constantly remarked by UEFA, the Control, Ethics and Disciplinary Body deems that a two matches suspension is the adequate disciplinary measure regarding the circumstances of this case.

Decision of 19 October 2017

Paris Saint-Germain

(Stairways blocked; Late Kick-off; Improper conduct of officials; Setting off of fireworks)

Circumstances of the case

Home-club supporters in several sectors were blocking the stairways during whole match. Before kick-off, home supporters lit three flares. Late kick-off of 2min30secs, due to the fact that the home team left the dressing room late. They were also late in the second half (2mins). The club argues that ultra-supporters occupied the sectors in which the stairways were blocked, emphasizing that that people could circulate, causing no blocking. Regarding the setting off fireworks, the club insists that it was an isolated incident occurring before the match. The security responsible acted immediately and recover the fireworks. With regard to the late kick-off infringement, the medical staff had to intervene to treat the player Neymar." The club further rejects the responsibility of the coach in this kind of incidents as the principle of strict liability is not design to cover also such situations.

Legal framework Article 38 Safety and Security Regulations; Article 11 (2) UEFA Disciplinary Regulations; Article 16 (2) UEFA Disciplinary Regulations.

Decision

With regard to the fireworks, the CEDB noted that the club did not put forward any arguments which would breach the accuracy of the official UEFA report which expressly refers to the setting off of fireworks and is presumed to be accurate under Article 45 DR. The CEDB noted the same with regard to the blocking of stairways, stressing that the efforts made by the club are to be expected since they merely constitute the club's obligations pertaining to Art. 38 SSR. As regards the late kick-off, the CEDB stressed that respect needs to be paid to the nature of the UEFA Champions League, UEFA's flagship club competition, and that clubs needs to respect the principle of equal treatment and opportunities, as both teams are entitled to and need to be given the same duration of preparation prior to the match. The CEDB is willing to accept the arguments of the club as regards the lack of responsibility of his head coach with regard to the late kick off infringement and the injury of one of the players. In this particular case, the CEDB is comfortable satisfied that only the club shall be held responsible for the late kick-off of its team. Regarding the three mentioned infringements, the CEDB took into account the previous record of the club with regard to all three infringements and deemed that a fine of €40'000 is the appropriate sanction.

<u>Chairman:</u>	Partl Thomas (AUT)
<u>Vice-Chairman:</u>	Hansen Jim Stjerne (DEN)
<u>Members:</u>	Antenen Jacques (SUI) Wolff Joël (LUX) Gea Tomás (AND) Hans Lorenz (GER) Larumbe Beain Kepa (ESP) Joao Leal (POR)

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:

Home fans in sectors 111, 112, 113 and 114 (Tribune Auteuil) were during whole match blocking the stairways.

Before kick - off (20.43) home supporters lit three flares in sectors 112 and 113

Late kick - off (2.30') due to the fact that home team came to late out of the dressing room. They were also late in the second half (2') because of the same reason.

II. The Respondent's position

3. The Club in its statements dated on 4 October 2017 argues that ultra supporters occupied the sectors in which the stairways were blocked. They are known for being enthusiastic. It is without any doubt that people could circulate in there without an obstacles. The club insists that they dealt with this matter seriously and implemented the necessary measures and, specifically intervened punctually during this match to prevent any blockage.

4. Regarding the setting off fireworks, the club insists that it was an isolated incident occurring before the match. The security responsible acted immediately and recover the fireworks, as well as brought to the police the perpetrators.

5. Finally, with regard to the late kick off infringement, the medical staff had to intervene on the physical state of Neymar before entering in any risks. They reject the responsibility of the coach in this kind of incidents as the principle of strict liability is not design to cover also this situations. Article 11 DR speaks about real responsables for which the coach can't be targeted as such. If it were so it is the Sporting Director who would bear the consequences.

6. 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.

7. Pursuant to Article 52 of the UEFA Statutes, as well as Article 29 of the UEFA Disciplinary Regulations (DR), the Control, Ethics and Disciplinary Body is competent to deal with the case.
8. In light of the above, the UEFA Statutes, rules and regulations, in particular the UEFA Disciplinary Regulations are applicable to these proceedings.

B. The improper conduct of supporters: the setting off of fireworks

a) *Applicable legal framework and general remarks*

9. According to Article 16 (2) DR (emphasis added):

"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."*

10. According to Article 8 DR, which stipulates the principle of 'strict liability', and Article 16 (2) DR, which builds on this principle, a club is to be held responsible for the improper conduct of its supporters, even if it might not be at fault itself.
11. According to Article 45 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*

12. Setting off fireworks is a serious offence because not only can it disrupt the orderly running of the match but also, and more importantly, it can endanger the physical integrity of the persons who are lighting the fireworks, other spectators, officials and even the players on the pitch. For this reason, the use of pyrotechnic devices in stadiums is strictly forbidden.
13. In the present case, the club's supporters ignited three flares.
14. Applying the principle of strict liability as described in Articles 8 and 16(2) DR, the club shall be held liable for the conduct of its supporters, even if it is not at fault itself. Indeed, it has

long been established in case law that strict liability applies regardless of fault (in this regard, see page 12 of the Court of Arbitration for Sport case *CAS 2002/A/423 PSV Eindhoven*).

15. Further, the club did not put forward any arguments in the present case which would breach the accuracy of the official UEFA report which expressly refers to the setting off of fireworks and is presumed to be accurate under Article 45 DR.
16. In light of the foregoing, the club is to be held responsible for the improper conduct of its supporters in accordance with Article 16 (2) (c) DR and must be punished accordingly.

C. The late kick off

a) Applicable legal framework and general remarks

17. According to Article 11 (2) (g) a breach of UEFA Disciplinary Regulations is committed by anyone who is responsible for a late kick-off.
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.

b) The responsibility of the club and coach

19. In the case in hand, due to the fact that home team came to late out of the dressing room. They were also late in the second half (2') because of the same reason.
20. In this respect, it needs to be taken into account that every delay of the kick-off times might lead to serious consequences for the relationship of UEFA and its commercial partners.
21. In addition, respect needs to be paid to the nature of the competition of the UEFA Champions League is UEFA's flagship club competition. In this view, any behaviour tending to tarnish the image of this major competition cannot be accepted and must therefore be punished accordingly.
22. Moreover, respecting the principle of equal treatment and opportunities, both teams are entitled to and need to be given the same duration of preparation prior to the commencing of the match. Any unilateral extension of the kick-off time by a team, would infringe this fundamental principle.
23. Referring to the responsibility of the coach and as an introductory remark, it shall be pointed out that the wording of the provision contemplating the infringement of the late kick-off has been modified. The former UEFA Disciplinary Regulations Edition 2012 established that

a violation of the UEFA Regulations is committed by anyone who culpably reports for a match late or not at all. However, the current UEFA Disciplinary Regulations contemplate a violation by anyone who is responsible for late kick off. The approach between the notions of culpably reporting a late kick off and being responsible for the late kick off is evident, since the first needs, in principle, the intention to be late on the field of play and with the current version a negligent attitude is enough in order to conclude that a kick off timing violation is at stake.

24. Furthermore, as the head coach of a club or association is the highest authority of the team before, during and after the game, he is also responsible that his team is on the pitch on time.
25. The CEDB deems that the respect of the timing shall also be considered as being within the scope of those matters under the head coach's responsibility, because, obviously, assuring that the team is on the field of play on time is essential. It is the head coach who under normal circumstances decides when the team is prepared to get out of the dressing room. Fact is that the responsibility of the Club and the head coach are in the spotlight when respecting timings to be on the field of play.
26. The club in statements argued that the late kick off was due to a special medical treatment inferred on his player Mr Neymar.
27. This Control, Ethics and Disciplinary Body is willing to accept the arguments of the club as regards the lack of responsibility of his head coach Mr Unai Emery with regard to the late kick off infringement.
28. In this particular case the CEDB is comfortable satisfied that only the Club shall be held responsible for the late kick-off of its team. In this regard, the Control, Ethics and Disciplinary Body decides to close the disciplinary proceedings opened against the head coach Mr Unai Emery.

D. Insufficient organization: blocking of stairways

a) Applicable legal framework and general remarks

29. According to Article 49 of the UEFA Safety and Security Regulations, any breach of the said regulations may be penalised in accordance with the UEFA Disciplinary Regulations.
30. As stated in Article 2 of the UEFA Safety and Security Regulations, the purpose of the regulations 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.
31. Of particular relevance for the present case is Article 38 of the UEFA Safety and Security Regulations 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.”

32. Moreover, under 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 club

33. Under Article 2 of the UEFA Safety and Security Regulations, the purpose of the regulations is to maintain the safety and security of everyone present at the match. In order to achieve this goal the UEFA Safety and Security Regulations contain several provisions concerning spectator control at the stadium, including Article 38 of the UEFA Safety and Security Regulations.
34. It is well established that UEFA is entitled to put in place and enforce regulations aimed at protecting the safety of spectators, including the requirement that the organisers of football matches must keep stairways free of obstruction (in this regard, see the recent case of *CAS 2015/A/3926 FC Gelsenkirchen-Schalke 04 v UEFA*).
35. In the case at hand, home fans in sectors 111, 112, 113 and 114 (Tribune Auteuil) were during the whole match blocking the stairways.
36. The Control, Ethics and Disciplinary Body took note of the club’s arguments which, in substance, admitted the incident and refer mainly to character of his supporters who are amongst the most enthusiastic, as well as to the fact that no obstacle hindered the free flow of spectators.
37. The Control, Ethics and Disciplinary Body took into account the efforts the club made in connection with safety and security, while however stressing that these efforts are expected from the club since they merely constitute the club’s obligations pertaining to safety and security in the stadium , this in accordance with Art. 38 SSR. Therefore, such arguments could not be regarded as suited to break the accuracy of the official UEFA report.
38. Consequently, the Control, Ethics and Disciplinary Body came to the conclusion that the arguments provided by the club did not break the accuracy of the UEFA match delegate’s report, which is why the club as the host and match organiser violated Article 38 of the UEFA Safety and Security Regulations and must be punished accordingly.

IV. The determination of the appropriate disciplinary measure

39. Based on Article 23 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 v specific circumstances.

40. 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 club's previous record: the club has already been punished for the improper conduct of its supporters, and, in particular, for the ignition of fireworks;
 - the club's previous record: the club has already been punished in several occasions for a late kick off infringement;
 - the club's previous record: the club has already been punished in several occasions for the insufficient organisation, and, in particular, for the blocking of stairways.

41. In the light of the above considerations, the Control, Ethics and Disciplinary Body deems that 40'000 shall be deemed as the adequate disciplinary measure.

Decision of 21 September 2017

Panathinaikos FC

(Stairways blocked; use of laser pointer; setting off of fireworks)

Circumstances of the case

It was reported that home-club ultras used laser pointers three times. After each use, the public announcer issued warnings and after the third warning, the usage stopped. Also, Exit stairways were blocked during the whole game in both curves and in home-team ultra-supporters' sectors 13 and 14 during the whole match. In the 3rd minute, between 10 and 15 of small flares, were ignited by home-club ultras which was quickly extinguished. After the home team scored in the 29nd minute, less than 10 small flares and 3 normal flares were ignited by home-club ultras. After the home team scored the second time, 2 flares were ignited again by home ultras at the stand. The club stated that the laser pointers used were only a minor infringement, not causing any disturbances. Regarding the blocking of stairways, the club admits said incident, while emphasizing that the majority of the supporters were watching the match while standing, singing and dancing, constantly moving, therefore naturally periodically blocking stairways. With regard to the usage of fireworks, the club stated that it did everything within its power to prevent such incidents from happening, emphasizing that no fireworks were thrown, no disturbance was caused and nobody was injured.

Legal framework Article 16 (2) UEFA Disciplinary Regulations; Article 38 UEFA Safety and Security Regulations.

Decision

The CEDB noted that regarding the blocking of stairways that the club admits the incident, accordingly violating Article 38 SSR. The same goes for the usage of laser pointers and the setting off of fireworks, which was clearly established by the official reports, and the CEDB stressed that the both the use of laser pointers and the setting off of fireworks can seriously affect the physical wellbeing of the person who is targeted and can also disrupt the match. Given that the club had been punished previously for all three violations, the CEDB deemed that a fine of €54'000 was the appropriate sanction.

<u>Chairman:</u>	Partl Thomas (AUT)
<u>Vice-Chairmen:</u>	Berzi Sándor (HUN) Hansen Jim Stjerne (DEN)
<u>Members:</u>	Gea Tomás (AND) Leal João (POR) Lorenz Hans (GER) Řepka Rudolf (CZE)

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 (the "**CEDB**") 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, as established by the reports of the UEFA match delegate present at the UEFA Europa League 2017/18 match between Panathinaikos FC (the "**Club**") and Athletic Club on 17 August 2017 (the "**match**"), can be summarized as follows:
 - *"During the match home ultras used laser pointer 3 time: 60 min laser pointer was focused toward the pitch; in 67 min again and in 74 min when was the penalty shot for Athletic the laser was focused to the player who shot penalty. After each use of laser pointer public announcer warn home ultras because of using laser and after third warning they didn't use it anymore.*
 - *Exit stairways blocked during the whole game in both curves, i.e. the stands behind the goals. Staircases were blocked in home team ultras supporters sectors 13 and 14 during the whole match, because they are standing during the whole match.*
 - *In 3 minute for no apparent reason a lot (10 to 15) of small flares, (for my opinion fans cut a normal flare to half) ignited by home ultras at the stand, which was quickly extinguished. After home team scored in 29 minute again some small flares less then 10 and 3 normal flares ignited by home ultras at the stand, sector 13 and 14. After home team scored second time 2 flares ignited again by home ultras at the stand. There were no consequences to anybody."*

II. The Respondent's position

3. The Club, in its statements dated on 23 August 2017, mentions that the UEFA match delegate has defined the body searching at the entrance as thoroughly and correctly. Despite this fact, and taking into account that spectators were warned numerously not to do it, said laser pointers were used which was only a minor infringement, not causing any disturbances.
4. Regarding the blocking of stairways in the Ultras sector, the Club admits said incident, while emphasizing that the majority of the supporters were watching the match while standing, singing and dancing. As a consequence, there was a constant movement that naturally at some point was channeled towards the stairways and as a result some of them were periodically blocked.
5. With regard to the usage of fireworks, the Club stated that it did everything within its power to prevent such incidents from happening, emphasizing that no fireworks were thrown, no disturbance was caused and nobody was injured.

6. 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.

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

B. The blocking of stairways

a) Applicable legal framework and general remarks

9. According to Article 38 of the UEFA Safety and Security Regulations (the "**SSR**"):

"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."

10. 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 Club

11. The purpose of the SSR is to maintain the safety and security of everyone present at the match (see Article 2 SSR). In order to achieve this goal, the SSR contain several provisions concerning spectator control at the stadium.
12. The CEDB recalls that according to Article 45 DR, facts contained in official UEFA reports are presumed to be accurate. Proof of their inaccuracy may, however, be provided.
13. In the present case, the UEFA match delegate's official report for the match clearly states that the stairways were blocked in home-team Ultra-supporters sectors 13 and 14 during the whole match.
14. The Club admits the incident and does hence not provide any evidence which would indicate the inaccuracy of the official report. Accordingly, the Club - as the host and match organiser - has violated Article 38 SSR and must be punished accordingly.

C. The improper conduct of supporters: the use of laser pointers

a) *Applicable legal framework and general remarks*

15. According to Article 16 (2) DR (emphasis added):

“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 builds on this principle, a club is to be held responsible for the improper conduct of its supporters, even if it might not be at fault itself.

17. According to Article 45 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*

18. Laser pointers can seriously affect the physical wellbeing of the person who is targeted and can also disrupt the match (in particular, by distracting the person who is targeted and therefore causing that person to miss the ball). Accordingly, any use of such devices is strictly prohibited, irrespective of whether someone is directly targeted or not.

19. In the case at hand, the UEFA match delegate noted that the home-team Ultra-supporters used laser pointers at three occasions, first in the 60th minute of the match where a laser pointer was focused toward the pitch, in the 67th minute again and in the 74th minute when a penalty shot for Athletic Club was awarded, when the laser was focused at the player who took the penalty.

20. The Club merely argued that they made announcements through the loudspeaker and that those were only minor incidents.

21. As it was already established above, applying the principle of strict liability as described in Articles 8 and 16 (2) DR, a club shall be held liable for the conduct of its supporters, even if

it is not at fault itself. Indeed, it has long been established in case law that strict liability applies regardless of fault (in this regard, see page 12 of the Court of Arbitration for Sport case CAS 2002/A/423 PSV Eindhoven).

22. In the present case, nothing has been presented that would breach the accuracy of the official UEFA report which refers to the use of a laser pointer and attributes this to the supporters of the home team. Consequently, the Club is to be held responsible for the improper conduct of its supporters and must be punished accordingly.

D. The improper conduct of supporters: setting off of fireworks

a) *Applicable legal framework and general remarks*

23. 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.”*

24. According to Article 45 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*

25. Setting off fireworks is a very serious offence because not only can this behaviour disrupt the orderly running of the match but also, and more importantly, it can endanger the physical integrity of the perpetrator(s), other spectators, officials and even the players on the pitch. For this reason, the use of pyrotechnic devices in stadia is strictly forbidden.
26. According to Article 8 DR, which stipulates the principle of ‘strict liability’, and Article 16 (2) DR, which builds on this principle, a club is to be held responsible for the improper conduct of its supporters, even if it might not be at fault itself.
27. It has long been established in case law that strict liability applies regardless of fault. As a matter of fact, a 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).

28. In the present case, it was reported that in the 3rd minute of the match, between ten and 15 small flares were ignited by home-team Ultra-supporters. Furthermore, after the home-team scored in the 29th minute of the match, ten small and three normal flares were ignited by home-team supporters. Likewise, after the home-team scored the second goal of the match, two flares were ignited.
29. The club merely refers to the fact that the fireworks were not thrown and that nobody was injured during the setting off of fireworks. Obviously, this does not break the assumed accuracy of the official report in the sense of Art. 45 DR, having the consequence that according to Article 16 (2) (c) DR, the Club is to be held responsible for the misconduct of its supporters and must be penalised accordingly.

IV. The determination of the appropriate disciplinary measure

30. Based on Article 17 DR, the CEDB 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.
31. With regard to the crowd behaviour in connection with the use of the laser pointers, the blocking of stairways and the setting off of fireworks, the CEDB 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.
32. In the present case, the CEDB identified and took into account the following concrete circumstances:
 - the seriousness and multiplicity of the offences committed; and the club's previous record: the club has already been punished for the improper conduct of its supporters and, in particular, for the setting off of fireworks, usage of laser pointers, blocking of stairways;
 - the fact that a player was targeted by a laser pointer and that laser pointers were used at three occasions;
 - regarding the setting off of fireworks, on the one hand that no one was hit by any of the objects, while on the other hand taking into account the dangerous nature of the offence committed (noting that lighting fireworks creates a serious risk for the safety of spectators, officials and players).
33. In connection with the setting off of fireworks, the usage of the laser pointers and the blocking of stairways, the CEDB further referred to Art. 6 (5) DR and Annexe A (I) and (II) which provides for standards disciplinary measures for the abovementioned violations of the DR.

34. Consequently, taking all of the above into account, by applying Art. 6 (5) DR and Annexe A (I) and (II), the CEDB deems that a fine of € 54'000 should be deemed the appropriate sanction for the aforementioned violations of the DR.

Decision of 27 October 2017

Sporting Clube de Portugal

(Direct Red Card)

Circumstances of the case

The player wearing number 10 of Sporting Clube de Portugal, Borges Cabral Jovane Eduardo, in the 63rd minute, after a foul of a player of Juventus while the player of Juventus was still on the ground trying to get up, slapped him with an open hand on the back of the head. The referee sent off Borges Cabral Jovane Eduardo for violent conduct.

Legal framework Article 15 (1) (e) UEFA Disciplinary Regulations.

Decision

The CEDB deems that this is a highly aggressive act, threatening serious injury. It has nothing to do with the game and is simply a hostile act of physical violence. Consequently, the act of the player who struck the opponent player in the back on his head as described by the referee constitutes assault under the terms of Article 15 (1) (e) DR and shall be punished accordingly, in this case, considering the circumstances of the case, with a three match suspension.

Chairman: Partl Thomas (AUT)

Vice-Chairman: Hansen Jim Stjerne (DEN)

Member: Antenen Jacques (SUI)

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 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, as established in the official reports, can be summarized as follows:
 - The player number 10 of Sporting Clube de Portugal, Borges Cabral Jovane Eduardo (the "player"), *in the 63rd minute, after a foul of a player of Juventus, while the player of Juventus was still on the ground trying to get up, number 10 of Sporting Clube slapped him with an open hand on the back of the head.*

II. Merits of the Case

A. UEFA's competence.

3. Pursuant to Article 52 of the UEFA Statutes, as well as Article 29 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, a suspension for three competition matches (or a specified period) applies when a player assaults another player (or another person present at the match).
6. According to Article 45 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.
8. According to the consistent 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 *inter alia* involve aggressive contact such as slapping, head butted, kicking, punching, shaking, pushing, pinching, hitting, spitting.
9. In the present case, the player was sent off the field of play for slapping his opponent with an open hand on the back of his head, while the Juventus player was still on the ground.
10. This is a highly aggressive act, threatening serious injury. It has nothing to do with the game and is simply a hostile act of physical violence.
11. Consequently, the act of the player who struck the opponent player in the back on his head as described by the referee constitutes assault under the terms of Article 15 (1) (e) DR and shall be punished accordingly.

III. The determination of the appropriate disciplinary measure

12. Based on Article 23 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.
13. By deliberately slapping his opponent on the back of his head, while the Juventus player was still on the ground, the player placed the physical well-being of his opponent in danger. It could have caused serious injuries and pain.
14. In view of the above, the three-match suspension contemplated for assaults in Article 15 (1) (e) DR is considered to be the minimum sanction considering the circumstances of this case.

Decision of 10 November 2017

FK Austria Wien

(Improper conduct of supporters; setting off of fireworks; kit infringement)

Circumstances of the case

Three incidents were reported by the UEFA match delegate: 1) Kit infringement: one of the players from Austria Wien had a track suit with advertising VERBAND on the back. 2) Incorrect behavior of supporters: In the 42nd minute a supporter managed to climb up on the roof of the fence of the South Tribune. He was taken by the police and kept by the police until the end of the match. He was fined by the police. 3) Setting off of fireworks: 4 Bengal lights were lit by Austria supporters in sector 3 in the South Tribune, behind the goal, when the players entered the pitch before kick-off of the first half, approximately 3 mins before the start of the match. The club admits the kit infringement and explains that the player was not aware of the information regarding clothing containing sponsors print. Likewise, the club admits that its supporter climbed the fence and held that, in the future, it will inform the stewards to pay special attention to ensure it does not happen again. Concerning the pyrotechnics the club noted that a great number of supporters entered the stadium without control from a part of the sector next to the away stand.

Legal framework Article 16 (2) UEFA Disciplinary Regulations, Article 60.04 and 31.03 UEFA Kit Regulations, Article 55.01 UEFA Europa League Regulations.

Decision

The CEDB noted that all three violations of the UEFA Disciplinary Regulations and the UEFA Kit Regulations were admitted by the club and it only remained for the Panel to find the appropriate sanction. In the present case, the CEDB identified and took into account the seriousness and multiplicity of the offences committed, the improper conduct of the club's supporters, the kit infringement, the setting off of fireworks as well as the club's previous record, noting that FK Austria Wien has already been punished for setting off of fireworks on numerous occasions. Overall, the CEDB deemed that a fine of €7'000 was appropriate for the setting off of fireworks and the improper conduct of its supporters, whereas a warning was warranted for the kit infringement.

Ad-hoc-Chairman:

Hansen Jim Stjerne (DEN)

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 FK Austria (*"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 as established by the UEFA match delegate present at the UEFA Europa League 2017/2018 Group match between HNK Rijeka and the club on 2 November 2017 (*"the match"*) can be summarized as follows:

Kit infringement

- *One of the players from Austria Wien had a track suit with advertising VERBAND on the back.*

Incorrect behaviour of supporters

- *In the 42nd minute a supporter managed to climb up on the roof of the fence of the South Tribune. He was taken by the police and kept by the police until the end of the match. He was fined by the police.*

Setting off of fireworks

- *4 bengal lights in sector 3 in the South Tribune, behind the goal, when the players entered the pitch before kick-off of the first half, approx 3 mins before the start of the match.*

II. The Respondent's position

3. The club in its statements dated on 8 November 2017 held the following:
 - The club admits the kit infringement and explains that the player was not aware of the information regarding clothing containing sponsors print. Therefore, it was not intentional and the club will pay more attention in the future;
 - The club also admits that its supporter climbed the fence and held that, in the future, it will inform the stewards to pay special attention to ensure it does not happen again;
 - Concerning the incident with the pyrotechnics derived from the possibility given by the security and safety measures to the supporters to introduce these objects in the bus. In addition, a great number of supporters entered the stadium without control from a part of the sector next to the away stand. The club, being the guest club, asked not to be sanctioned for the fireworks.

4. 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.

5. Pursuant to Article 52 of the UEFA Statutes, as well as Article 29 of the UEFA Disciplinary Regulations (DR), the Control, Ethics and Disciplinary Body is competent to deal with the case.
6. In light of the above, the UEFA Statutes, rules and regulations, in particular the UEFA Disciplinary Regulations are applicable to these proceedings.

B. The kit infringement

a) Applicable legal framework and general remarks

7. According to Article 60.04 UEFA Kit Regulations, *"sponsor advertising is only allowed in accordance with paragraph 31.03 UEFA Kit Regulations"*.
8. According to Article 31.03 UEFA Kit Regulations, *"Sponsor advertising on equipment defined in Articles 60 and 61 is only allowed in the different UEFA competitions as follows:*
(...)

<i>UEFA Europa League</i>	<i>Qualifying and play-off matches"</i>
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9. According to Article 55.01 UEFA Europa League Regulations, *"From the group stage, all items worn by players and club officials which do not form part of the playing attire (shirt, shorts and socks) must be free of sponsor advertising"*.
10. According to Article 45 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

11. In the case in hand as reported by the delegate in his report, one of the players of FK Austria Wien used a track suit with advertising on the back.
12. In this respect, the club has admitted the kit infringement, solely stating that the player was not aware of the rules.
13. Consequently, the Control, Ethics and Disciplinary Body deems that Tottenham FC violated the above provisions and needs to be punished accordingly.

C. The setting off of fireworks

a) *Applicable legal framework and general remarks*

14. According to Article 16 (2) DR (emphasis added):

“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 a provocative message that is not fit for a sports event, particularly provocative messages that are of a political, ideological, religious or offensive 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.”*

15. According to Article 8 DR, which stipulates the principle of ‘strict liability’, and Article 16 (2) DR, which builds on this principle, a club is to be held responsible for the improper conduct of its supporters, even if it might not be at fault itself.

16. According to Article 45 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*

17. Setting off fireworks is a serious offence because not only can it disrupt the orderly running of the match but also, and more importantly, it can endanger the physical integrity of the persons who are lighting the fireworks, other spectators, officials and even the players on the pitch. For this reason, the use of pyrotechnic devices in stadiums is strictly forbidden.

18. In the present case, the club’s supporters ignited four fireworks before kick-off at the first half of the match.

19. According to the club, the incident with the pyrotechnics derived from the possibility given by the security and safety measures to the supporters to introduce these objects in the bus and lack of control in the entrance of the stadium next to the away stand.

20. Applying the principle of strict liability as described in Articles 8 and 16(2) DR, the club shall be held liable for the conduct of its supporters, even if it is not at fault itself. Indeed, it has

long been established in case law that strict liability applies regardless of fault (in this regard, see page 12 of the Court of Arbitration for Sport case CAS 2002/A/423 PSV Eindhoven).

21. Further, the club did not put forward any arguments in the present case which would breach the accuracy of the official UEFA report which expressly refers to the setting off of fireworks and is presumed to be accurate under Article 45 DR.
22. In light of the foregoing, the club is to be held responsible for the improper conduct of its supporters in accordance with Article 16 (2) (c) DR and must be punished accordingly.

D. The crowd disturbances

a) *Applicable legal framework and general remarks*

23. According to Article 16 (2) DR (emphasis added):

"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 a provocative message that is not fit for a sports event, particularly provocative messages that are of a political, ideological, religious or offensive 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."*

24. According to Article 8 DR, which stipulates the principle of "strict liability", and Article 16 (2) DR, which picks up on this principle, a club is to be held responsible for the improper conduct of its supporters, even if it might not be at fault itself.
25. According to Article 45 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*

26. In the present case, the Delegate reported that a supporter of FK Austria Wien climbed up on the roof of the fence located in the south tribune during the match.
27. The club also admits this incident as reported in the official UEFA report and thus, it is to be held responsible for the improper conduct of its supporter under Article 16 (2) (h) DR and must be punished accordingly.

IV. The determination of the appropriate disciplinary measure

28. Based on Article 23 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.
29. 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 improper conduct of the club's supporter;
 - the kit infringement;
 - the setting off of fireworks;
 - the club's previous record: FK Austria Wien has already been punished for setting off of fireworks on numerous occasions;
30. In the light of the above considerations, the Control, Ethics and Disciplinary Body deems that € 7,000 shall be deemed as the adequate disciplinary measure for the setting off of fireworks and the improper conduct of the supporters.
31. Finally, the members of the Control, Ethics and Disciplinary Body deem that a warning against the club shall be deemed as the adequate disciplinary measure with regard to the kit infringement.

Decision of 16 November 2017

FK Crvena zvezda

(Illicit chants; stairways blocked; throwing of objects; improper conduct of the team)

Circumstances of the case

The stairways were blocked in the North sector, and after the final whistle when visiting players and coaches were leaving, between 15 and 20 lighters and one bottle were thrown against the tunnel - No one was hit. There was chanting from the home-supporters between the 28th and 32nd minute: UEFA is mafia. Finally, six cautions were awarded against to FK Crvena Zvezda. With regard to the blocking of stairways, the club stresses that it occurred only on one tribune, a tradition of the hard core fans and no intervention was done as a prevention of possible potential safety and security unrest. Regarding the throwing of objects, the club notes that it took all possible measures to prevent supporters from taking items inside the stadium and that the high number of spectators put together with the isolated incident and with a low number of objects thrown should speak for the efficiency of these measures. Finally, as regards the UEFA Mafia chant, the clubs stresses that it's not illicit due to the fact that UEFA can't be the damaged party and the judge at the same time, stressing that supporters might be unaware of the possible negative consequences for their. Finally, the club argues that UEFA itself is also more-and-more aware of the fact that, it is subject to some critical voices raised by supporters and that it would be simply counterproductive disciplinary enforcer.

Legal framework Article 15 (4) and 16 (2) UEFA Disciplinary Regulations; Article 38 UEFA Safety and Security Regulations.

Decision

The CEDB however recalled that all incidents were admitted by the club. The club merely refers to its proper preparation of the match, not presenting any explanations which would undermine the presumed accuracy of the official reports. Regarding the chants and the club's argument about the fact that UEFA is party accused and judge in these proceedings, the CEDB decided that the argument has no merit insofar. Finally, with regard to the nature of the chant, the CEDB has no doubt that the content is not fit for a sport's event. CEDB can't accept that anyone or any institution is compared to a criminal organization, such as it is the mafia, on the basis of a justifiable criticism. Having the above in mind, as well as the club's previous record, the CEDB deems that a fine € 79'000 is the adequate disciplinary measure.

<u>Chairman:</u>	Partl Thomas (AUT)
<u>Vice-Chairmen:</u>	Berzi Sándor (HUN) Hansen Jim Stjerne (DEN)
<u>Members:</u>	Antenen Jacques (SUI) Gea Tomás (AND) Leal João (POR) Lorenz Hans (GER) Řepka Rudolf (CZE) Wolff Joël (LUX)

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:

*The support was really excellent during the whole match, but the stairways was blocked in the North sector and after the final whistle when visiting players and coaches was leaving 15-20 lighters and one bottle was thrown against the tunnel. No one was hit.
Chanting in the 28th to 32nd: Uefa is mafia. Kosovo- Serbia*

3. According to the referee's report, the latter showed six cautions against to FK Crvena Zvezda.

II. The Respondent's position

4. The Club in their statements dated on 24 October 2017 argues that the players were under great pressure, being the sanctions received a consequence of the intensity of the game.
5. With regard to the blocking of stairways, the club stresses that it occurred only on one tribune, it is a tradition of the hard core fans and no intervention was done as a prevention of possible potential safety and security unrest.
6. Regarding the throwing of objects the club notes that it took all possible measures to prevent supporters from taking items inside the stadium, i.e. thorough body searches. Also the high number of spectators put together with the isolated incident and with low number of objects thrown should speak for the efficiency of these measures.
7. Finally, as regards the UEFA Mafia chant, the clubs stresses that it's not illicit due to the fact that UEFA can't be the damaged party and the judge at the same time. UEFA should be reluctant to sanction this kind of banners due the fact that supporters use this as a tool to express their discontent with UEFA. UEFA in its role as a reasonable onlooker does not consider such chants to be illicit and the average supporter is unaware of the possible negative consequences for their club when bringing forward these slogans and, more importantly, is unaware of the legitimate goals and objectives pursued by UEFA by enforcing the UEFA disciplinary regulations. UEFA itself is also more-and-more aware of the fact that, as an organizer of a competition, it is subject to some critical voices raised by supporters and that it would be simply counterproductive disciplinary enforcer.
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 29 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. The improper conduct of the team

a) Applicable legal framework and general remarks

11. 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.
12. According to Article 9 (1) DR decisions by the referee on the field of play are final and may not be reviewed by the UEFA disciplinary bodies.

b) The responsibility of the club

13. In the present case, six of the club's players were cautioned with yellow cards.
14. This UEFA Disciplinary Body recalls that according to Article 45 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.
15. Moreover, the Control, Ethics and Disciplinary Body recalls that according to Article 9 (1) DR, decisions by the referee on the field of play are final and may not be reviewed by the UEFA disciplinary bodies. In this regard, the club statements referring to the intensity of the match are irrelevant, being the decision of the referee in this context final and not to be contested.
16. Taking the above into account, the club is to be held responsible for the misconduct of their players and must be punished accordingly.

C. The blocking of stairways

a) Applicable legal framework and general remarks

17. According to Article 38 of the UEFA Safety and Security Regulations (the “SSR”):

“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.”

18. According to Article 45 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 club

19. It shall be reminded that UEFA based on the association’s autonomy is entitled to regulate for the benefit of the safety of the spectators a norm that requires the organizer of a football match to keep the stairways free.
20. It is well established that UEFA is entitled to put in place and enforce regulations aimed at protecting the safety of spectators, including the requirement that the organisers of football matches must keep stairways free of obstruction (in this regard, see the recent case of CAS 2015/A/3926 FC Gelsenkirchen-Schalke 04 v UEFA).
21. Further, Article 38 UEFA Safety and Security Regulations establishes that the match organiser must take measures to ensure that the public passageways are kept free of any obstruction which could impede the free flow of spectators. Here it shall be kept in mind that if the stairways are kept free, the evacuation of spectators is easier.
22. As stated above, according to Article 45 DR, facts contained in official UEFA reports are presumed to be accurate. Proof of their inaccuracy may, however, be provided.
23. In the present case, the UEFA match delegate’s official the stairways were blocked in the North sector.
24. The club merely refers to its proper preparation of the match and the level of organization, pointing to the fact that it’s a tradition of the hard core fans to stand in this sector, being any intervention not advisable for safety and security reasons. However, these arguments do not have any relevance whilst establishing the existence of the club’s responsibility in keeping those stairways free of any obstructions. In this regard, the Control, Ethics and Disciplinary Body took note of the fact that pictures attached to the official reports evidenced that stairways were blocked by supporters during the above mentioned match.
25. Bearing the above in mind, the Control, Ethics and Disciplinary Body deems that in view of the fact that the passageways were blocked during the match as stated by the delegate and admitted by the club, the latter violated Article 38 UEFA Safety and Security Regulations and needs to be punished accordingly.

D. The throwing of objects

a) *Applicable legal framework and general remarks*

26. 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 a provocative message that is not fit for a sports event, particularly provocative messages that are of a political, ideological, religious or offensive nature;*
- f) *acts of damage;*
- g) *causing a disturbance during national anthems;*
- h) *any other lack of order or discipline observed inside or around the stadium.*

27. 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.

28. According to Article 45 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*

29. It shall be recalled that the throwing of objects 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 attending the match, i.e. other spectators, officials and even the players on the pitch. For this reason, throwing of objects is strictly forbidden.

30. In the case at hand, after the final whistle when visiting players and coaches was leaving 15-20 lighters and one bottle was thrown against the tunnel.

31. The club notes that it took all possible measures, which put together with the isolated incident and the low number of objects speak for the efficiency of the implemented security measures.

32. This UEFA disciplinary body deems the above mentioned arguments irrelevant as to assess the existence of an infringement of the UEFA Disciplinary Regulations. The Control, Ethics and Disciplinary Body recalls that 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 and in away matches. Indeed, it has long been established in case law that strict liability applies regardless of fault (CAS 2013/A/3047 FC Zenit St. Petersburg vs Football Union of Russia).

33. Consequently, according to Article 16 (2) (b) DR above, the Club is to be held responsible for the misconduct of their supporters and must be penalised accordingly.

E. Illicit chants

a) Applicable legal framework and general remarks

34. According to Article 16 (2) of the UEFA Disciplinary Regulations:

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 a provocative message that is not fit for a sports event, particularly provocative messages that are of a political, ideological, religious or offensive nature;*
- f) acts of damage;*
- g) causing a disturbance during national anthems;*
- h) any other lack of order or discipline observed inside or around the stadium.*

35. 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 builds on this principle, a club is to be held responsible for the improper conduct of its supporters, even if it might not be at fault itself.

36. According to Article 45 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 Club

37. 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, religious or whatsoever other opinions not related to a sport's event. 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.

38. In the present case, club's supporters chanted "UEFA Mafia".
39. As a first approach by the club to this incident, it complains about the fact that UEFA is party accused and judge in these proceedings.
40. The argument has no merit insofar according to Article 32 the UEFA Disciplinary Regulations foresees that the members of the disciplinary bodies and the ethics and disciplinary inspectors are independent and may not belong to any other UEFA organ or committee. Further, they are bound exclusively by the UEFA Statutes, rules and regulations and the law. In this regard, the Control, Ethics and Disciplinary Body recalls that the current proceedings deal with an improper behaviour of supporters fitting with the description given by Article 16 (2) (e) DR.
41. Further, the Club by means of its statement stresses that UEFA should admit as an expression of the a critical point of view that supporters could express in such manner their opposition to UEFA.
42. First, the arguments put forward by the Club in the present case do not breach the accuracy of the official UEFA reports which expressly refer to the illicit chants and are presumed to be accurate under Article 45 of the UEFA Disciplinary Regulations.
43. Second, the Control, Ethics and Disciplinary Body, after evaluating the information provided by the UEFA match delegate concerning the chants in question, has no doubt that the content is not fit for a sport's event. As much sympathy this this UEFA disciplinary body may feel sympathy for the right of those attending UEFA competition matches to be critic with UEFA, it can't accept that anyone or any institution is compared to a criminal organisation, such as it is the mafia, on the basis of a justifiable criticism. There is no doubt by doing that the club's supporters surpasses the limits between criticism. It is offensive and disrespectful. Consequently, must be incardinated in those attitudes prohibited by Article 16 (2) (e) DR.
44. Briefly, the Control, Ethics and Disciplinary Body considers that the above arguments are irrelevant as regards to the clarification of the facts and the classification of the above-mentioned incident. The Club is responsible for any violation conducted by its supporters against the UEFA Disciplinary Regulations. It includes the abovementioned chants by its supporters which clearly violate Article 16 (2) (e) of the UEFA Disciplinary Regulations and need to be punished accordingly.

IV. The determination of the appropriate disciplinary measure

45. Based on Article 23 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.

46. 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 club's previous record: the club has already been punished for the improper conduct of its supporters and, in particular for illicit chants and for the throwing of objects;
 - the club's previous record: the club has already been punished for the improper conduct of the team;
 - the club's previous record: the club has already been punished for the insufficient organisation and, in particular, for the blocking of stairways;
 - the fact that objects were thrown after the final whistle in the direction of the tunnel, being obvious that the supporters targeted either the players or the UEFA officials.
47. The Control, Ethics and Disciplinary Body takes this opportunity to strongly advise the club to implement more appropriate measures to avoid infringements as the ones witnessed in this case. The disciplinary record of the club shows that indeed there is an unsolved issue as regards specific incidents. Briefly, they haven't been adequately addressed yet. This UEFA disciplinary body is in this particular circumstances still reluctant to impose harsher sanctions in the sense of implementing a partial closure or even a match behind closed doors. Nevertheless, it deems that a serious internal analysis of the security methods that the club implements at UEFA competition matches needs to be revised as to avoid the next logical step in the hierarchy of sanctions contemplated in Article 6 UEFA DR, if this issue persists.
48. Having the above in mind, the Control, Ethics and Disciplinary Body deems that a fine € 79'000 is the adequate disciplinary measure.

Decision of 16 November 2017

Everton FC

(Aggressions by supporters against players, referees)

Circumstances of the case

The referee of the match reported that he “he was told by the Lyon Goalkeeper, Anthony Lopes, that he was pushed or touched by a spectator from the home crowd in the brawl between players in minute 64.” The club stressed that it was not negligent in any way in relation to the organization of the match, stressing that it does not tolerate any form of aggressive behavior from the side of its supporters. The club also argues that it fully complied with all rules and regulations regarding safety and security at the match, particularly with regard to the deployment of stewards. In the incident at hand, the stewards reacted quickly and efficiently. Finally, the club held that the supporter was identified by the police and might be facing criminal charges as well as a life ban from the stadium.

Legal framework Article 16 (2) UEFA Disciplinary Regulations.

Decision

The CEDB on a preliminary note took into account the video footage of the incident from which it can be seen how the players of both teams engage in a confrontation behind and on the goal-line, close to the stands behind the goal. During said confrontation the spectators who are sitting and standing at the scene, scream, yell and gesticulate in the direction of the players, while one home-team supporter who is apparently holding a young child on his arm throws a punch at one player from the visiting team. It goes without saying that such images are more than shocking and cannot be tolerated. The CEDB emphasized that in any case, there should never be a moment when players on the pitch engage in violent altercations, but this goes even more for spectators during a match. According to Article 8 DR, which stipulates the principle of ‘strict liability’, and Article 16 (2) DR, which builds on this principle, a club is to be held responsible for the improper conduct of its supporters, even if it might not be at fault itself. In light of the foregoing, the CEDB decided that the club is to be held responsible for the improper conduct of its supporters in accordance with Article 16 (2) (h) DR and needed to be punished with a fine of €30’000.

<u>Chairman:</u>	Partl Thomas (AUT)
<u>Vice-Chairmen:</u>	Berzi Sándor (HUN) Hansen Jim Stjerne (DEN)
<u>Members:</u>	Antenen Jacques (SUI) Gea Tomás (AND) Leal João (POR) Lorenz Hans (GER) Řepka Rudolf (CZE) Wolff Joël (LUX)

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 (the "**CEDB**") on the basis of the official reports, the written submissions, the exhibits filed and the statements produced in the course of the CEDB proceedings.
2. Whilst the CEDB has considered all of the facts, allegations, legal arguments and evidence submitted in these proceedings, it refers in the present decision only to the submissions and evidence it considers necessary to explain its reasoning.
3. The UEFA match delegate and the referee for the UEFA Europa League 2017/2018 Group stage match between FC Everton ("**the club**") and Olympique Lyonnais on 19 October 2017 ("**the match**") reported that:

"I was told by the referee after the match that he was told by the Lyon Goalkeeper, Anthony Lopes, that he was pushed or touched by a spectator from the home crowd in the brawl between players in minute 64."

II. The Respondent's position

4. In its statement dated 26 October 2017, the club:
 - explained that there are a number of mitigating factors the CEDB should consider when determining the relevant disciplinary sanction, as it took all the appropriate steps in the circumstances and was not negligent in any way in relation to the organization of the match.
 - states that it does not tolerate any form of aggressive behavior from the side of its supporters and informs the supporters accordingly whenever they purchase a ticket, through the terms and conditions as well as the stadium program.
 - argues that it fully complied with all rules and regulations regarding safety and security at the match, particularly with regard to the deployment of stewards. In the incident at hand, the stewards reacted quickly and efficiently. The work of the club's security was deemed as excellent by the UEFA match delegate.
 - held that regarding the incident, the supporter was identified by the police and might be facing criminal charges as well as a life ban from the stadium. Even though the behavior of the supporter is unacceptable, it was only a minor incident of lower intensity, spontaneous and now in any way premeditated.
5. The more detailed arguments made by the club in support of its written submissions are set out below in so far as they are relevant.

III. Merits of the Case

A. UEFA's competence.

6. Pursuant to Article 52 of the UEFA Statutes, as well as Article 29 of the UEFA Disciplinary Regulations (the "DR"), the CEDB is competent to deal with the case.
7. In light of the foregoing, UEFA's statutes, rules and regulations (in particular the DR) are applicable to these proceedings.

B. The improper conduct of supporters: crowd disturbances

a) *Applicable legal framework and general remarks*

8. According to Article 16 (2) DR (emphasis added):

"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 anthems;*
- h) *any other lack of order or discipline observed inside or around the stadium."*

9. According to Article 8 DR, which stipulates the principle of 'strict liability', and Article 16 (2) DR, which builds on this principle, a club is to be held responsible for the improper conduct of its supporters, even if it might not be at fault itself.
10. According to Article 45 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*

11. The CEDB on a preliminary note took into account the video footage of the incident from which it can be seen how the players of both teams engage in a confrontation behind and on the goal-line, close to the stands behind the goal. During said confrontation the spectators who are sitting and standing at the scene, scream, yell and gesticulate in the direction of the players, while one home-team supporter who is apparently holding a young

child on his arm throws a punch at one player from the visiting team. It goes without saying that such images are more than shocking and cannot be tolerated. The CEDB emphasized that in any case, there should never be a moment when players on the pitch engage in violent altercations, but this goes even more for spectators during a match.

12. In the case at hand, the behaviour of the club's supporters situated behind the goal was already very aggressive, but whenever a spectator aggressively engages in physical contact with a player, as it was the case here, an important line is crossed and such incident needs to have consequences.
13. According to Article 8 DR, which stipulates the principle of 'strict liability', and Article 16 (2) DR, which builds on this principle, a club is to be held responsible for the improper conduct of its supporters, even if it might not be at fault itself.
14. It has long been established in case law that strict liability applies regardless of fault. As a matter of fact, a 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).
15. In this regard, the CEDB could not agree with the assertions made by the club regarding the efficiency and the quickness by means of which the situation was brought under control. From the video footage it appears that there was one steward who was in the midst of the ruckus, making an effort to be the buffer between spectators and players, whereas it took several seconds until a second steward finally approaches and tries to help.
16. In light of the foregoing, 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.

IV. The determination of the appropriate disciplinary measures

17. Based on Article 23 DR, the CEDB 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.
18. With regard to the crowd disturbances, the CEDB took into account the seriousness of the offense committed, emphasizing that such behaviour has no place in football in general, and certainly not in the UEFA Europa League, one of UEFA's flagship club competitions. Any behaviour tending to tarnish the image of this major competition cannot be accepted and must therefore be punished accordingly.
19. Based on the foregoing, taking all of the abovementioned considerations into account, the CEDB considered that a fine of €30,000 is the appropriate sanction for these offences.

Decision of 7 December 2017

Football Club Zenit

(Setting off of fireworks; racist/discriminatory behaviour)

Circumstances of the case

Supporters of FC Zenit displayed from 75th to 87th minute a banner saying "*Ratko Mladic - Hero of Serbia*". In the 23rd minute, there was smoke on south tribune of the home-team supporters. In the 43rd minute, a firecracker was set off on the south tribune. In the 85th and 92nd minutes, another massive firecracker were set off in the south tribune. None of these fireworks Impact on the game. The club explains the historical connection between Serbs and Russians, before further stating that the banner under scrutiny is not of a discriminatory, but of a political nature as it merely criticizes the decision of the International Criminal Tribunal for the Former Yugoslavia (ICTY). The club further makes reference to related CAS jurisprudence, stating that from the perspective of a "reasonable observer", such interpretation was obvious. Finally, the club states that the banner was displayed for 12 minutes.

Legal framework Articles 14 and 16 (2) UEFA Disciplinary Regulations.

Decision

The CEDB had no reason not to believe the connection between Serbs and Russians, but could not make any assumption that the incident was rather political than discriminatory or racist.

CEDB first emphasized that it is not bound by the interpretation or the comment made by the UEFA match delegate who had referred to the potential "political dimension" of the banner. Obviously, discriminatory banners can have an additional political dimension, which does not necessarily mean that such would make such banners only political. The CEDB acknowledged that one day before the match, the ICTY made its verdict in the proceedings against Ratko Mladic finding the latter guilty of 10 of the 11 charges, inter alia for genocide, war crimes and crimes against humanity. In view of such judgement, taking into account the crimes Ratko Mladic was found guilty of and which were particularly directed against the Muslim part of the relevant communities, the display of a banner which glorifies Ratko Mladic as a hero of Serbia, is obviously discriminatory with regard to the victims of the crimes committed by Ratko Mladic. Finally, the CEDB considered that the closure of the entire sector should be considered the appropriate and adequate sanction for the discriminatory banner. Regarding the setting off of fireworks, the CEDB decided that a fine of €10'000 was the appropriate sanction.

<u>Chairman:</u>	Partl Thomas (AUT)
<u>Vice-Chairmen:</u>	Berzi Sándor (HUN) Hansen Jim Stjerne (DEN)
<u>Members:</u>	Antenen Jacques (SUI) Gea Tomás (AND) Leal João (POR) Lorenz Hans (GER) Řepka Rudolf (CZE) Wolff Joël (LUX)

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 (hereinafter "**CEDB**") on the basis of the official reports, the written submissions, the exhibits filed and the statements produced in the course of the CEDB 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 as established by the official reports from the UEFA match delegate present at the Europa League 2017/2018 Group stage match between FC Zenit (hereinafter: "**the club**") and FK Vardar ("**the match**") on 23 November 2017, can be summarized as follows:

Report of the UEFA match delegate:

- Home team fans displayed from 75th to 87th minute a banner saying "*Ratko Mladic - Hero of Serbia*": Club has been asked by the Delegate of the Intention of the banner. Club could not answer this question - however, has been aware of the political dimension of it and already fixed a meeting with fan representatives for MD+1.
- 23rd min: smoke on south tribune. No Impact on the game, 43rd min: firecracker after the goal on south tribune. No Impact on the game, 85th min: massive firecracker on south tribune. No Impact on the game, 90+2 min: firecracker including smoke on south tribune. No Impact on the game.

Observations of the FARE observer

- At Zenit supporters displayed a large text banner reading 'Ратко Младич – Герой Србији!' (ENG: 'Ratko Mladic – Hero of Serbia!').
- Ratko Mladić is a former Bosnian Serb military leader convicted by the International Criminal Tribunal for the former Yugoslavia (ICTY) for genocide and crimes against humanity. Mladić was responsible for the Siege of Sarajevo (5 April 1992 to 29 February 1996) and the Srebrenica massacre, a genocidal killing of Bosnian Muslims.
- The display glorifying a convicted war criminal Ratko Mladic promotes ethnic hatred and is discriminatory against Bosnian Muslims.

II. The Respondent's position

3. The club in its statements dated on 6 July 2017 essentially stated the following:
 - The club explains the historical socio-political connection between Serbs and Russians, before further stating that the banner under scrutiny is not of a discriminatory, but of a political nature as it merely criticizes the decision of the International Criminal Tribunal for the Former Yugoslavia ("**ICTY**").

- In this regard, the club further explained the position of the Russian government regarding the ICTY proceedings, putting said circumstances in context, specifying that the Russian government has consistently criticized the ICTY for the court's alleged one-sidedness and bias against Serbs, given that the ICTY allegedly puts 100% of blame for the bloody conflicts on the Former Yugoslavia on the Serbs exclusively, whereas in Russia's opinion, all parties that took part in the conflict are to blame. Such position is shared by many in the Russian society, which is why the club's supporters have demonstrated support for each other in the past.
 - The club further makes reference to related CAS jurisprudence (*CAS 2013/A/3324 & 3369 GNK Dinamo v. UEFA, para 9.13*), stating that from the perspective of an objective onlooker or a "reasonable observer", and even to the UEFA match delegate who noted the "political dimension" of the banner, such interpretation was obvious, equal to "Kosovo is Serbia". Such view is also corroborated by the media reports on the incident which could all be found under the keyword "political".
 - This is unchanged by the FARE report which is not presumed to be accurate. Especially the interpretation given to the banner by FARE is refuted by the club, stating that according to CAS, in order to satisfy the elements of Art. 14 (1) DR, the banner must be (1) an insult to human dignity and (2) that such insult must be on the grounds of race or ethnic origin. The FARE report does not satisfy such criteria and does not enter into a discussion of the factual and political context, which would have never led an objective onlooker to the conclusion that the banner was discriminatory, but rather a protest for justice and all perpetrators to be charged irrespective of their nationality, ethnicity or religion.
 - In view of the above, the club stresses that it can only be charged for a possible violation of Art. 16 (2) (e) DR.
 - Finally, the club states that the banner was only displayed for 12 minutes, which has to be considered as a mitigating circumstance.
4. 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.

5. Pursuant to Article 52 of the UEFA Statutes, as well as Article 29 of the UEFA Disciplinary Regulations ("**DR**"), the CEDB is competent to deal with the case.
6. In light of the above, the UEFA Statutes, rules and regulations, in particular the DR and the UEFA Safety and Security Regulations are applicable to these proceedings.

B. The banner

a) Applicable legal framework and general remarks

7. 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.
8. 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.
9. 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.
10. According to Article 45 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

11. 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).
12. The fight against racism and any form of xenophobic or discriminatory behaviour 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/discriminatory 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.
13. In the case at hand, it is undisputed that the club's supporters displayed a banner, stipulating "Ratko Mladic - Hero of Serbia" between the 75th and 87th minute.
14. The club provided various arguments with regard to the interpretation of the banner, the socio-political context and the relevant CAS jurisprudence with regard to the interpretation of banners in general and with regard to racist banners in particular.

15. The CEDB had no reason not to believe the historical, social and political explanations given by the club in relation to the connection between Serbs and Russians, but could nonetheless not concur with the arguments provided by the club, in particular with regard to the interpretation of the banner under scrutiny. After having carefully evaluated the content of the banner, the CEDB came to the conclusion that the report of the UEFA match delegate and the interpretation given by the FARE observer were accurate.
16. The CEDB could not make any sense of which the club would point to the assumption that the incident was rather political than discriminatory or racist. In this regard, the CEDB first emphasized that it is not bound by the interpretation or the comment made by the UEFA match delegate who had referred to the potential "*political dimension*" of the banner under scrutiny. Obviously, discriminatory and/or racist banners can have an additional political dimension, which does not necessarily mean that such additional circumstance would make such banners only political. Such reverse conclusion is illogic and cannot be upheld by the CEDB.
17. The CEDB further referred to the argument of the club that "*context in law is everything*" and that every banner needs to be regarded from the perspective of an "*objective onlooker*", and that for a banner to be viewed as racist or discriminatory, i.e. in violation of Art. 14 (1) DR, the banner must be an insult to human dignity and while such insult must be on the grounds of race or ethnic origin. The CEDB agreed with such argumentation.
18. With this being established, the CEDB took into account the context of the incident, and acknowledged that on 22 November 2017, i.e. one day before the match, the ICTY made its verdict in the proceedings against Ratko Mladic. The CEDB took note that Ratko Mladic was found guilty of 10 of the 11 charges, *inter alia* for genocide, war crimes and crimes against humanity, while only being acquitted of the charge of genocide in 1992, consequently being sentenced to life imprisonment.
19. Said circumstances had to be taken into account in this case, i.e. the established fact that Ratko Mladic was found guilty of being responsible for the war crimes and genocide. The ICTY had established in this regard that under the leadership of Ratko Mladic, "*Bosnian Serb Forces killed many Bosnian Muslims and Bosnian Croats, while numerous others were forcibly displaced from their homes, during and after the take-over of the Municipalities or following attacks on non-Serb villages. Circumstances were brutal; those who tried to defend their homes were met with ruthless force. Mass executions occurred and some victims succumbed after being beaten. Many of the perpetrators who had captured Bosnian Muslims, showed little or no respect for human life or dignity*". Mladic was instrumental to the commission of these crimes, the Chamber found, so much so that without his acts - they would not have been committed as they were. The judges therefore found that he significantly contributed to achieving the common objective of permanently removing Muslims and Croats from Serb-claimed territory in BiH by committing the crimes. Mladic was found guilty of persecution, extermination, murder, deportation, and the inhumane act of forcible transfer."¹

¹ <http://www.icty.org/en/press/tribunal-convicts-ratko-mladi%C4%87-for-genocide-war-crimes-and-crimes-against-humanity>

20. The CEDB found that in view of such judgement and the circumstances which have been established in such proceedings, taking into account the crimes Ratko Mladic was found guilty of and which were often and particularly directed against the Muslim part of the relevant communities, the display of a banner which glorifies Ratko Mladic as a hero of Serbia, is not only cynical and despicable, but obviously discriminatory with regard to the victims of the crimes committed by Ratko Mladic, given that praising a war criminal who is responsible for crimes against humanity and ethnical cleansings of Muslim communities is an insult to human dignity of those affected by these actions which were *inter alia* and particularly motivated on the grounds of race or ethnic origin, as it was established by the ICTY.
21. Further, the CEDB noted that to an objective on-looker, again bearing in mind the important context of the proceedings against Ratko Mladic which were concluded the day before the match (emphasis added), such banner would clearly appear as discriminatory and as a direct reaction to this verdict. The CEDB acknowledged that another interpretation as the one given by the club is theoretically possible, but could not agree with such interpretation and could not agree with the conclusions of the club that an objective-onlooker would primarily see a political protest against the decision of the ICTY.
22. With regard to the jurisprudence of UEFA's disciplinary bodies in other cases to which the club had referred, the CEDB could not agree with the conclusions drawn by the club. First of all, as the club stated itself, context in law is everything and every banner needs to be regarded from the perspective of an objective onlooker. In this regard, the CEDB stressed that in addition of the above and in view of the aforementioned, no two cases are the same as the circumstances of each case usually differ. In neither of the cited cases the circumstances were comparable to the one of the case at hand. There mere fact that some of the cases cited by the club make reference to the conflict in the former Yugoslavia does not change this assessment.
23. Consequently, bearing in mind the principle of strict liability as mentioned before, as the discriminatory behaviour of the home-team supporters has been established, the club shall be held responsible for its supporters' discriminatory behaviour and must be sanctioned accordingly.

C. The improper conduct of supporters: the setting off and throwing of fireworks

a) *Applicable legal framework and general remarks*

24. According to Article 16 (2) DR (emphasis added):

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 a provocative message that is not fit for a sports event, particularly provocative messages that are of a political, ideological, religious or offensive nature;*
- f. *acts of damage;*
- g. *causing a disturbance during national anthems;*
- h. *any other lack of order or discipline observed inside or around the stadium.*

25. According to Article 8 DR, which stipulates the principle of 'strict liability', and Article 16 (2) DR, which builds on this principle, a club is to be held responsible for the improper conduct of its supporters, even if it might not be at fault itself.

26. According to Article 45 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

27. Setting off of fireworks is a serious offence because not only can it disrupt the orderly running of the match but also, and more importantly, it can endanger the physical integrity of the persons who are lighting the fireworks, other spectators, officials and even the players on the pitch. For this reason, the use of pyrotechnic devices in stadiums is strictly forbidden.

28. According to Article 8 DR, which stipulates the principle of 'strict liability', and Article 16 (2) DR, which builds on this principle, a club is to be held responsible for the improper conduct of its supporters, even if it might not be at fault itself.

29. It has long been established in case law that strict liability applies regardless of fault. As a matter of fact, a 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).

30. In the present case, there were several instances where flares were lit up which is undisputed by the club.

31. The CEDB deems that this incident is an obvious example of a lack of discipline from the club's supporters as it endangered the physical integrity of those present in the stadium. Consequently, according to Article 16 (2) (c) DR above, the club is to be held responsible for the misconduct of its supporters and must be penalised accordingly.

IV. The determination of the appropriate disciplinary measure

32. Regarding the discriminatory behaviour, the CEDB 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/discriminatory behaviour has entered into a new stage. It has resulted in more severe sanctions towards racist/discriminatory 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.
33. In the case in hand, the home-team supporters displayed a banner with a message with a clearly discriminatory message. These circumstances were clearly established by the delegates report.
34. The club had alleged that the banner was only displayed for a short amount of time before it was removed, which should be considered as a mitigating circumstance. However, the CEDB recalled that the banner under scrutiny was displayed for a period of 12 minutes, which cannot be regarded as a particular short amount of time. The CEDB hence saw no point in assuming a particularly quick reaction by the club. Therefore, the CEDB did not consider the reaction of the club sufficient to award a more lenient sanction as stipulated in Art. 23 (3) DR, considering particularly that said provision does only refer to offenses related to Art. 16 (2) (e) DR.
35. Consequently, the CEDB recalled the content of Article 14 (2) DR where it is stipulated that the aforementioned violation is sanctioned with a minimum of a partial stadium closure.
36. Moreover, the CEDB referred to its previous jurisprudence in similar cases in which the partial closure of the stadium normally covered the section from which the discriminatory message has been displayed in order to directly target and sanction the part of the club's supporters which engaged in such discriminatory behaviour. Therefore, the CEDB considered that the closure of the entire sector (emphasis added) where the discriminatory banner was displayed should be considered the appropriate and adequate sanction. In this regard, the club is ordered to inform UEFA about the exact sector(s) at the earliest opportunity, at the latest 10 days before the next home match.
37. Additionally, in accordance with Art. 7 (1) DR and Art. 14 (6) DR, in order to tackle such behaviour for the future and to send a signal that such behaviour will not be tolerated, the CEDB decided to order the club to produce (at its own cost) a banner that is large enough to cover the relevant sector with the wording "#EqualGame" on it (together with the UEFA logo) and to display such banner in the club's stadium during the next UEFA competition match in which it plays as the host club.
38. Regarding the setting off of fireworks, based on Article 23 DR, the CEDB 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.

39. In the present case, the CEDB identified and took into account the seriousness of the offence committed as well as the previous record of the club, noting that it had been punished for the same offence already four times in the past, referring also to Art. 6 (5) DR and Annex A (I), and hence deemed that a fine of € 10'000 is the adequate sanction.

Decision of 7 December 2017

Hapoel Beer Sheva – Shir Tzedek

(Doping)

Circumstances of the case

On 22 August 2017, the Hapoel Beer Sheva player, Mr Shir Tzedek (the "Player") underwent a doping control test after the UEFA Champions League match between Hapoel Sheva and NK Maribor. The analysis of the Player's A sample revealed the presence of a substance called "octopamine". In conformity with the WADA Prohibited List 2017, the above substance is prohibited in-competition under the category S6.b Specified Stimulants. On 22 September 2017, UEFA notified the player of this finding and of the fact that this may result in a possible anti-doping rule violation. On 2 October 2017, disciplinary proceedings were instigated by UEFA against the player for Doping Offences (Art.13 DR). On 19 October 2017, UEFA confirmed to the player that the CEDB accepted the player's voluntary provisional suspension.

Legal framework Article 2 (1) (a) of the UEFA Anti-Doping Regulations

Decision

The CEDB recognized that the player committed some mistakes with regard to the use of supplements, however due to his own limitation he had to rely on the experts of his club which seemed reasonable in this case. The CEDB considered that the starting suspension in this case should be 12 months suspension due to a normal degree of fault from an objective perspective. The CEDB then examined the jurisprudence and the mitigating subjective factors in this case to determine if a lower suspension was justified. The supplement concerned sold in Israel were not supposed to contain octopamine, however the company responsible for manufacturing and packing the product in question recognized that it is possible that some bottles were mislabelled and contained octopamine. It was also recognized that the club expert failed in its obligation to check the product and the player had reason to believe he was safe using the product because he did not test positive at a prior test. In view of the above, the CEDB decided to suspend Mr Tzedek Shir for a period of eight (8) months from 19 October 2016, commencement date of his voluntary provisional suspension.

Ad-hoc Chairman: Hansen Jim Stjerne (DEN)

Vice-Chairman: Berzi Sándor (HUN)

Member: Antenen Jacques (SUI)

I. Facts Of The Case

1. On 22 August 2017, Mr. Tzedek played in the UEFA Champions League match against NK Maribor, in Slovenia (the Match).
2. Just after the match, Mr. Tzedek was notified that he was required to provide a urine sample for doping control purposes.
3. As part of the process, Mr. Tzedek was given a Doping Control Form to fill out. However, as recognized by the player, this was filled out by the Club's doctor and signed by Mr. Tzedek.
4. One month later on 22 September 2017, he was informed that he had failed the doping control and that a substance called "octopamine" had been detected in his urine.
5. In conformity with the WADA Prohibited List of 1 January 2017, the above substance is prohibited in-competition under the category S6.b Specified Stimulants, and its presence in your sample may result in a possible anti-doping rule violation.
6. On 24 September 2017, Mr Tzedek stated that he received from the medical staff of the Israeli National Team a food supplement named Guarana and from his club's medical staff another product named the Better Konjac. In addition, he stated that he hadn't used any other medicine or food supplement
7. On 2 October 2017, UEFA opened disciplinary proceedings against the player for Doping Offences (Art. 13 DR).
8. On 6 October 2017, Mr. Tzedek confirmed that he wished for a hearing to be held.
9. On 8 October 2017, counsel for Mr. Tzedek requested clarification from UEFA with respect to Mr. Tzedek's status during a voluntary provisional suspension.
10. On 9 October 2017, UEFA confirmed the Player's request to hold a hearing, confirmed that there was no "official self-suspension form" and, in relation to the query concerning Mr. Tzedek's status during a provisional suspension, referred to Article 15 of the UEFA Anti-Doping Regulations without providing further clarifications.
11. On 11 October 2017, counsel for Mr. Tzedek enquired again with UEFA regarding the provisional suspension, requesting UEFA to confirm whether Mr. Tzedek was entitled to train with his team during a voluntary provisional suspension.
12. On 16 October 2017, UEFA stated that it could "only refer again to Article 15 of the ADR" and noted that a player may accept a voluntary provisional suspension if this was confirmed in writing to the chairman of the competent UEFA disciplinary body.
13. On 16 October 2017, counsel for Mr. Tzedek responded, seeking precise answers to whether Mr. Tzedek could: (i) train with his team; (ii) use his team's facilities; and (iii) hire team staff members for individual training purposes. Mr. Tzedek further stated that, in order to avoid

any further delays, he wished to “confirm in writing to the Chairman of the Control, Ethics and Disciplinary Body (CEDB) that he accept[ed] a voluntary provisional suspension”. Finally, Mr. Tzedek requested an authorisation to train with his team during his provisional suspension and noted that in the particular circumstances of the case he reserved the right to request credit as from the day that he actually provisionally suspended himself.

14. On 19 October 2017, UEFA confirmed that the UEFA CEDB accepted Mr. Tzedek’s voluntary provisional suspension. UEFA further confirmed that Mr. Tzedek could not train with his team or use its facilities, but could hire club’s staff for individual training purposes.
15. On 20 October 2017, UEFA sent a copy of the Documentation Package concerning Mr. Tzedek’s doping control tests.
16. Following correspondence between the parties, on 7 November 2017, UEFA confirmed that Mr. Tzedek’s written submission was to be filed on 22 November 2017 and that a hearing would take place on 7 December 2017.
17. On 22 November 2017, the deadline for the written submission was further extended until 27 November 2017.
18. On 27 November 2017, the player submitted his statements.
19. On 28 November 2017, the player was notified about the composition of the Panel for the hearing to be taken place on 7 November 2017.

II. The Respondent’s position

A. The source of the prohibited substance and the player’s anti-doping education

20. The player in his pleadings finds that the source of the substance is the energy drink Xtreme Schock RTD, which already in the version sold in the USA has under its components the ingredient Octopalean (another name for “octopamine”). According to the player, he ingests this product routinely before each game.
21. The player did not report this product neither in the doping control form, nor later on in his first submissions before the Control, Ethics and Disciplinary, because he didn’t thought that an energy drink could contain a prohibited substance.
22. He did initiate the investigations following the counsel of his lawyers in that he should investigate any and all products (including energy drinks) that he had consumed in the lead up to the Match.
23. Resulting from the investigations made on the Xtreme Schock product, the player’s makes the following assertions:

- Sheba Medical Centre Tel Hashomer confirmed that while other products (i.e. the Better Konjac and Guarana), and Xtreme Shock powder samples did not contain octopamine, the Xtreme Shock RTD product did.
- According to the website of Advanced Nutrient Science International (ANSI) (the marketer of the drink), one of the RTD Xtreme Shock products that is sold in the United States lists an ingredient called "Octopalean, which is another name for octopamine (however is not listed on the WADA Prohibited List as a Prohibited Substance
- ANSI has confirmed that it has a contractual agreement with a company called Palmetto Canning to produce the drink. Palmetto Canning is solely responsible for the product's manufacturing and packaging.
- Palmetto Canning confirmed that it manufactures two versions of the Xtreme Shock RTD, one for the United States (with octopamine) and one for Israel (without octopamine). It also confirmed that because it manufactures both versions at the same time, it is "entirely possible" that some of the bottles were mislabelled and the Israeli bottles actually did contain octopamine.
- In addition to this, in mid-September 2017, several persons connected with the Israeli importer of ANSI products were arrested (following an undercover police operation) for smuggling food supplements into Israel without getting the necessary approvals from the local Ministry of Health.
- Further analysis on the product confirm the existence of this substance in the Xtreme Shock RTD format:
 - o The US laboratory, Chromadex Analytics, confirmed that there was octopamine in the relevant samples (this sample arrived in a sterile test tube due to US customs regulations nor allowing the product to be delivered in the original bottle)
 - o Scitec Research, located in Lausanne (Switzerland) confirmed that this bottle also contained octopamine, although it was not listed as an ingredient on the label.
- Mr. Tzedek commissioned an expert report from Dr. Laurent Rivier confirming that octopamine detected in Mr. Tzedek's urine was consistent with the (estimated) concentration of octopamine in the respective bottles of Xtreme Shock.

24. Regarding Tzedek's education and approach to anti-doping the player, in substance, he stated the following:

- Mr. Tzedek is generally aware that supplements can be problematic in anti-doping, so he ensures that he limits his use of these and focuses instead on having a healthy diet.

- When Mr. Tzedek does use supplements, he only ever uses those provided to him by the Club or the Israeli national team.
- Mr. Tzedek reads the labels of all supplements in Hebrew and if anything seems suspicious will always investigate the product further.
- Mr. Tzedek is limited in his abilities to personally identify prohibited substances so instead ensures that he always asks the relevant professional staff whether the supplements they have given him are safe to use and have been checked for prohibited substances.
- Mr. Tzedek emphasizes that the professional staff of the Club meticulously check the supplements provided to the players, and that only those substances checked and approved by the team’s consultant nutritionist are given to the players.
- The Club consults a certified dietician, Ms. Rakefet Arieli (Ms Arieli) with respect to the products its players use.
- Ms. Arieli has a BSc and MSc in nutrition from the Hebrew University of Jerusalem and a diploma in sports nutrition from the International Olympic Committee (IOC). She has worked as a sports dietician for 17 years and consults with a number of sports clubs, elite athletes and Olympic athletes.
- Ms. Arieli is well versed in the hazards of unregulated sports supplements and the steps that can be taken to minimise the risks associated with their use.
- Ms. Arieli provides a list of products that are “safe” for the Club to buy. Also, before recommending any products, she takes the following precautions:
 - Checks the ingredients of the product label against the WADA Prohibited List;
 - Checks whether the supplement is on the list of “informed choice” or “informed sport” and, if not, has an independent lab test performed to confirm that the product does not contain any prohibited substances; and
 - Conducts an internet search on the product.
 - In addition to Ms. Arieli’s checks:
 - The Israel Ministry of Health regulates supplements and energy drinks that are imported into Israel, in particular approving (or not approving) the ingredients in each product to ensure that it is safe and of high quality.

- The Club obtains its products only from reputable stores that service professional athletes (or serious amateurs) and professional football clubs. The Club further ensures that it advises any such stores of its players' anti-doping obligations and of the necessity that they do not inadvertently ingest prohibited substances

B. The significant fault of Mr Tzedek

25. The player asserts that this case is to be embedded as the classic example of an inadvertent doping violation and that, in all of the circumstances, he must be considered to have a light degree of fault or negligence.

No intention to cheat

26. The player holds that it is clear from the above factual background that Mr. Tzedek was not even aware that the Xtreme Shock that he drank contained octopamine.
27. Moreover, not only did Mr. Tzedek legitimately believe that he was ingesting a simple energy drink, there was no reason for him to suspect that there was a "significant risk" that drinking Xtreme Shock might result in an ADRV, nor did he "manifestly disregard that risk".
28. The fact of the matter is that Mr. Tzedek consumed a drink which did not feature any prohibited substances on the label, was sourced from a reliable shop, was regulated by the Israeli Ministry of Health and which he believed had been checked and added to the list of "safe supplements" by Ms. Arieli.
29. In addition, Mr. Tzedek had been consuming the RTD version of Xtreme Shock since January 2017 and had never returned a positive doping control.

No significant fault

30. Mr. Tzedek respectfully considers that, objectively, he exercised an appropriate degree of care in attempting to avoid the ingestion of prohibited substances. He checked what he could check alone and relied on the expert advice of his club medical staff and to Ms. Arieli for those elements which were beyond his abilities and expertise.
31. More specifically:
- (i) Mr. Tzedek read the label of all products he consumed in Hebrew, and sought further information if something stood out to him;
 - (ii) Mr. Tzedek consulted appropriate experts who he knew meticulously investigated all products before allowing players to use them;
 - (iii) These – far more qualified than he – experts generally carried out the other steps suggested by the *Cilic* Panel, including:
 - a. cross-checking all the ingredients on the label of products he consumed with the list of prohibited substances;
 - b. making internet searches for the product;
 - c. having the product independently tested; and

- d. sourcing the product from a reliable shop.
32. Specifically, and in the case at hand:
 - (i) Ms. Arieli originally advised that the powder version of Xtreme Shock was safe to be used by the Club.
 - (ii) Prior to doing so, Ms. Arieli:
 - a. Cross-checked all of the ingredients of the Xtreme Shock powder against the WADA Prohibited List and did not identify any prohibited substances or alternative names for same;
 - b. Made internet searches on the Xtreme Shock powder, which further confirmed that there were no prohibited substances; and
 - c. Had the product independently tested by a well-known German sports university in Cologne, which confirmed that there were no prohibited substances in the powder version of Xtreme Shock.
33. In addition to this:
 - a. Ms. Arieli understood that the Israel Ministry of Health also regulated the importation of supplements in Israel; and
 - b. The Club obtained the Xtreme Shock from a reputable store that services professional athletes (or serious amateurs) and professional football clubs. The Club further ensured that it advised the store of its players' anti-doping obligations and of the necessity that they do not inadvertently ingest prohibited substances.
34. Having all the above in mind the player deems that he ought to be in no circumstances with a sanction of above 4 months.
35. The more detailed arguments made by the player in support of its written submissions are set out below in as far as they are relevant.

III. Hearing

36. On 7 December 2017, the Control, Ethics and Disciplinary Body held its hearing.
37. The Chairman of the Control, Ethics and Disciplinary Body opened the hearing introduced the members of the panel and noted the presence of the Respondent.
38. Afterwards, the Chairman explained the procedure to be followed.
39. The floor was given to the Player, who, in substance, reiterated the arguments given in his written pleadings and developed and maintained his requests.
40. Further, the UEFA disciplinary body examined Ms Arieli and Mr Borsch via video conference who, in substance, reiterated and developed the statements given in his witness statements.
41. Finally, following the questioning made by the Panel on specific circumstances connected to this case and about the player's previous record, the latter had the chance to explain why he did not include the Xtreme Shock product in the doping control form of 22 August 2017,

whereas he included this product in another doping control form passed by him on 23 February 2017. In substance, the player confirmed the fact that different doctors filled out both doping control forms. In this regard, one was aware of the product whereas the other wasn't.

42. With regard to the above, the player reinstated that the previous doping form containing the alleged contaminated product must confirm his statements as regards the source of the prohibited substance.
43. The more detailed arguments made by the Respondent or the witnesses in support of their written submissions during the hearing are set out below in as far as they are relevant.

IV. Merits of the Case

A. UEFA's competence.

44. Pursuant to Article 52 of the UEFA Statutes, as well as Article 29 of the UEFA Disciplinary Regulations (DR), the Control, Ethics and Disciplinary Body is competent to deal with the case.
45. The members have signed an official declaration undertaking to exercise their functions in the conditions established in Article 32 UEFA DR.
46. In light of the above, the UEFA Statutes, rules and regulations, in particular the UEFA Disciplinary Regulations are applicable to these proceedings.

B. Applicable legal framework and general remarks

47. According to Article 2.01 (a) ADR:

Presence of a prohibited substance or its metabolites or markers in a player's sample

- i) *It is each player's personal duty to ensure that no prohibited substance enters his body. Players are responsible for any prohibited substance or its metabolites or markers found to be present in their samples. Accordingly, it is not necessary that intent, fault, negligence or knowing use on the player's part be demonstrated in order to establish an anti-doping rule violation.*
- ii) *Sufficient proof of an anti-doping rule violation is established by any of the following: presence of a prohibited substance or its metabolites or markers in the player's A sample where the player waives analysis of the B sample and the B sample is not analysed; or, where the player's B sample is analysed and the analysis of the player's B sample confirms the presence of the prohibited substance or its metabolites or markers found in the player's A sample; or, where the player's B sample is split into two bottles and the analysis of the second bottle confirms the presence of the prohibited substance or its metabolites or markers found in the first bottle.*

48. It is recalled that in relation to the burden and the standard of proof Article 3.01 UEFA ADR contemplates as follows:

UEFA has the burden of establishing that an anti-doping rule violation has occurred. The standard of proof is whether UEFA has established an anti-doping rule violation to the comfortable satisfaction of the hearing panel, bearing in mind the seriousness of the allegation which is made. Where a player or other person alleged to have committed an anti-doping rule violation has the burden of rebutting a presumption or establishing specified facts or circumstances, the standard of proof is the balance of probability.

49. Article 9.01 UEFA Anti-Doping Regulations read as follows:

Suspension for presence, use, attempted use, or possession of a prohibited substance or a prohibited method

The period of suspension for a first violation under paragraph 2.01a (presence of a prohibited substance or its metabolites or markers), 2.01b (use or attempted use of a prohibited substance or prohibited method) or 2.01f (possession of a prohibited substance or prohibited method) is as follows, subject to any reduction or suspension of this period pursuant to paragraph 10.01, 10.02 or 10.03.

- i. The period of suspension is four years if:
 - i) the anti-doping rule violation does not involve a specified substance (unless the player or other person can establish that it was not intentional); or*
 - ii) the anti-doping rule violation involves a specified substance and UEFA can establish that it was intentional.**
- ii. If paragraph a) does not apply, the period of suspension is two years.*
- iii. As used under paragraphs 9.01 and 9.02, the term "intentional" is meant to identify those players who cheat. The term, therefore, requires that the player or other person engaged in conduct which he knew constituted an anti-doping rule violation or knew that there was a significant risk that the conduct might constitute or result in an anti-doping rule violation and manifestly disregarded that risk. An anti-doping rule violation resulting from an adverse analytical finding for a substance which is only prohibited in-competition is rebuttably presumed to be "not intentional" if the substance is a specified substance and the player can establish that the prohibited substance was used out-of-competition.*

50. According to Article 10 UEFA Anti-Doping Regulations:

10.01 Lifting the period of suspension where there is no fault or negligence

If a Player or other person establishes in an individual case that he bears no fault or negligence, then the otherwise applicable period of suspension is lifted.

10.02 Reducing the period of suspension based on no significant fault or negligence

- a. Reducing suspensions for violations of paragraph 2.01a (presence of prohibited substance or its metabolites or markers), 2.01b (use or attempted use of a prohibited*

substance or prohibited method), or 2.01f (possession of a prohibited substance or prohibited method) involving specified substances or contaminated products.

i. Specified substances

Where the anti-doping rule violation involves a specified substance, and the player or other person can establish no significant fault or negligence, then the minimum sanction is a reprimand and no period of suspension and the maximum sanction two years of suspension, depending on the player or other person's degree of fault.

ii. Contaminated products

In cases where the player or other person can establish no significant fault or negligence and that the detected prohibited substance came from a contaminated product, then the minimum sanction is a reprimand and no period of suspension and the maximum sanction two years of suspension, depending on the player's or other person's degree of fault.

b. Application of no significant fault or negligence beyond the application of paragraph 10.02a

Where paragraph 10.02a does not apply, if a player or other person establishes in an individual case that he bears no significant fault or negligence then, subject to any further reduction or lifting of the period pursuant to paragraph 10.03, the otherwise applicable period of suspension may be reduced based on the player or other person's degree of fault, but the reduced period of suspension may not be less than half of the period of suspension otherwise applicable. If the otherwise applicable period of suspension is a lifetime, the reduced period under this paragraph may be no less than eight years.

51. According to Appendix D of the UEFA Anti-Doping Regulations:

Contaminated product: *A product that contains a prohibited substance that is not disclosed on the product label or in information that can be found by means of a reasonable internet search.*

Fault: *Any breach of duty or lack of care appropriate to a particular situation. Factors to be taken into consideration in assessing a player or other person's degree of fault include, for example, the player's or other person's experience, whether the player or other person is a minor, special considerations such as impairment, the degree of risk that should have been perceived by the player and the level of care and investigation exercised by the player in relation to what should have been the perceived level of risk. In assessing the player's or other person's degree of fault, the circumstances considered must be specific and relevant to explain the player's or other person's departure from the expected standard of behaviour. Thus, for example, the fact that a player would lose the opportunity to earn large sums of money during a period of suspension, the fact that a player only has a short time left in his career, or the timing in terms of the sporting calendar would not be relevant factors to be considered in reducing the period of suspension under paragraph 10.02.*

No fault or negligence: *If the player or other person establishes that he did not know or suspect, and could not reasonably have known or suspected, even with the exercise of utmost caution, that he had used or been administered a prohibited substance or prohibited method or otherwise violated an anti-doping rule. Except in the case of a minor, for any violation of paragraph 2.01a, the player must also establish how the prohibited substance entered his system.*

No significant fault or negligence: *If the player or other person establishes that his fault or negligence, when viewed in the totality of the circumstances and taking into account the no fault or negligence criteria, was not significant in relation to the anti-doping rule violation. Unless he is a minor, for any violation of paragraph 2.01a the player must also establish how the prohibited substance entered his system. For cannabinoids, the player may establish that he bears no significant fault or negligence by clearly demonstrating that the use was not intended to enhance sporting performance or unrelated to sport.*

52. Finally, as regards the commencement of the period of suspension UEFA's ADR has a specific wording included in Article 14.01 ADR:

14.01 Except as provided below, each period of suspension commences on the date the decision to impose a suspension is communicated to the player or other person concerned.

- c. Delays not attributable to the player or other person*

Where there have been substantial delays in the hearing process or other aspects of the doping control not attributable to the player or other person, the competent UEFA disciplinary body may start the period of the suspension at an earlier date commencing as early as the date of sample collection or the date on which another anti-doping rule violation last occurred. All competitive results achieved during the period of suspension, including retroactive suspension, are cancelled.

- d. Timely admission*

Where the player or other person promptly (which, in all events, for a player means before the player competes again) admits the anti-doping rule violation after being confronted with the anti-doping rule violation by UEFA, the period of suspension may start as early as the date of the sample collection or the date on which another anti-doping rule violation last occurred. In each case, however, where this paragraph is applied, the player or other person serves at least one-half of the period of suspension going forward from the date the player or other person accepted the imposition of a sanction, or the date the sanction is otherwise imposed. This paragraph does not apply where the period of suspension has already been reduced under paragraph 10.03c.

14.02 Credit for provisional suspension or period of suspension served

- a) If a provisional suspension is imposed and respected by the player or other person, the player or other person receives a credit for such period of provisional suspension against any period of suspension which may ultimately be imposed. If a period of suspension is served pursuant to a decision that is*

subsequently appealed against, then the player or other person receives a credit for such period of suspension served against any period of suspension which may ultimately be imposed on appeal.

- b) If a player or other person voluntarily accepts a provisional suspension in writing from UEFA and thereafter respects the provisional suspension, the player or other person receives a credit for such period of voluntary provisional suspension against any period of suspension which may ultimately be imposed. A copy of the player or other person's voluntary acceptance of a provisional suspension is provided promptly to each party entitled to receive notice of an asserted anti-doping rule violation according to these regulations.*
- c) No credit against a period of suspension is given for any time period before the effective date of the provisional suspension or voluntary provisional suspension regardless of whether the player elected not to compete or was suspended by his team.*

C. The case in hand

- 53. This case is about a player, Shir Tedzek (captain of Hapoel Beer-Sheva FC and player of the national team of Israel), who tested positive for octopamine. In conformity with the WADA Prohibited List of 1 January 2017, the above substance is prohibited in-competition under the category S6.b Specified Stimulants.
- 54. Bearing the above in mind, the Control, Ethics and Disciplinary Body faces a number of legal questions that need to be answered. The scope of these questions is described in more detail in the next sections:
 - Is the anti-doping violation established?
 - Is it established how and when the prohibited substance entered the player's body?
 - Is there a fault of the player and, if so, is it a significant fault or negligence?

a. The anti-doping violation

- 55. As stated above, the facts of this case, at least as regards the establishment of an antidoping violation are straightforward. This antidoping rule violation derives from the positive test of the Player, Mr Tzedek, after a doping control analysis undertaken after a UEFA Champions League match against NK Maribor played on 22 August 2017 in Slovenia
- 56. The player has not contested the adverse analysis result and accepts the existence of the antidoping rule violation in accordance with Article 2.01 ADR.
- 57. Consequently, this UEFA disciplinary body deems that as the doping infringement is confirmed and accepted by the Player and there is no element in the case file which would go against this conclusion, the anti-doping rule violation is established in accordance with Article 2.01 ADR.

b. The intention of the player

58. It is recalled that Article 9 ADR foresees that the sanction for specified substances is two years if it is proven that the player didn't take the substance intentionally.
59. With regard to the notion of intentionally ingesting a prohibited substance, having this aspect a direct link to the level of the sanction, Article 9.01 (c) ADR describes it as meant to identify those players who cheat. The term, therefore, requires that the player or other person engaged in conduct which he knew constituted an anti-doping rule violation or knew that there was a significant risk that the conduct might constitute or result in an anti-doping rule violation and manifestly disregarded that risk.
60. The player on his side admits that he was in fault when he ingested the substance, the level of which to be examined later on. However, he insists on the fact that he had no intention to cheat. This conclusion is based on the argumentation given around the source of the substance, which, in summary, points to an inadvertent doping ingestion of the energy drink Xtreme Shock containing this substance.
61. The UEFA disciplinary body recalls that Article 9.01 (c) ADR also establishes that an anti-doping rule violation resulting from an adverse analytical finding for a substance which is only prohibited in-competition is rebuttably presumed to be "not intentional" if the substance is a specified substance and the player can establish that the prohibited substance was used out-of-competition.
62. It is reminded that in-competition period is defined by Appendix D of the ADR as starting 24 hours before a single match or the first match of a tournament and terminates 24 hours after the single match or the end of the tournament. Whereas the out of competition is any time which is outside the in-competition phase.
63. Having the above in mind, as well as the player's statements, this UEFA disciplinary body is persuaded that the player had no intention to cheat in the sense of Article 9.01 (c) ADR. It follows that either the source of the substance was the energy drink Xtreme Shock, which its drinking version sold in the USA contains this substance, or the ingestion is subduced to the presumption included in Article 9.01 (c) ADR for specified substances, as there are no evidence in the case file that could lead to another conclusion.
64. Either way the conclusion is the same. The player did not take the substance with the intention to cheat in the sense given by with Article 9.01 (c) ADR.

c. The fault of the player

65. According to Article 10.01 ADR, if a Player or other person establishes in an individual case that he bears no fault or negligence, then the otherwise applicable period of suspension is lifted.
66. The player on his side admits the existence of fault, which he classifies as the a classic example of an inadvertent doping violation and that, in all of the circumstances, he must be considered to have a light degree of fault or negligence

67. As regards the existence of fault or negligence, CAS has steadily concluded that utmost caution is required by the player for finding no fault or negligence. In this regard, any breach of his duty of care or lack of it relating to his particular situation would already justify the existence of fault. This, again, in the context in which the player is requested to implement the “utmost caution” (CAS 2016/a/4643 at para 74).
68. In the case at hand, the player’s fault derives mainly from his failings in implementing the appropriate precautions as to avoid the presence of this substance in his body, e.g. minimal checks on the product and supervising and controlling those on which he relied in order to meet his doping obligations.
69. Consequently, as admitted also by the player himself, he, bears in the present case negligence and/or fault the level of which will be examined in detail in the following sections.

d. The level of fault of the player

70. According to Article 10.01 ADR, reducing suspensions for violations of paragraph 2.01a (presence of prohibited substance or its metabolites or markers), 2.01b (use or attempted use of a prohibited substance or prohibited method), or 2.01f (possession of a prohibited substance or prohibited method) involving specified substances or contaminated products.
71. This UEFA disciplinary body notes that there may be a discussion around if this case is to be allocated either as a contaminated product or strictly as the ingestion of a specified substance. In this respect, the player stresses that it is not necessary to determine which of these particular provisions applies to the present case, but instead to consider whether the definition of No Significant Fault or Negligence is met in this case.
72. The Control, Ethics and Disciplinary Body agrees with the player in that the current case fits perfectly with both scenarios, being the prohibited substance a specified one, and the allegations of the player as regards the source of the substance refer to a likely “contamination” in a broad sense of this term, if accepted the theory of the player on the source of the substance.
73. Truth is that, in accordance with the player’s assertions, it is irrelevant for this case to establish the specific scenario, i.e. contaminated product or specified substance. The requirements to reduce the standard sanction of two years and the range of sanctions relating to each category of fault are the same in both situations.
74. Following the above line of reasoning, the question now is if the player has proven the existence of no significant fault and in which extent his fault is to be assessed in accordance with Article 10.02 ADR. In this regard, Appendix D of the ADR establishes two conditions towards the player. First, the player needs to establish how the substance entered his body and, second, that his fault was not significant.

1. The source of the substance

75. The player suggests that the source of the substance is an energy drink, called Xtreme Shock RTD, that he ingests routinely before each match.
76. Briefly, the player asserts that analysis done by three different laboratories (one in the United States, one in Israel and one in Switzerland) confirm the presence of octopamine in the bottles of Xtreme Shock. Also, the website of Advanced Nutrient Science International (ANSI) – the marketer of the product, confirms that this same product sold in the United States contains the said substance. In addition, the company responsible for manufacturing and packaging the product (Palmetto Canning) is the same for Israel and the United States. This company recognizes that it is “entirely possible” that some of the bottles were mislabelled. Finally, according to the expert report from Dr. Laurent Rivier, the octopamine detected in Mr. Tzedek’s urine is consistent with the (estimated) concentration of octopamine in the respective bottles of Xtreme Shock.
77. It is noted that all the above findings given by the player are accepted by this UEFA disciplinary body.
78. Also relevant for this part of the proceedings is the fact that during the hearing it has been established that in a previous doping control of 17 February 2017 the player included this product in the doping control form. The reason why he did not include it in the doping control form of the relevant match derives allegedly from the fact that different doctor have been responsible to fill out the forms. Here, only one doctor remembered the fact that the player was using this product it, whereas the other didn’t.
79. In any case, this UEFA disciplinary body deems that this document supports even more the position of the player in that he used this product before the relevant match.
80. However, as far as the UEFA disciplinary body feels sympathy for the theory of the player, before reaching its conclusion about the source of the substance it needs to draw the attention to some gaps in his argumentation that may eventually weaken the credibility of the player’s position.
81. This UEFA disciplinary body notes that he didn’t report this product in his first allegations made on 24 September 2017. The reason he gave therefore it hat he didn’t think that an energy drink could contain the alleged doping substance. Only after gathering legal advise he remembered its existence. This sudden acknowledgement of the product that finally appears to be the source of the substance is the least suspicious.
82. Further on, this UEFA disciplinary body has serious doubts about the reliability of the results coming from the United States laboratory. As admitted by the player, the original bottle had to be manipulated by transferring the content of it to a sterilised tube before sending it to the US. This obviously involves an unacceptable manipulation of the content and has a direct impact on the reliability of the results.
83. Also, in connection to the different laboratory analysis, this UEFA disciplinary body noted that none of them involves a WADA accredited laboratory. The reason therefore, as stated by the player during the hearing, was that WADA accredited laboratories don’t accept

products coming from private individuals. In this regard, the player could have asked UEFA to request a WADA accredited laboratory to undertake the appropriate analysis, but he didn't.

84. Finally, during the examination of the club's physiotherapist, Mr Borsch, he confirmed none of the almost 40 bottles which were in possession of the club are currently available for analysis. This is certainly convenient for the player who has already a number of positive results coming from different laboratories to support his theory without any possibility for UEFA to out together these results with others coming from a similar product, i.e. a the same product with the same batch number and expiry date.
85. Bearing all the above in mind, as stated already in the previous section, even though there are some gaps in the account of events of the player, and, in some extent, on the reliability of the results provided by the laboratories, this Panel is prepared to accept that the source of the substance is likely to be the drinking version of the Xtreme Shock product.
86. This conclusion derives from the fact that it is credible to assume that Mr Tedzek used this product before the relevant match. In particular, the existence of a previous doping control form of February 2017, including this product, supports the likelihood of this assertion. This UEFA disciplinary body also accepts that indeed this product may have contained the octopamine substance as both the AINSI webpage of the same product sold in the US and, most importantly, the statements of the company responsible for manufacturing and packaging this product point in this direction.
87. Consequently and for the sake of conciseness, the Control, Ethics and Disciplinary Body deems that the source of the substance was the energy drink called Xtreme Shock ingested by the player before the match.

2. The existence of no significant fault or negligence

88. Once decided how the product entered the player's body, the attention is focused towards the existence of significant fault or negligence. This exercise is necessary as to determine the appropriate sanction.
89. Significant fault or negligence is contemplated in both Article 10.02 (b) ADR and in Appendix D of this same regulations:

- According to Article 10.2 (b) ADR:

Application of no significant fault or negligence beyond the application of paragraph 10.02a

Where paragraph 10.02a does not apply, if a player or other person establishes in an individual case that he bears no significant fault or negligence then, subject to any further reduction or lifting of the period pursuant to paragraph 10.03, the otherwise applicable period of suspension may be reduced based on the player or other person's degree of fault, but the reduced period of suspension may not be less than half of the period of

suspension otherwise applicable. If the otherwise applicable period of suspension is a lifetime, the reduced period under this paragraph may be no less than eight years.

- According to Appendix D of the UEFA Anti-Doping Regulations:

Contaminated product: *A product that contains a prohibited substance that is not disclosed on the product label or in information that can be found by means of a reasonable internet search.*

Fault: *Any breach of duty or lack of care appropriate to a particular situation. Factors to be taken into consideration in assessing a player or other person's degree of fault include, for example, the player's or other person's experience, whether the player or other person is a minor, special considerations such as impairment, the degree of risk that should have been perceived by the player and the level of care and investigation exercised by the player in relation to what should have been the perceived level of risk. In assessing the player's or other person's degree of fault, the circumstances considered must be specific and relevant to explain the player's or other person's departure from the expected standard of behaviour. Thus, for example, the fact that a player would lose the opportunity to earn large sums of money during a period of suspension, the fact that a player only has a short time left in his career, or the timing in terms of the sporting calendar would not be relevant factors to be considered in reducing the period of suspension under paragraph 10.02.*

No fault or negligence: *If the player or other person establishes that he did not know or suspect, and could not reasonably have known or suspected, even with the exercise of utmost caution, that he had used or been administered a prohibited substance or prohibited method or otherwise violated an anti-doping rule. Except in the case of a minor, for any violation of paragraph 2.01a, the player must also establish how the prohibited substance entered his system.*

No significant fault or negligence: *If the player or other person establishes that his fault or negligence, when viewed in the totality of the circumstances and taking into account the no fault or negligence criteria, was not significant in relation to the anti-doping rule violation. Unless he is a minor, for any violation of paragraph 2.01a the player must also establish how the prohibited substance entered his system. For cannabinoids, the player may establish that he bears no significant fault or negligence by clearly demonstrating that the use was not intended to enhance sporting performance or unrelated to sport.*

90. For the sake of clarity the Control, Ethics and Disciplinary Body recalls that CAS has recently established the way in which the significant fault or negligence shall be assessed and this in relation with the sanction to be imposed (CAS 2013/A/3327 Marin Cilic v. International Tennis Federation and CAS 2013/A/3335 International Tennis Federation v. Marin Cilic; CAS 2015/A/3876 James Stewart Jr. v. Federation Internationale de Motocyclisme).

91. Summarily, as recovered from the above CAS Case law, this UEFA disciplinary body distinguishes between different categories of negligence, i.e light, normal and significant. Only the first categories allow for a reduction of the otherwise applicable period of ineligibility according to Article 10.2 ADR and Appendix E of the ADR:
 - a. Significant degree of fault: the period of suspension ranges from 16-24 months, with a "standard" significant fault leading to a suspension of 20 months
 - b. Normal degree of fault: the period of suspension ranges from 8-16 months, a "standard" normal degree of fault leading to a suspension of 12 months.
 - c. Light degree of fault: the period of suspension ranges from 0-8 months, with a "standard" light degree of fault leading to a suspension of 4 months.
92. In order to determine into which category of fault a particular case might fall, it is helpful to consider both the objective and the subjective level of fault. The objective element describes what standard of care could have been expected from a reasonable person in the athlete's situation. The subjective element describes what could have been expected from that particular athlete, in light of his personal capacities.
93. The objective element should be foremost in determining into which of the three relevant categories a particular case falls.
94. The subjective element can then be used to move a particular athlete up or down within that category. Of course, in exceptional cases, it may be that the subjective elements are so significant that they move a particular athlete not only to the extremity of a particular category, but also into a different category altogether.

i. The objective element of the level of fault

95. First and foremost, the Control, Ethics and Disciplinary Body shares the approach of the CAS Case law insofar at the outset, it is important to recognise that, in theory, almost all anti-doping rule violations relating to the taking of a product containing a prohibited substance could be prevented. In some circumstances the athlete could always (i) read the label of the product used (or otherwise ascertain the ingredients), (ii) cross-check all the ingredients on the label with the list of prohibited substances, (iii) make an internet search of the product, (iv) ensure the product is reliably sourced and (v) consult appropriate experts in these matters and instruct them diligently before consuming the product. However, an athlete cannot be reasonably expected to follow all of the preventive steps in every and all circumstances. Instead, these steps can only be regarded as reasonable in certain circumstances for substances prohibited at all times (both in and out-of-competition) and for substances prohibited in-competition.
96. At the outset, it is important to recognise that, in theory, almost all anti-doping rule violations relating to the taking of a product containing a prohibited substance could be prevented. The athlete could always (i) read the label of the product used (or otherwise ascertain the ingredients), (ii) cross-check all the ingredients on the label with the list of prohibited substances, (iii) make an internet search of the product, (iv) ensure the product

is reliably sourced and (v) consult appropriate experts in these matters and instruct them diligently before consuming the product.

97. However, an athlete cannot be reasonably expected to follow all of the above steps in every and all circumstances.
98. In the present case, the Control, Ethics and Disciplinary Body acknowledges that the line of argumentation of the player follows two different paths. First, he emphasizes the personal safeguards he undertakes with regard to the use of supplements. Second, as he is aware of his own limitations he relies on the expertise of the club and its experts, mainly Ms Arieli.
99. Regarding the safeguards he takes when using supplements, the player stresses that he limits its use, he only uses those provided by his club and reads the labels in Hebrew and if anything seems suspicious investigates further.
100. This UEFA disciplinary body finds no reason to disbelieve the above assertions made by the player. However, some of the specific circumstances of this case are not satisfying as regards the analysis of the fault of the player.
101. It is recalled that in order to meet the necessary standard of the duty of care, a minimum requirement may be whether the athlete carried out internet research (CAS 2009/A/1915 at para 76).
102. According to the player's own information the ANSI's webpage – the marketer of this product, establishes that the product sold in the US contains octopalean - another name for octopamine. In particular, the description given by this webpage is close to the typical one given for other performance enhancing products like, for instance, steroids. It defines it as a product that "*promotes instant energy and strength gains plus buffers lactic acid build up, allowing you to pack on new muscle, faster and easier than ever before*²". Consequently, this simple and easy duty of care was not done by the player, even though it would have provided the player with important information of the potential danger of this product and, accordingly, called for the need to be more attentive and cautious.
103. Also, this UEFA disciplinary body deems that the player lacked from a cautious attitude when he realised that the format of the product provided by the club changed suddenly from powder to a drinking version. According to the evidence at hand the player did not return to the club or its experts to reassure that the product was safe. Neither the player nor the witness statements provided by the latter point to any precaution undertaken by the player when the change of format occurred. Indeed, the expert Ms Arieli on whom the player relied was not aware of this situation, whereas it is the player himself who asserts that he checks everything with the relevant representatives and, in particular, with Ms Arieli.
104. Further and in connection to the second path used by the player, the Control, Ethics and Disciplinary Body has some doubts about the strength of these allegations. The player insists in that he relies on the club and its experts to discharge his responsibility. In this sense, he notes that he is aware of his limitations and asks the relevant staff whether he can use the

² <https://ansinutrition.com/product/xtreme-shock-fruit-punch-12oz/>

supplements and if these have been checked and approved by the nutritionist. In this respect, the club consults a dietician, Ms Arieli, who is an expert in nutrition and has a diploma in sport nutrition. Ms Arieli provides a list of “safe” products that are checked against the WADA Prohibited list. In this regard, the witness statements by Ms Arieli incorporate the analysis undertaken on the product Xtreme Shock by a German laboratory in 2012, being the result negative for doping substances.

105. First, it derives from the information provided by, Ms Arieli that she ordered to test the product for doping substance in a German laboratory in 2012 - five years ago, and only for a specific number of steroids, i.e. specific substances - none of which referred to octopamine. In this regard, there has been no evidence as if the expert has supervised or continue to monitor this product either for *octopamine* or for the presence of any other doping substance.
106. It is recalled that according to the player’s assertions he started to use this product as of January 2017, being the reliability of the above mentioned results not clear insofar they may not be still valid five years later..
107. Further, there is no piece of evidence that demonstrates that a minimal internet research had been attempted by the club relevant staff, and, in particular, by the expert. As explained before, a simple internet research on the webpage of ANSI on this product would have showed that a version of product contains the prohibited substance.
108. It is recalled that checking a substance against the Prohibited List is not an action for which specific anti-doping training is required³. The player asserts that it was done by the experts, but none of them came back with the above conclusion, even if it is evident for the above mentioned reasons that the drinking version of this product present some potential risk depending where it is bought.
109. Nonetheless, this UEFA disciplinary body is willing to accept the fact that the player was reasonable in selecting the clubs experts, amongst them Ms Arieli. However, even so, he still has the responsibility to monitor or supervise in any way whether and how the club experts were meeting the anti-doping obligations imposed on the athlete when they agreed to assist him (CAS 2016/A/4643 at para 97). By not doing it, not even after noticing that the format of the product had evidently changed from powder to a drinking version, he clearly failed in his anti-doping obligations.
110. Also regarding the change from the powder to the drinking version of this product, the player asserts that the club purchased it from the shop “X-Body”. This store run out of supplies of the powder form and suggested the club to take the drink RTD version of Xtreme Shock, which had allegedly the same components. The club decided to use this version of the product without the knowledge of Ms Arieli. It follows Ms Arieli didn’t cross-check, made an internet research and or an independent test as she did with the powder version. Consequently, the assertions made by the player in this regard as to discharge his responsibility are not valid for the drinking version due to the obvious fact that this has

³ CAS 2016/A/4643 at para 88

never been done on the drinking version, which if done so would have resulted in the discovery of the substance or at least the potential risk attached to this product.

111. Bearing all the above circumstances in mind, while having sympathy for some of the assertions made by the player, this UEFA disciplinary body considers that the player had a normal degree of fault from an objective perspective, being the period of suspension from 8-16 months, a "standard" normal degree of fault leading to a suspension of 12 months.

ii. The subjective element of the level of fault

112. In substance, the subjective element describes what could have been expected from the athlete, in light of his personal capacities. Whilst each case will turn on its own facts, the following examples of matters can be taken into account in determining the level of subjective fault (cf. also LA ROCHEFOUCAULD, CAS Jurisprudence related to the elimination or reduction of the period of ineligibility for specific substances, CAS Bulletin 2/2013, p. 18, 24 et seq.):

- a. An athlete's youth and/or inexperience (see CAS 2011/A/2493, para 42 et seq; CAS 2010/A/2107, para. 9.35 et seq.).
- b. Language or environmental problems encountered by the athlete (see CAS 2012/A/2924, para 62).
- c. The extent of anti-doping education received by the athlete (or the extent of anti-doping education which was reasonably accessible by the athlete) (see CAS 2012/A/2822, paras 8.21, 8.23).
- d. Any other "personal impairments" such as those suffered by:
 - i. an athlete who has taken a certain product over a long period of time without incident. That person may not apply the objective standard of care which would be required or that he would apply if taking the product for the first time (see CAS 2011/A/2515, para 73).
 - ii. an athlete who has previously checked the product's ingredients.
 - iii. an athlete is suffering from a high degree of stress (CAS 2012/A/2756, para. 8.45 seq.).
 - iv. an athlete whose level of awareness has been reduced by a careless but understandable mistake (CAS 2012/A/2756, para. 8.37).

113. In the "moderate fault" category, the range of the period of ineligibility under Cilic is "8-16 months, with a 'standard' normal degree of fault leading to a suspension of 12 months."⁴. According to Cilic, after determination of the relevant category based on application of the objective element, the subjective element is "used to move a particular athlete up or down within that category"⁵.

114. In this case, the Panel notes that the athlete is an experienced football player, who has already played professional football for about 10 years. As portrayed in the player's

⁴ CAS 2013/A3327 at para 170

⁵ CAS 2013/A3327 at para 171

statements, he is the captain of his team, a club playing UEFA competitions, and has already played for the national team in 15 occasions.

115. It is reminded that since 2005, every start of the season, UEFA sends a circular letter to all FAs and clubs participating to UEFA competitions with 30 players anti-doping prevention leaflets⁶. The team doctor is asked to have a session with his players regarding anti-doping matters and give them one copy of the leaflet. Since the player has been playing in UEFA competitions for some years, this UEFA disciplinary is satisfied that he has received enough education, at least from his current club in connection with UEFA's circular letter, and at least to the extent that he knows that it is important to cross examine the product and to make a simple internet research.
116. The player himself admits that he did not made any further check apart the one of reading the label, but admits at the same time that he has no medical or technical knowledge. In this regard, the Panel has serious doubts as how to interpret the player's position. Either he had some knowledge to check the label, cross check it with the Prohibited list and remark something suspicious, in which case he received enough education on anti-doping. Or, as he states, he had no medical and technical knowledge, being totally useless to check the label as he would never be suspicious of any ingredient contained in it.
117. In any of both cases, he would have failed his duty of care, either by not doing an adequate internet research, which in the light of the current circumstances a simple search would have made it, or by not implementing any check at all due to his incapacity to do so.
118. Again, this UEFA disciplinary body accepts the fact that the decision to choose the relevant staff of the club and Ms Arieli, was reasonable, but this decision also comports the obligation to supervise and control that the latter meet the obligations imposed on the athlete. Here, he should have taken any precautions when he appreciated the change of format of the product, which he didn't at all. But also neither the club staff nor the nutrition expert met the obligations imposed to the athlete. On the one hand, the relevant staff of the club did not implement any cross examination of the drinking version of the Xtreme Shock product. On the other hand, Ms Arieli made no assessment on it, mainly because she wasn't made aware of the change of format.
119. Finally, Mr Tedzek did not disclose on his anti-doping control forms the use of the product, a factor that clearly weighed heavily in the mind of some CAS Panels to reach sanctions approaching a one year suspension⁷. Admittedly, the player did include this information in a previous doping control form of 17 February 2017, and, this fact supports the fact that he also took it at the relevant match of 22 August 2017. However, following the previous line of thoughts, the player can't pretend to escape from his responsibility by always relying on someone other's fault on an issue appertaining only to his own responsibility, being irrelevant the fact that doctors usually fill out these forms.
120. Also, the player's first submissions do not include the Xtreme Shock product as one of the products ingested by the player, while being obvious that he made the effort to recall others.

⁶ See for instance Circular number 92 of 2 June 2017

⁷ CAS 2016/A/4643 Sharapova v. ITF ; CAS OG 06/001

In particular, he explicitly declared that "*other than I declared on the Declaration of Medication and in this letter, I haven't used any other medicine or food supplement*". Today, this Panel agrees to the fact that he missed to include this product, but the player it doesn't mean that he failed to act as he was expected to.

121. While recognizing that the player committed some mistakes, this Panel concludes that the application of the following subjective mitigating factors justify for a lower sanction than the standard of one year:

- The fact, as expressed above, that the selection of the relevant staff of the club, and, in particular, the nutrition expert, Ms Arieli, to assist him in meeting his obligations was reasonable, irrespective from their own failures in monitoring and control their performance.
- The fact that the drinking version of the Xtreme Shock product sold in Israel doesn't contain amongst its ingredients the prohibited substance *octopamine*.
- The fact that the company responsible for manufacturing and packing the product recognised that it is "entirely possible" that some bottles were mislabelled.
- The fact that he already passed a doping control on February 2017 at which it was certain that he ingested this product, as he included it in the doping control form, and did not test positive.

122. This Panel agrees with the CAS jurisprudence that "although consistency of sanctions is a virtue, correctness remains a higher one: otherwise unduly lenient (or, indeed, unduly severe) sanctions may set a wrong benchmark inimical to the interests of sport"⁸. In the Control, Ethics and Disciplinary Body's view, an eight-month suspension for Mr Tezdek achieves both objectives because it is a fair and proportionate sanction under Cilic's guidelines – quoted above, as well as the pre-Cilic sanctioning principles set forth in Kendrick⁹.

123. Finally, as regard the commencement of the sanction Article 14.01 ADR states that each period of suspension commences on the date the decision to impose a suspension is communicated to the player or other person concerned. In particular, for cases in which the player has requested a voluntary suspension, no credit against a period of suspension is given for any time period before the effective date of the provisional suspension or voluntary provisional suspension regardless of whether the player elected not to compete or was suspended by his team.

124. In the case in hand, the Chairman of the Control, Ethics and Disciplinary Body accepted the the voluntary provisional suspension of Hapoel Beer-Sheva player Shir Meir Tzedek on 19 October 2017. Bearing in mind the above considerations, this is the date of the commencement of the eight-month suspension.

⁸ Dimitar Kutrovsky v. ITF, CAS 2012/A/2804 at para 9.54 ; CAS 2016/A/4371 Robert Lea v. USADA at para 96

⁹ CAS2011/A/2518 Robert Kendrick v ITF

125. Consequently, the Control, Ethics and Disciplinary Body decides that Mr Tzedek Shir Meir is suspended for a period of eight (8) months from 19 October 2016, commencement date of his voluntary provisional suspension.



Appeals Body

Decision of 13 July 2017

FC Porto

(throwing of objects; setting off of fireworks)

Circumstances of the case

According to the official reports of the referee and the delegate of the UEFA Champions League 2016/2017 match between FC Porto and Juventus Football Club on 22 February 2017, coins were thrown at match officials by FC Porto's supporters during the match and one coin actually hit the referee. It was also reported that fireworks were ignited on three occasions during the match, resulting in loud bangs. On 23 February 2017, the Control, Ethics and Disciplinary Body (CEDB) decided that FC Porto had breached Article 16 (2) (b) and (c) of the UEFA Disciplinary Regulations and imposed FC Porto a fine.

The club in its appeal stated that the delegate's report contradicts the referee's report, since according to the delegate's report no coins were provided to him by the match officials and no coins were found on the pitch after the match. FC Porto also suggests that neither the delegate nor the referee knew what caused the loud bangs. FC Porto concludes that it was impossible for the standard of proof of comfortable satisfaction to be reached.

Legal framework Article 16 (2) (b) and (c) of the UEFA Disciplinary Regulations.

Decision

On 23 March 2017, the CEDB decided to fine FC Porto €17,000. The CEDB indicated being more than comfortably satisfied that coins were thrown during the match – in particular, since the referee himself actually describes being hit by a coin in his report. The CEDB concluded that the mere absence of the coins cannot disprove the accuracy of a firsthand account by the referee for the match which expressly describes coins being thrown. As to the setting off of fireworks, the CEDB noted that the referee and the delegate are both experienced officials having experienced multiple incidents of fireworks and considered that a simple statement from the club alleging other cause is not sufficient to disprove the accuracy of the official reports.

The Appeals Body upheld the Control, Ethics and Disciplinary Body's decision of 23 March 2017 and rejected the appeal of FC Porto.

Chairman: Pedro Tomás (Spain)

Members: Michael Maessen (Netherlands)

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 (the "**CEDB**") on 23 March 2017 (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.
2. 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.
3. According to the official reports of the delegate and referee for the UEFA Champions League 2016/2017 match between FC Porto (the "**Club**") and Juventus FC on 22 February 2017 (the "**Match**"):
 - Coins were thrown at match officials by the Club's supporters during the Match and one such coin actually hit the referee in the 34th minute of the Match.
 - Fireworks were ignited on three occasions during the Match (resulting in loud bangs).
4. Disciplinary proceedings were opened against the Club on 23 February 2017 and the CEDB convened on 23 March 2017 to decide the case. The Decision with grounds was notified to the Club on 3 April 2017.
5. In the Decision with grounds, the CEDB concluded that the Club had breached Article 16(2) of the UEFA Disciplinary Regulations (the "**DR**").
6. On this basis, the CEDB decided to fine the Club €17,000.

II. Summary of the proceedings before the Appeals Body

7. On 6 April 2017, the Club announced its intention to appeal against the Decision.
8. On 11 April 2017, the Club filed its grounds for appeal.
9. In its statement, the Club:
 - a. States that, according to the delegate's report, no coins were provided to him by the match officials and no coins could be found on the pitch after the Match.
 - b. Suggests that the delegate's report contradicts the referee's report with regard to the coin throwing.
 - c. Suggests that neither the delegate nor the referee knew what caused the loud bangs.

- d. Concludes that, for the above reasons, it is impossible for the standard of proof of "comfortable satisfaction" to be reached for the two offences.

III. Hearing

10. The Club did not request 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 and the Club's grounds for appeal.
12. The various 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 particularly urgent cases referred to it directly by the chairman of the Control, Ethics and Disciplinary Body."

14. The Club 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. Article 16(2) DR stipulates:

"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:

...

(b) the throwing of objects;

(c) the lighting of fireworks or any other objects; ...".

17. 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. The present case

18. According to Article 8 DR, which stipulates the principle of 'strict liability' (and Article 16(2) DR which builds on this principle), a club is to be held responsible for the improper conduct of its supporters, even if it might not be at fault itself.
19. 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').
20. It has long been established in case law that strict liability applies regardless of fault. As a matter of fact, a 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).
21. The Club's responsibility for the acts of its supporters is therefore clear.
22. With regard to the throwing of objects offence, the Appeals Body does not consider the absence of coins on the pitch to be sufficient evidence to prove that no coins were thrown during the Match – in particular, since the referee himself describes being hit by a coin in his report.
23. Ultimately, the referee is best placed to know whether or not he has been hit and what he has been hit by. His report also carries the presumption of accuracy. There is no conflict with the delegate's report. After all, the delegate does not say that the referee was not hit by a coin - it simply states that he found no coins on the pitch and was not given any coins by the match officials.
24. With regard to the fireworks offence, having reviewed video footage, the Appeals Body has no doubt that fireworks were ignited at the Match. The Appeals Body also shares the opinion of the CEDB that both the referee and delegate are experienced officials and have, undoubtedly, experienced multiple incidents of fireworks at football matches. No evidence has been submitted by the Club which would disprove the accuracy of the official reports which carry the presumption of accuracy and which were prepared by experienced individuals.
25. On this basis, the Appeals Body concludes that the CEDB was correct to decide that the Club breached Articles 16(2)(b) and (c) DR.

C. Determination of the disciplinary measure

26. It is the Appeals Body's consistent practice to consider the CEDB'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.

27. In the opinion of the Appeals Body, none of this applies in the present case.
28. The Appeals Body is of the opinion that the CEDB neither abused nor exceeded its broad powers of discretion when imposing a fine of €17,000.
29. The measure complies with the principles of legality and proportionality.
30. Accordingly, the Chairman of the Appeals Body has no option but to uphold the Decision.

VI. Costs

31. The Appeals Body decides at its own discretion how to allocate the costs of proceedings.
32. The appeals 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 13 July 2017

Beşiktaş

(throwing of objects; setting off of fireworks; crowd disturbances)

Circumstances of the case

During the UEFA Europa League 2016/2017 match between Olympique Lyonnais and Beşiktaş on 13 April 2017 (the “Match”), several incidents involving both Olympique Lyonnais and Beşiktaş’ supporters were reported. The Control, Ethics and Disciplinary Body (CEDB) considered it was established that Beşiktaş’ supporters ignited and threw fireworks towards Olympique Lyonnais’ supporters standing below their sector, causing the supporters to escape their sector and provoking a massive field invasion. Beşiktaş supporters created crowd disturbances during the match. The CEDB took into account that the club has been repeatedly sanctioned at away matches with significant fines and constantly warned about the grave consequences in persisting in this attitude. However, instead of an improvement, the incidents during the match in which the club’s supporters played a main role put in danger the life of spectators. The CEDB considered that the mere fact of throwing fireworks, which is inherently a dangerous object already for those lighting it, towards other supporters has no excuse. Added to it, the circumstance of throwing them from an elevated position towards spectators standing right below is definitely an aggravating circumstance. Also it caused an emergency situation by means of a massive field invasion. The CEDB decided on 19 April 2017 to exclude Beşiktaş from participating in the next UEFA club competition for which it will otherwise qualify (exclusion deferred for a probationary period of two (2) years) as well as to impose a fine of € 100’000. The club appealed stating that the sanctions imposed were disproportionate because it did not take into account mitigating factors. The club also held not being responsible for the behaviour of “non official” supporters.

Legal framework Article 16 (2) (b), (c) and (h) of the UEFA Disciplinary Regulations.

Decision

On 19 April 2017, the CEDB decided to exclude Beşiktaş from participating in the next UEFA club competition for which it will otherwise qualify. This exclusion is deferred for a probationary period of two (2) years. In addition, Beşiktaş is fine € 100’000.

The Appeals Body rejected the appeal of Beşiktaş and upheld the initial CEDB’s decision and considered that the decision was not only justified, but the most lenient possible decision that could be taken in line with the applicable framework. The Appeals Body considered that the list of elements exposed by the CEDB constitutes enough basis for imposing the exclusion and the fine. The Appeals Body also established that the principle of strict liability applies regardless of fault and consequently, the club is responsible for any misconduct of their supporters, including the so called “unofficial” supporters.

Chairman: Pedro Tomás (Spain)

Members: Michael Maessen (Netherlands)

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'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 April 2017, Olympique Lyonnais ("OL") and Beşiktaş played the first leg of their 2016/17 UEFA Europa League ("UEL") Quarter-Final tie.
3. During the match, there were several reported incidents involving both OL and Beşiktaş supporters, which, insofar as they concern Beşiktaş, can be summarized as follows:

Referee's report:

The match started approx. 46 minutes late because of crowd disturbances. The game could start after the UEFA officials gave their agreement (delegate, security officer, venue director). On minute 15, after Beşiktaş goal, the match was stopped for approx. 1 minute due to the reaction of spectators situated in the Turkish area, lighting bengals and throwing at least one of them to the lower stands. The Beşiktaş players from appropriate distance, to avoid any problem, tried to cut down the tensions, and once the situation was under control, the match could restart. On minute 82, after Lyons first goal, a fire bomb was thrown to the pitch from the stand situated behind Beşiktaş goalkeeper. It landed close to the visiting goalkeeper, without injuring anybody. The game was not stopped.

Delegate's report

20.25', 20.40', 20.44', 20.45', 20.50' : all thrown from sector 427 occupied by Beşiktaş fans, into sectors beneath occupied by Lyon fans(south stand)

20.51' : Lyon supporters escaped the south stand for their own safety, heavy crackers being thrown at them from sectors 427 above by Beşiktaş fans (pictures 11 and 12 taken at 20.56'). Push back pics 14 and 15, taken at 21.02'.

21.51' : strobo Bengal in sector 430 - 22.05' : after 0-1 : 6 bengals in sectors 428, 429, 430, 431- 22.05' : orange smoke device thrown from above control room (sectors 419 or 420, occupied by Beşiktaş fans) into sector 115 (handicapped spectator Lyon) - 22.06' : strobo in sector 431 + cracker

Security officer's report

Due to the significant number of Turkish / Beşiktaş supporters (estimated at 10,000+) who were able to obtain match tickets, they were located in almost all stands and areas of the stadium - with the exception of the lower and mid tiers of the North and South stands - behind both goals, which are the 'territory' of the OL Ultra supporter groups. In many places colocation was not a problem but having visiting supporters located above home supporters in the South stand, which allowed them to throw pyrotechnics and other missiles down onto the OL supporters was a major issue.

At 20.25 hrs there was a loud pyrotechnic device noise from the South stand. Although I was not able to directly identify which sector the noise came from as there was no smoke the fact that large numbers of OL supporters in the lower tier in sectors 018 / 019 / 020 turned to look towards the upper tier and gesticulate and shout at the unofficial Beşiktaş supporters above them in the upper level tier, sector 427, suggests that this is where a pyrotechnic device was most likely thrown from. Between 20.40 & 20.49 hrs at least 5 further pyrotechnic devices, which emitted a loud noise, and some other objects, were thrown from sector 427 in the upper tier onto the OL supporters in the lower tier - in sectors 018 - 020. At 20.49 / 20.50 hrs OL supporters in the lower tier of the South stand began to self evacuate onto the pitch by jumping over the railings and what OL refer to as the 'Wembley' style barriers for their own safety and to escape the pyrotechnics being thrown down onto them by the unofficial Beşiktaş supporters in sector 427 above them. Hundreds of OL supporters took this action - many ran towards their fellow OL supporters in the lower tier of the North stand (Photos 05 – 08 refer). Thankfully the OL supporters in the North stand did not themselves jump their barriers to join the other OL supporters on the pitch.

Venue Director MD-1 Report:

- Beşiktaş has given only the transport plan of around 800 of the 2.766 away fans. More information has to be given by the away club tomorrow morning (i.e, the morning of the Match) during the Match Day organizational meeting.
- Beşiktaş provided no details on the Match Day organizational meeting for the approximately 2.000 unaccounted "official" supporters.

4. On 18 April 2017, both teams were informed that on behalf of the Chairman of the Control, Ethics and Disciplinary Body the statements of both teams would be included in the case file. In relation to this case, Olympique Lyon submitted information as regards the disturbances witnessed during the match on the side of Besiktas supporters.
5. Briefly, Olympique Lyon made the following statements:

Regarding the pitch invasion:

- As regards the first pitch invasion in the 21st minute of the match, the club explained in detail how the evacuation of parts of the spectators onto the pitch was necessary in order to guarantee safety and security, given that the Beşiktaş supporters were throwing pyrotechnics into the lower sectors, threatening the safety of the supporters allocated in said sector.
- As regards the pitch invasions after the goals scored for Lyon, the club admitted the incident, while also explaining that the fact that there are no barriers in front of the bottom tier sectors goes back to the demands of UEFA during the Euro 2016 to have such a barrier-free construction for security and visual reasons. That is one reason why it has become increasingly challenging to control and ensure that no spectators are running onto or in the direction of the pitch during moments of great joy and celebration. However, the invasion was limited to the area between the LED screens and the pitch, given that the club's stewards immediately intervened and repelled the perpetrators. The only person who, in one single and isolated incident, managed to reach the pitch will now face judicial consequences.

Regarding the crowd disturbances

- In this regard, Lyon stressed that the violence employed by the away-team supporters was the central theme throughout the entire evening and night, starting from the time that these hooligans arrived to the stadium. In this regard, the club provided surveillance video evidence which shows violent acts by away-team hooligans around and inside the stadium, engaging in fights, throwing pyrotechnics at other supporters and spectators etc.
- Moreover, the away-team supporters constantly engaged in provocations against the club's supporters. The club also provided further video footage from which it can be seen how Beşiktaş supporters threw two pyrotechnics in a 10 second interval down onto Lyon supporters seated below them. It can therefore be stated that these and other actions were not a consequence of violence by Lyon supporters, but based on their own motivation to commit violent acts. In any case, there is no way that the pictures and videos provided by Beşiktaş could prove that Lyon supporters caused the outburst of violence and were not a consequence of what was done by Beşiktaş supporters.
- Focusing on the chronology of the events, the club stressed that the relevant curve was already evacuated when the fights broke out in the stands and that the stewards immediately jumped into the sector in order to stop the fighting while, in the meantime, Turkish supporters forced entry into a VIP zone and used violence against completely innocent bystanders.
- During 21 straight qualifications for the European competitions, no such incident ever occurred, while it was often during matches involving Turkish clubs that incidents of extreme gravity occurred. Therefore, the Turkish clubs should finally accept their

responsibility they have and accept the reality that such violence is a Turkish problem which finally needs to be addressed by the Turkish clubs who should finally install adequate security measures.

6. On 19 April 2017, the Control, Ethics and Disciplinary Body ("CEDB") decided to exclude Beşiktaş A.Ş. from participating in the next UEFA club competition for which it will otherwise qualify. This exclusion is deferred for a probationary period of two (2) years. In addition, Besiktas AS was fined €100'000.
7. The CEDB decision with grounds was notified to the appellant on 17 May 2017.

II. Summary of the proceedings before the Appeals Body

8. On 8 June 2017, Besiktas AS announced its intention to appeal against the Decision.
9. On 14 June 2017, the Appellant filed its grounds for appeal. In its statements, the Appellant, essentially, argued the following:
 - The UEFA delegate incorrectly reported the cause of the pitch invasion. In substance, the club holds that the delegate did not witness himself the throwing of fireworks, he only deduced that conclusion because the OL fans on the lower sectors were looking up towards the sector in which Besiktas supporters were seated.
 - The UEFA delegate also did a wrong assessment of the incidents due to the fact that he did not notice the incident protagonised by violent and aggressive OL supporters, all wearing similar clothings. This attack was the cause of both Turkish and French supporters fleeing and invading the field of play.
 - There is no proof that the alleged objects thrown from sector 427 caused the field invasion. More precisely, the UEFA official reports are missing some crucial facts of the incidents.
 - The application of article 6 (1) and also the definition of the term "supporter" should be carefully examined in each case individually in order not to go beyond the purpose of the regulations and to prevent the club that carries no fault or negligence on its side to be subject to disproportionate sanctions. The club considers that OL failed to take the necessary measures to prevent the incidents, whereas Besiktas did warn OL about the assistance of a large group of Turkish supporters.
 - Besiktas did fulfill his main responsibility which was to ensure that the official visiting fans behave properly. It had no influence over "non official" supporters, the club made sure that the latter no to be admitted by the host club and that these supporters live outside Turkey having the club no connections to them.
 - Finally, the club holds that the sanction is disproportionate because a number of mitigating circumstances were not taken into consideration. In substance, the club referred to the fact that it warned the host club about the risks and prevented the latter no to allow the entrance of the Turkish supporters inside the stadium, the lack of influence of the club towards these supporters and the role played by the team and the technical staff to end the incidents. On top of that, Besiktas deemed that the the Club was only sanctioned with monetary fines in the past, a sudden and harsh increase in the possible sanctions introduced under article 53 of the UEFA DR also

goes beyond the discipline purpose of the sanction and turns it into a harsh punishment for Appellant, who is also a victim in the present case.

10. 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.
11. On 26 June 2017, the UEFA ethics and disciplinary inspector submitted his reply to the appeal, requesting that it be rejected and the costs charged accordingly.

III. Hearing

12. On 13 July 2017, a hearing was held.
13. The Chairman of the Appeals Body opened the appeal hearing, noted the presence of the Appellant and the UEFA Ethics and Disciplinary Inspector.
14. 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.
15. 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

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. First question this UEFA disciplinary needs to clarify is if in fact the Appellant lodged its grounds for appeal by the set deadline and in the form required.
18. On 8 June 2017, the Club notified the UEFA administration of its declaration of appeal against the decision the CEDB dated 19 April 2017.
19. While the decision had been notified to Beşiktaş' contact, Mr. Ali Naibi, on 17 May 2017, there appears to have been some confusion as to whom it should have been sent, as the Club alleges that it must have been notified to its legal counsel, Mr. Akalp, who had been its representative in the CEDB proceedings and the person who had requested its grounds.
20. However, as pointed out by the Ethics and Disciplinary Inspector, the decision without grounds had also been sent directly to the Club's contact, Mr. Naibi, which did not prevent Beşiktaş from requesting the grounds, in this case through Mr. Akalp, its legal counsel. Mr. Naibi was able to receive and forward the e-mail with the operative part of the decision of 19 April 2017 to the Club's counsel, but on 17 May 2017 he allegedly did not have access to his e-mail account for at least three days because of the Club's travels.

21. Moreover, no power of attorney has apparently been conferred to Mr. Akalp that would allow UEFA to consider him the contact person for the reception of the decision, particularly when the Club's submissions were presented in its official letterhead and not that of his legal firm.
22. Notwithstanding, the ethics and disciplinary inspector accepted the date of notification to the Appellant's counsel, 6 June 2017, as the date on which the time limit to appeal shall commence.
23. In these circumstances where the parties have agreed on the admissibility of the appeal, the Appeals Body decides to accept the common ground found by them and admits the appeal. However, this UEFA disciplinary body strongly doubts on the compliance of the Appellant with the deadlines imposed in Article 60 DR (former Article 54 DR Edition 2016). This view relies mainly on the above mentioned reasons, i.e. lack of a power of attorney, the fact that the key contact of the club in disciplinary matters has always been informed and that the club always reacted, apart from the last event, to the communication system implemented by UEFA.
24. It follows that the Appeals Body decides that it 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.

25. Pursuant to Article 52 of the UEFA Statutes, as well as Article 29 of the UEFA Disciplinary Regulations (DR), the Control, Ethics and Disciplinary Body is competent to deal with the case.
26. In light of the above, the UEFA Statutes, rules and regulations, in particular the UEFA Disciplinary Regulations are applicable to these proceedings.
27. For the avoidance of doubt references to the UEFA Disciplinary Regulations shall be to the 2017 Edition, unless otherwise stated.

B. In the case in hand

28. In the light of the parties submissions the Appeals Body needs to decide on a number of questions:
 - Is Besiktas AS equally responsible for the behaviour of both so called "official" and "unofficial" supporters present at the match?
 - Is Besiktas AS responsible for the incidents pressed against the club, i.e. setting and throwing of fireworks and other objects and crowd disturbances?

29. The merits of the compelling submissions will be considered in the next sections. Even if every submission made by either party has not been specifically summarised the Appeals Body has nonetheless taken all submission into account.
- i. Is Besiktas AS responsible for the behaviour of both the so called "official" and "unofficial" supporters?
30. It emerges from the case file that a large number of Turkish fans attended the match played in Lyon. These fans were supposedly the main perpetrators of a number of incidents, i.e. setting off of fireworks, throwing of objects and several accounts of crowd disturbances. These spectators were referred by the Appellant, as well as in some parts of the UEFA official reports as "unofficial supporters".
31. Based on the above, the club asserts that the application of the principle of strict liability against the latter needs to be revised in the observance of the special circumstances surrounding this particular case. Briefly, it holds the following main points:
- A club presenting no fault or negligence towards its responsibility can't be subject to disproportionate sanctions. In this sense, the club infers that the term "supporter" needs to be evaluated in the light of the specific circumstances of each case.
 - It differentiates between "official" and "unofficial" supporters. On the one hand, official supporters will be those on which the club can exercise its influence and can ensure the respect of the rules and regulations. On the other hand, the "unofficial" supporters are those extricated from the scope of influence of the club. Specifically to this case, these "unofficial" supporters had no links to the club, but merely the Turkish nationality and the fact that they bought tickets to watch a Turkish team playing a UEFA competition match, being the fact that it was Besiktas AS playing the match irrelevant.
 - The club did prevent Olympique Lyon on the attendance of a large number of Turkish supporters and warned them about the possible incidents during the match, for which they stated they will not hold any responsibility. In this regard, whereas Besiktas AS ensured security inside the stadium of the official supporters, OL failed to implement the appropriate security measures for which the Club had no competences.
32. The Appeals Body can't comply with the assertions made by the Appellant as regards the application of the principle of strict liability. Article 8 UEFA DR, and Article 16 DR which picks up on this principle, clearly establish that a club will be held responsible for if 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. This principle stands as one the pillars of UEFA's efforts to maintain discipline amongst subjects towards UEFA would not have any mean to exert any influence, like it's the case of

supporters. In this regard this UEFA Appeals Body reinstates the reasoning of the Control, Ethics and Disciplinary Body insofar there is a large jurisprudence of the UEFA Organs of Administration of Justice and the Court of Arbitration of Sport, that emphasize the importance of this principle.

34. In this same terms CAS has expressed its view on the application of the principle of strict liability in numerous awards e.g. CAS 2002/A423, CAS 2007/A/127 and CAS 2013/A/3047. Based on this jurisprudence, the following three conclusions are to be acknowledged: 1) clubs bear strict liability for the actions of its supporters, who are nonetheless specifically identified, 2) there is no room for manoeuvre as far as the application of the principle of strict liability is concerned and, finally, 3) the object of this rule is clearly to ensure that clubs shoulder the responsibility for their supporters' conduct.
35. It is recalled that the responsibility of the club for the misconduct of its supporters is also at stake at away matches. In this respect CAS, and specifically CAS 2013/A/3047, has already confirmed that the security obligations of a home club and the strict liability of a club for its supporters' behaviour are two different elements which can lead to different sanctions. Consequently, turning to the case in hand, the fact that Olympique Lyon failed to fulfil some of its order and security obligations, for which it was sanctioned, does not prevent the application of the strict liability principle over the Appellant for its supporters' behaviour.
36. Further on, and more specific to the notion of supporters held by the Appellant in the current proceedings, this UEFA disciplinary body can't comply with the club's approach, i.e the distinction made between "unofficial" and official supporters. Interestingly, this distinction had been put forward in a similar manner in the past before the CAS without any success (CAS 2007/A/1217).
37. As correctly highlighted in the appeal decision, CAS jurisprudence on the notion of supporters is straightforward. Briefly, there is no UEFA provision that makes a distinction like the one held by the Appellant. Nor could such a provision easily be drafted. UEFA could not be satisfied that its Disciplinary Regulations would ensure the responsibility of clubs for their supporters if such a distinction were made. The only way to ensure that responsibility 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. The behaviour of individuals and their location in the stadium and its vicinity are important criteria for determining which team or club they support. That is particularly so in matches organised by UEFA, when the sale of tickets is regulated (See amongst others CAS 2007/A/1217).
38. It results from the above that the key element to define an individual or group of persons roots on the conclusion of an objective observer. Specifically, the Case law refers indistinctively to the location or the behaviour as important criteria for determining which team or club they support.
39. It derives from the case file that the UEFA official reports refer to the group of supporters perpetrating the incidents as "unofficial" Besiktas supporters, Turkish supporters and directly

as Besiktas supporters. Also the club admits that the reason why this large group of persons attended the match was because a Turkish club was playing in the city of Lyon. It follows that there are sufficient elements that lead, and have lead, an objective observer such as the UEFA officials to attach these incidents to the scope of the Appellant's sphere of competence.

40. Conclusively, this UEFA disciplinary body deems that, first, the principle of strict liability is fully applicable in the case in hand, second, there is no distinction of official and unofficial supporters, and third, the supporters referred to in the written submissions as "unofficial" supporters fall equally under the notion of strict liability connecting them to the Appellant. In this regard, this UEFA disciplinary body will refer to both groups simply as supporters of Besiktas.

- Is Besiktas AS responsible for the incidents pressed against the club, i.e. setting and throwing of fireworks and other objects and crowd disturbances?

41. Bearing in mind the fact that Besiktas AS is responsible for any misconduct of its supporters, the following three questions are to be assessed by the UEFA Appeals Body in the matter at hand: 1) Have the incidents been established? 2) Are these incidents against the rules? 3) Is the club responsible for these incidents?

42. As per the first question, in the present case, the evidence at hand, including here UEFA official reports and different video footages, point to the fact that supporters connected to the Appellant set off fireworks, threw objects towards other spectators inside the stadium, amongst them fireworks, and protagonized crowd disturbances before and during the match. These can be summarized in the following relevant facts:

- The match was delayed because of incidents conducted by the Beşiktaş supporters. In particular, Beşiktaş supporters ignited and threw fireworks towards Olympique Lyonnais supporters standing below their sector. This situation caused that the Lyon supporters escaped of their sector, provoking hereby a massive field invasion.
- Later on during the match, Beşiktaş ignited several other fireworks, some of them also thrown.
- In addition, Olympique Lyon provided evidence as regards several accounts of crowd disturbances taken place before and during the match. It includes violent acts around and inside the stadium involving Besiktas supporters engaging in fights, throwing pyrotechnics at other supporters and spectators, as well as forcing the entrance to the VIP area.

43. The club does not deny that the above mentioned incidents occurred during the match. It mainly contests, in some extent, the perpetrators of some of these events or the cause of the massive field invasion.

44. Consequently, the incidents taken place at the match have been comprehensively demonstrated by sufficient means of evidence.
45. Regarding the second question, it is recalled that, as deemed already in the first instance decision, setting off and throwing fireworks are serious offences because not only can such acts disrupt the orderly running of the match but also, and more importantly, they can endanger the physical integrity of the perpetrators, other spectators, officials and even the players on the pitch. For this reason, the use of pyrotechnic devices in stadiums and the throwing of such devices/other objects are strictly forbidden.
46. Furthermore, this UEFA disciplinary body also complies with the approach of the CEDB as regards the crowd disturbances. The incidents witnessed at the match must be considered as particularly severe acts of hooliganism - a particularly serious offence. As well as posing a risk to the safety and security of supporters, such behaviour is all the more unacceptable because it tarnishes the image of football, of UEFA and the UEFA Europa League. Taking into account that the said incidents also affected the security and safety of women and children makes the situation even more intolerable.
47. Bearing the above in mind, there can be no doubt that all these incidents are against Article 16 (2) (b), (c) and (e) UEFA DR.
48. Finally as regards the responsibility of the club, the above provisions pick up on the principle of strict liability, which as explained in previous sections, applies regardless of fault (in this regard, see page 12 of the Court of Arbitration for Sport case *CAS 2002/A/423 PSV Eindhoven*). Succinctly, clubs are responsible for any misconduct of their supporters. As referred before, the term supporter includes the so called by the club "unofficial" supporters the club.
49. The club bases its position in order to escape from any responsibility on two main arguments.
50. First, it considers that the cause of the massive field invasion was not originated by the Besiktas supporters but it was the consequence of a violent attack taken place in a sector next to the one from which supporters fled. In this regard, the club deems that the UEFA delegate report was wrong and provided a video footage showing the whole scene which should lead to this conclusion.
51. Again, the Appeals Body can't comply with the assertions of the club.
52. On the one hand, the situation reported by the UEFA delegate in his report is not incompatible with the one explained by the Appellant. It is reminded that according Article 45 DR, UEFA official reports are presumed to be accurate. In this regard, the UEFA delegate reported an incident of Besiktas supporters throwing objects and fireworks from the upper stand to the lower stand, which caused a panic reaction from the lower stand and, finally, a massive field invasion and a significant delay of the match. The UEFA delegate stated that he had a clear view of the event.

53. The fact that another incident involving both fan groups took place in the vicinity of this sector does not change the accuracy of the delegate's report insofar objects were thrown from the Besiktas supporters targeting spectators standing in the lower section..
54. Second, the club holds that the reaction of the supporters standing in the upper section was a reaction to the violent, planned and organised violent action perpetrated by violent OL supporters against the Besiktas fan group. However, even if it were so it does not give these supporters the right to counter attack with such a violent and life threatening attitude, i.e. using dangerous objects towards other spectators. Some of the objects eventually finished almost hitting spectators standing in a fair distance of the event, which finally ended up in the panic reaction of the spectators fleeing towards the field of play.
55. This UEFA disciplinary body dismissed the argument about the previous warning addressed by the Appellant to OL by means of which the Appellant did prevent a potential dangerous situation from a potential large attendance of its supporters. Accepting the fact that it did so, it does by no means, extricate the clubs responsibility over incidents perpetrated by their supporters. It would be far too easy to exclude a club's responsibility by merely pointing at a potential dangerous situation, without implementing further proactive attitudes.
56. As stated above, the principle of strict liability applies irrespective of fault. Even more, in a situation in which the visiting team has neglected to implement any security measure or any preventive action towards a potential security issue coming from their supporters and denied to take any responsibility. Appellant knew a potential threat existed connected to a large number of its Turkish fans attending the match, but preferred to hold back and deny its responsibility. It hereby left the host team to their own fate.
57. Consequently, this UEFA disciplinary body confirms the view of the UEFA Control, Ethics and Disciplinary insofar the club is to be held responsible for the improper conduct of its supporters in accordance with Articles 16 (2) (b), (c) and (e) DR and must be punished accordingly.

C. Determination of the disciplinary measure

58. 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.
59. Appellant deems that the sanction is disproportionante. It adduces, substantially, as mitigating factors the following elements:
 - The fact that it warned the host club of the potential risk of allowing a high number of Turkish supporters to get inside the stadium,

- It has zero jurisdiction on security matters at away matches and that the host team completely failed in the security organisation of the match.
 - The fans behaviour is improving, pointing again to the fact that its “official” supporters behaved well during the match.
 - The step taken by sanctioning the club with a deferred exclusion of the competition does not fit with the last approach of the UEFA disciplinary bodies insofar only monetary sanction have been imposed against the latter.
60. 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.
61. The reasons used by the UEFA first instance are sufficient to impose a sanction in the scale as the one the club is facing today. Briefly, the violent events falling under the responsibility of the club are of such a magnitude that UEFA can't go along only by imposing a fine. For instance, throwing ignited objects from the upper stadium to the lower sections of a stadium comports a life threatening component that can't be disregarded. Also the incidents taken before and during the match are not acceptable. They are a clear example of hooliganism and are to be confronted with the same strong attitude as other incidents like racism, doping and match fixing.
62. Again, the club can't hide behind the fact that it did warn the host team before the match about the possible risks connected to the Turkish presence at the stadium. Apart from that, the club did nothing at all to prevent these incidents from happening. Nothing in the case file reflects a proactive attitude towards the prevention of this situation, which eventually ended up as being highly violent and dramatic for some spectators inside the stadium.
63. The same results from the arguments based on the lack of competences as regards security matters at away matches. As explained above, this is not an excuse not to be responsible for the incidents perpetrated by its supporters. Again, the club has demonstrated not have been proactive in helping the host team to prevent this situation. It merely hid behind the assertion that it did warn the host team – which is definitely not enough, and that it bears nor responsibility for those Turkish supporters attending the match, which as proven above is completely unfounded.
64. Finally as regards the arguments deriving from the step taken by the UEFA Control, Ethics and Disciplinary Body of sanctioning with a suspended exclusion of the UEFA competitions, instead of imposing a fine, the Appeals Body recalls that the previous records of Appellant, to which the club also refers in its appeal brief, are poor and demonstrate that monetary sanctions have proven to be completely ineffective. Again, the incidents witnessed during the match are of such a gravity that they don't allow at all for a pecuniary sanction. In this context, the options as to find the appropriate disciplinary are very limited.
65. It is reminded that in a similar case, brought before the CAS, the disciplinary evaluation of incidents a of a lower magnitude derived directly in the exclusion of the team from the UEFA

competitions (See CAS 2007/A/1207). Interestingly, the Appellant at that time also used the arguments of official and unofficial supporters in order to escape from its responsibility. CAS confirmed the decision of the UEFA disciplinary bodies. This puts a negative precedent on Besiktas AS side, being the today claimed as disproportionate sanction more lenient than the one confirmed by the CAS in similar – arguably even less, serious incidents.

66. It is recalled as well that during the hearing, the Appeals Body enquired the club if it considers that a sanction reflecting matches to be played behind closed doors is a more convenient sanction than the one imposed by the Control, Ethics and Disciplinary Body. Being the response of the Appellant the negative, it even restricts more the options from the Appellant's perspective.
67. In any case, as stated above, there are sufficient elements that speaks not only for the deferred exclusion of the UEFA competitions for which the club would otherwise qualify and the fine of €100'000, but for more severe disciplinary measures.
68. Summarily, it has been discussed in detail above that a diligent, prudent and cautious assessment by the UEFA Control, Ethics and Disciplinary Body of the evidence presented to it has led this body to conclude that it was comfortably satisfied to impose the above mentioned sanctions. In this regard, the Appeals Body wishes to draw the attention to the list of elements, exposed by the the UEFA first instance that form the basis of this sanction and which this UEFA disciplinary body wishes to reproduce again in this decision:
 - the seriousness and multiplicity of the offences committed;
 - the club's previous record: Besiktas has already been punished several times for the inappropriate behaviour of its supporters, and, in particular, for the setting off and throwing of fireworks and crowd disturbances.
 - The lack of any proper development in the assessment of the behaviour of Besiktas supporters at away matches: Besiktas has steadily been heavily sanctioned in the course of the past years for the inappropriate attitude of its supporters at away matches.
 - The recurrent warnings included in the UEFA disciplinary bodies' decision towards the need of a change of pattern in the Besiktas visiting fans attitudes for which the club is completely responsible.
 - The episodes of real violence witnessed before and during the match in which the Beisiktas fans have played a main role.
 - The extreme violent reaction of the Besiktas supporters by throwing fireworks towards other spectators, which has certainly life threatening connotations.
 - The violent atmosphere witnessed before and during the match for which Besiktas is definitely corresponsable.
 - The disrepute of UEFA's image caused by the events.
69. On the basis of the above, the Appeals Body has no option but to uphold the initial decision and reject the appeal. This decision was not only justified, it was the most lenient possible decision that could be taken in line with the applicable legal framework.

VI. Costs

70. 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).
71. It is considered justified to charge all of the costs of this case to the appellant, whose appeal is rejected on all counts.
72. Consequently, the costs of the proceedings are € 5'000.

Decision of 13 July 2017

Olympique Lyonnais

(improper conduct of the team; field invasion by supporters; insufficient organization; setting off and throwing of fireworks; crowd disturbances; stairways blocked)

Circumstances of the case

According to the official reports of UEFA Europa League match between Olympique Lyonnais and Beşiktaş, several incidents were reported regarding Olympique Lyonnais, such as insufficient organization, pitch invasions, crowd disturbances, setting off and throwing of fireworks, blocking of stairways and improper conduct of the team. The CEDB considered that a very harsh sanction needed to be imposed on the club, considering the extreme violence which broke out in the stands. The CEDB emphasised that such behaviour tarnishes the image of football, of UEFA and the UEFA Europa League. The CEDB also took into account the positive previous record of the club pertaining to crowd disturbances and decided to exclude Olympique Lyonnais from participating in the next UEFA club competition, deferring this exclusion for a probationary period of two (2) years. The club appealed the CEDB's decision, requesting that the exclusion from participating in the next UEFA club competition is set aside and an amount of fine is fixed according to the principle of proportionality. In its appeal the club accepted the breaches established in the CEDB decision, but stated that the CEDB did not consider the club's degree of fault and the sanctions imposed were disproportionate. The club also held that its right to equal treatment was violated in light of the significantly lower sanctions imposed on other clubs in the past in alleged similar circumstances.

Legal framework Article 15 (4) of the UEFA Disciplinary Regulations (DR). Article 16 (2) (a), (c) and (h) of the UEFA DR; Article 37 and Article 38 of the UEFA Safety and Security Regulations

Decision

On 19 April 2017, the CEDB decided to exclude Olympique Lyonnais from participating in the next UEFA club competition, deferred for a probationary period of two (2) years. The CEDB also imposed a fine of 100'000 on the club. The Appeals Body upheld the initial CEDB decision and rejected the appeal of Olympique Lyonnais. The Appeals Body considered that the CEDB neither abused nor exceeded its broad powers of discretion and that the measures imposed comply with the principles of legality and proportionality. The Appeals Body particularly agreed with the considerations of the CEDB regarding the behaviour of Olympique Lyonnais' supporters. The Appeals Body considered that although it is clear that having so many supporters of the Visiting Club in the stadium did not help matters but, the fact that there is a large away support at a match should never be used as an excuse for violent behaviour by the home supporters. In this scenario, the Appeals Body decided that, considering the specific circumstances of the case, a combination of a fine and an exclusion was clearly appropriate.

Chairman: Pedro Tomás (Spain)

Members: Michael Maessen (Netherlands)

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 (the "**CEDB**") on 19 April 2017 (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.
2. 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.
3. According to the official reports for the UEFA Europa League 2016/2017 match between Olympique Lyonnais (the "**Club**") and Beşiktaş JK (the "**Visiting Club**") on 13 April 2017 (the "**Match**"):

Insufficient organisation (Segregation of supporters)

- Tickets in sectors 428 to 431 (Level 4) were sold to supporters of the Visiting Club. These sectors are protected by nets. These tickets were sold by the Visiting Club. The total number of supporters in these sectors was 2,766.
- With regard to the Club's ticket sales, its season ticket holders had priority and could buy tickets first. Most of these supporters bought their tickets in the lower parts of the south and the north stands (i.e. behind the goals), which is the usual 'territory' of the Club's ultra-supporter groups. After the deadline for such priority sales had passed, the Club opened the sale of tickets to the public. Between 15,000 and 20,000 supporters of the Visiting Club bought tickets in this public sale.
- The total number of supporters at the Match was 55,452.
- Due to the significant number of Visiting Club supporters who were able to obtain tickets via the public sale, Visiting Club supporters were located in almost all areas of the stadium (with the exception of the lower and middle tiers of the south and north stands, behind the goals).
- In most places such co-habitation was not a problem, however, in the south stand, supporters of the Visiting Club were located above the Club's supporters and this allowed them to throw pyrotechnics and other missiles down onto the Club's supporters during the Match.

Pitch invasions

- At 20:51, supporters of the Club fled the south stand for their own safety. Pyrotechnics had been thrown at them from above by supporters of the Visiting Club. Because of the nature of this incident (i.e. supporters entering the pitch for

their own safety), this is not considered a pitch invasion for which the Club should be held liable under the DR.

- Each time the Club scored a goal, supporters of the Club crossed the fence of the north stand and celebrated between the fence and the LED boarding. One supporter of the Club from the north stand ran onto the pitch, but he was immediately stopped by stewards and taken into police custody.
- At 22:46 and 22:47, supporters of the Club celebrated victory with the Club's players on the pitch. The match officials and Visiting Club's players had already returned to the dressing rooms.

Crowd disturbances

- Severe fights broke out between supporters of the Club and supporters of the Visiting Club.

Setting off and throwing fireworks

- At 21:50, red and blue smoke devices were ignited in the north stand.
- At 22:36, grey smoke devices were ignited in the north stand.
- At 22:56, blue smoke device ignited in the north stand.
- At 23.31, one firework was thrown on to the pitch.

Blocking of stairways

- Supporters of the Club blocked staircases in the south stand (sectors 16, 17, 18, 19 and 20) and in the north stand (sectors 1, 2, 3, 4, 5, 101, 102, 103, 104, 105 and 106) during the Match.

Improper conduct of the team

- Five yellow cards were issued to five different players of the Club during the Match.
4. Disciplinary proceedings were opened against the Club on 14 and 18 April 2017 in relation to the abovementioned incidents, and the CEDB convened on 19 April 2017 to decide the case. The Decision with grounds was notified to the Club on 11 May 2017.
 5. In the Decision, the CEDB concluded that the Club had breached Article 15 (4) of the UEFA Disciplinary Regulations (the "**DR**") and various provisions of Article 16 (2) DR, as well as Articles 37 and 38 of the UEFA Safety and Security Regulations (the "**SSR**").
 6. On this basis, the CEDB decided to:

- exclude the Club from participating in the next UEFA club competition for which it would otherwise qualify, such exclusion to be deferred for a probationary period of two years; and
- fine the Club €100,000.

II. Summary of the proceedings before the Appeals Body

7. On 15 May 2017, the Club announced its intention to appeal against the Decision.
8. On 22 May 2017, the Club filed its grounds for appeal.
9. On 1 June 2017, a UEFA Ethics and Disciplinary Inspector was appointed in the case (the "EDI").
10. On 22 June 2017, the EDI submitted his report, requesting that the Club's appeal be rejected and the Decision confirmed (the "EDI Report").
11. On 10 July 2017, the Club filed a rejoinder to the EDI Reply.
12. In its two statements:
 - the Club does not dispute that it breached the DR and SSR as set out in the Decision;
 - the Club stated that it considers the crowd disturbances to be despicable and expresses its regret in relation to these incidents;
 - the Club suggests that the facts of the case demonstrate that the behaviour of its supporters was a reaction to the conduct of the Visiting Club supporters present in the stadium (in particular those in the south stand, who threw pyrotechnic devices at supporters of the Club and violently attacked them both inside and outside of the stadium);
 - in light of this, whilst not denying its responsibility for its supporters' behaviour, the Club argues that such responsibility must be considered in light of the context of all of the events that occurred at the Match, and that the sanction imposed on the Club must be proportionate to the Club's actual fault and level of guilt;
 - the Club suggests that the CEDB did not consider the Club's degree of fault and the sanctions imposed in the Decision were therefore disproportionate. In particular, the Club points out that:
 - the Visiting Club received the same sanctions from the CEDB, even though supporters of the Visiting Club were responsible for the incidents and the escalation of violence;

- the CEDB did not consider several mitigating circumstances when deciding the sanctions to be imposed, in particular the fact that this is the Club's first offence; and
- the sanctions imposed cannot exceed what is reasonably required in pursuit of the justifiable aim of punishing and preventing future offences;
- the Club claims that the sanctions imposed by the CEDB violate its "*personality rights*" because the Club could be held responsible for further offences irrespective of its fault and for circumstances that are objectively beyond its control; and
- finally, the Club argues that the CEDB violated its right to equal treatment in light of the significantly lower sanctions imposed on other clubs in the past in similar or worse circumstances who had a worse track record of infringements.

III. Hearing

13. Neither the Club nor the EDI 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 Club's grounds for appeal and the EDI Report.
15. The various arguments are set out and examined below, in so far as they are relevant to the decision.

V. 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 particularly urgent cases referred to it directly by the chairman of the Control, Ethics and Disciplinary Body."

17. The Club 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 re-examine the case in full, both factually and legally, in accordance with Article 58 (2) DR.

VI. Legal Considerations Of The Appeals Body

A. The legal framework

19. According to Article 15 (4) DR a sanction can be imposed on a club if individual disciplinary sanctions were imposed by the referee on at least five players during the relevant match.

20. According to Article 16 (2) DR (emphasis added):

“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;*

(...)

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

21. According to Article 37 SSR:

“1. The match organiser must take measures to ensure that spectators cannot move from one sector to another.

2. If it is necessary to have more than one group of spectators in a particular sector, a division must be maintained between them by means of an insurmountable barrier or fence controlled by security personnel, or by the creation of a no-go area kept free of spectators and occupied only by security personnel.”

22. According to Article 38 SSR, 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.

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. The present case

22. As a starting point in this matter, the Appeals Body notes that the Club admits all of the breaches of the DR and SSR identified by the CEDB in the Decision.

23. Further, it is noted that there is a general agreement between the Appellant and the EDI regarding the chronology of the various events involving the Club’s supporters.

24. Accordingly, with regard to the incidents inside the stadium, it is established that both supporters of the Club and Visiting Club engaged in violent acts and that supporters of the Visiting Club threw fireworks from their position in the upper stands (something which caused the Club's supporters in that area to flee onto the pitch) before the violent altercations caused by the Club's supporters started.
25. On this basis, the Appeals Body concludes that the CEDB was correct to establish the various breaches of the SSR and DR identified in the Decision.

C. Determination of the disciplinary measures

26. The facts of the case and the nature and extent of the Club's breaches of the DR and SSR having been established, the main question to be answered is whether the sanctions imposed in the Decision are proportionate having regard to the circumstances and facts of the case?
27. The Club argues that the sanctions are not proportionate. In summary, it suggests that:
 - the role of the supporters of the Visiting Club must be properly taken into account, i.e. it alleges that the violent acts of the Club's supporters occurred as a reaction to acts of provocation committed by the Visiting Club's supporters and, accordingly, the (supporters of the) Visiting Club should bear significant responsibility for the outbreak of violence; and
 - various mitigating circumstances should be taken into account.

The supporters of the Visiting Club

28. Whilst the Appeals Body wholeheartedly condemns the behaviour of the supporters of the Visiting Club at the Match, it has to be stressed that such acts cannot justify the behaviour of the Club's supporters in the stadium, nor can they justify a reduction in the sanctions imposed by the CEDB in the Decision. Acts of violence of this severity cannot be explained away by mere provocation.
29. Further, as explained in the EDI Report, the idea that the attacks made by the Club's supporters were purely the result of provocation is doubtful. It appears that at least some of the attackers were acting in a pre-planned manner, with the deliberate aim of causing harm to supporters of the Visiting Club. Indeed, the behaviour of some of the Club's supporters in going on the offensive (rather than fleeing onto the pitch, as many of their number did in order to keep themselves safe from an attack by the Visiting Club's supporters above them) would also suggest an ulterior motive.
30. It is clear that having so many supporters of the Visiting Club in the stadium did not help matters but, in the interests of football and the wider concept of good behaviour, the fact that there is a large away support at a match should never be used as an excuse for violent behaviour by the home supporters. This would be tantamount to condoning hooliganism.

31. Finally, the Appeals Body must also underline that the Club, under Article 37 SSR, had the responsibility to ensure that spectators couldn't move from one sector to another in the stadium – something which it admits it failed to do at the Match. The Club itself must therefore share responsibility for the consequences of such security failures. It cannot simply push the burden of responsibility onto the Visiting Club for acts that its own negligence contributed to.

Alleged mitigating circumstances

32. The Club argues that various circumstances should be considered to have mitigated its breaches of the DR and SSR and that this should have been considered in the context of sanctioning. The Appeals Body, however, is not convinced by the Club's arguments in this area.

33. In particular, with regard to the behaviour of the supporters of the Visiting Club, the Appeals Body notes that:

- a lack of assistance from the Visiting Club in preparing the Match cannot excuse the behaviour of the Club's supporters;
- as mentioned above, the violent behaviour of the supporters of the Club cannot be directly and exclusively linked to the behaviour of the supporters of the Visiting Club since attacks were launched against supporters of the Visiting Club who had shown no aggression;
- as a general principle, violence cannot justify or mitigate further violence;
- in the context of the supporters of the Club who were attacked from above, this principle holds true even if they considered their safety to be at risk – since, rather than going on the offensive, such supporters could have found a safe place to stand until the issue was resolved (as many indeed did by moving onto the pitch or to exits, with the exception of the hooligan element who instead chose to go on the offensive against supporters of the Visiting Club in an adjacent sector who had not even been involved in the attack from above); and
- it is purely speculative to suggest that the violent behaviour of the supporters of the Visiting Club allowed or facilitated the smuggling of weapons and pyrotechnics into the stadium, and no evidence was provided by the Club to support this claim.

34. As for the other factors put forward by the Club as mitigating its breaches of the regulations (such as the fact that the Club's security made positive efforts to handle the situation), the Appeals Body is similarly unconvinced.

Other issues: The Club's personality rights

35. The Club argues that its personality rights have somehow been infringed by the Decision (which, in the opinion of the Club, imposed a "draconian" sanction based on the principle

of 'strict liability', thereby putting the Club in a position to have the suspended sanction enforced for reasons beyond its control - such as, for example, provocation from rival supporters).

36. However, UEFA's legitimate interests far outweigh any alleged violation of the Club's personality rights.
37. It is clear that UEFA has an overriding interest in ensuring that its competitions are held free from violence and any other acts which endanger the well-being of spectators, and also a clear interest in protecting the image of its competitions.
38. This is why it is imperative that UEFA has a zero tolerance approach to violence and hooliganism. Accordingly, strong sanctions which carry both a punitive and a dissuasive effect must be imposed when incidents of a serious nature occur.

Other issues: Equal treatment

39. The Appellant also claims that the Decision violates the principle of equal treatment, alleging that other clubs in similar or worse situations have been treated differently/more leniently by the UEFA disciplinary bodies in other cases.
40. In this regard, as a general rule, the Appeals Body notes that all cases are different and it is difficult to compare different situations.
41. However, notwithstanding this difficulty, in this particular case, the Appeals Body does not consider the Decision to be inconsistent with previous cases. In this regard, the Appeals Body refers to the various precedents cited in the EDI Report (which includes cases heard at the Court of Arbitration for Sport).
42. The Appeals Body sees nothing in the Decision to suggest that the sanctions imposed are erroneous. As the EDI suggests, "*Just as some precedents may have been more favourable to the relevant clubs, others were even more severe, and all disciplinary proceedings shall be dealt on a case-by-case basis while considering all of the facts and circumstances of a given case*".

Other issues: The Club's previous record

43. Under Article 19(2) DR, recidivism counts as an aggravating circumstance.
44. The Club claims that it has not been sanctioned in the past for crowd disturbances or any other acts of violent hooliganism. This is true and was duly considered by the CEDB in the Decision (with regard to the suspension of the exclusion).
45. The Club does, however, have previous records for the other offences covered in the Decision (namely for improper conduct of the team, pitch invasions, throwing objects, setting off fireworks, failing to limit spectator movement and blocking stairways). The fact that the Club has been sanctioned on several occasions in the last two years for the

misconduct of its supporters and insufficient organisation must be considered to be an aggravating circumstance in the present case.

Conclusions

46. It is the Appeals Body's consistent practice to consider the CEDB'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.
47. In the opinion of the Appeals Body, none of this applies in the present case.
48. The Appeals Body is of the opinion that the CEDB neither abused nor exceeded its broad powers of discretion when imposing the sanctions.
49. The measures imposed comply with the principles of legality and proportionality.
50. It is noted that particular importance was rightly attached to the following factors by the CEDB:
 - the multiplicity of offences;
 - the seriousness of the offences, in particular the crowd disturbances and violent behaviour of the Club's supporters which threatened the health and safety of all those present at the Match (both inside and outside the stadium), and also severely tarnished the image of the competition;
 - the Club's previous record for most of the relevant offences, something which points to an endemic problem of misconduct amongst the Club's supporters and habitual deficiencies in match organisation at the Club; and
 - the fact that the Club neglected to make proper security preparations for the Match (for example, proper and effective segregation and body searching), even though it had been made aware of the large number of visiting Club supporters who would be attending and could therefore reasonably be expected to have foreseen issues of the type that occurred.
51. These factors point to the need for a strong sanction, and so a combination of a fine and an exclusion was clearly appropriate in the circumstances.
52. However, at the same time, regard must be had to the Club's lack of previous records for crowd disturbances.
53. Based on the foregoing, the Appeals Body considers that the CEDB was entirely correct to impose a €100,000 fine and an exclusion, and equally correct to suspend the latter measure. Such an approach is entirely proportionate and gives due regard to the positive and negative factors in the case. This not only ensures that the Decision has a punitive effect

against the Club for the multiple violations committed and its recidivism, but it also dissuades supporters from future similar conduct in light of the severe consequences that it may have on their team.

54. Accordingly, the Appeals Body has no option but to uphold the Decision.

VII. Costs

55. The Appeals Body decides at its own discretion how to allocate the costs of proceedings.

56. The appeals fee is either deducted from the costs of proceedings or reimbursed (in accordance with Article 44(2) DR).

57. 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.

58. In the present case, the costs of proceedings are €5,000.

Decision of 13 July 2017

Luxembourg Football Federation

(player's eligibility)

Circumstances of the case

By decision of the Control, Ethics and Disciplinary Body of 8 December 2016, the Luxembourg Football Federation player Dublin Yannis (the player) was suspended for the next three (3) UEFA competition matches for which he would be otherwise eligible. On 28 March 2017, the Luxembourg Football Federation played against the Football Federation of Kazakhstan in a European Under-21 Championship 2019 match (the match). The player was registered within the relevant player list, participated in the match and played for its full duration.

The Control, Ethics and Disciplinary Body (CEDB) decided that the Luxembourg Football Federation is responsible for the participation of a player whilst he had still pending suspensions violating Articles 43.01 and 43.07 of the 2017-19 UEFA European Under-21 Championship Regulations. In this context, in accordance with Article 21 (2) of the Disciplinary Regulations (edition 2016), the relevant match is declared forfeit. Consequently, as per Article 21 (4) (a) of the Disciplinary Regulations (edition 2016), the Luxembourg Football federation is considered to have lost the match 3:0.

The club, in its appeal, argued that it never formally received the CEDB decision of 8 December 2016 regarding the possible suspension of the player and thus, the decision has to be regarded as null and void, having as consequence that the player was not ineligible at the occasion of the match against the Football Federation of Kazakhstan.

Legal framework Article 21 (2) and (4) (a) of the UEFA Disciplinary Regulations (edition 2016). Articles 43.01 and 43.07 of the 2017-19 UEFA European Under-21 Championship Regulations.

Decision

On 18 May 2017, the CEDB decided to declare the European Under-21 Championship 2019 match Luxembourg vs. Kazakhstan played on 28 March 2017 as forfeit. The Luxembourg Football Federation is deemed to have lost the match 3:0.

The appeal lodged by the Luxembourg Football Federation was dismissed by the Appeals Body and the decision of the CEDB of 18 May 2017 was confirmed. The Appeals Body indicated it was comfortably satisfied that the player was ineligible to play during the match against Kazakhstan, that the CEDB's decision regarding the event triggering the ineligibility of the player was duly notified to the Luxembourg Football Federation, that in the hypothetical and unproven case that the Luxembourg Football Federation could not take note of the Decision, it was responsible for such circumstance and who should have made the necessary inquiry to UEFA.

Chairman: Pedro Tomás (Spain)

Members: Michael Maessen (Netherlands)

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's (hereinafter: "the CEDB") decision of 18 May 2017 (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. Briefly, the most relevant facts of this can be summarized as follows: By Decision of the UEFA Control, Ethics and Disciplinary Body of 8 December 2016, the Luxembourg Football Federation player Dublin Yannis ("the player") was suspended for the next three (3) UEFA competition matches for which he would be otherwise eligible.
3. The decision was sent to the Luxembourg Football Federation ("the Appellant") by the UEFA administration on 8 December 2016 via fax and e-mail. While the notification via fax was undisputedly not successful, UEFA received a confirmation that the notification e-mail was successfully sent to the Appellant.
4. On 28 March 2017, the Appellant played against the Football Federation of Kazakhstan in a European Under-21 Championship 2019 match with the final result of Luxembourg losing 1 - 2 to Kazakhstan. The player was registered within the relevant player list, participated in the abovementioned match and played for the full duration of the match.
5. The CEDB in its Decision of 18 May 2017 decided that the Appellant has registered an ineligible player on the relevant player list and has fielded such ineligible player during a match, which is why the match was declared forfeit, having the result that the Appellant was deemed to have lost the match 0:3 (instead of 1-2).
6. The Decision with grounds was notified to the Appellant on 12 June 2017.

II. Summary of the proceedings before the Appeals Body

7. On 13 June 2017, the Appellant announced its intention to appeal against the Decision.
8. On 15 June 2017, the Appellant filed its grounds for appeal. In its statements, the Appellant, essentially, argued the following:
 - The Appellant argued that it never formally received the decision regarding a possible suspension of the player via fax, as it was confirmed by UEFA, while also stressing that it never received the decision via e-mail.
 - The Appellant also stated that a couple of days before the match, it called the UEFA administration in order to obtain information regarding a possible suspension of

another player, Danel Sinani. During this phone call, UEFA informed the Appellant that the suspension for Danel Sinani has been annulled, while providing no information about the player Dublin Yannis.

- The Appellant therefore held that, given that it was never informed about any suspension of the player, the decision against the latter has to be regarded as null and void, having the consequence that the player was not ineligible at the occasion of the match against Kazakhstan.
- The Appellant in this regard contests the view of the CEDB that the question whether the decision had been successfully notified to the Appellant was irrelevant due to the latter's obligations to obtain relevant information from UEFA.

III. Hearing

9. The proceedings before the Appeals Body were conducted in writing as neither the Appellant nor an UEFA Ethics and Disciplinary Inspector requested a hearing.

IV. Appeals Body Competence and Admissibility of the Appeal

10. Article 30 (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 cases where the sanction imposed by the Control, Ethics and Disciplinary Body is a fine up to €50'000 referred to it directly by the Chairman of the Control, Ethics and Disciplinary Body."
11. 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 65 (2) of the UEFA Disciplinary Regulations).

V. Legal Considerations Of The Appeals Body

A. The legal framework.

13. Pursuant to Article 52 of the UEFA Statutes, as well as Article 29 of the UEFA Disciplinary Regulations, the Control, Ethics and Disciplinary Body was competent to deal with the case.
14. In light of the above, the UEFA Statutes, rules and regulations, in particular the UEFA Disciplinary Regulations ("DR") are applicable to these proceedings.

B. In the case in hand

15. The Appeals Body recalled that by Decision of the CEDB of 8 December 2016, the player was suspended for "the next three (3) UEFA competition matches for which he would be otherwise eligible" following a red card for "violent conduct", this in accordance with Art. 15 (1) (e) DR.
16. The Decision was sent to the Appellant by the UEFA administration on 8 December 2016 via fax and e-mail. As it was admitted throughout the proceedings, the notification via fax was undisputedly not successful. On the other hand however, UEFA received a confirmation that the notification e-mail was successfully sent to the Appellant.
17. The Appeals Body further recalled that on 28 March 2017, the Appellant played against the Football Federation of Kazakhstan in a European Under-21 Championship 2019, a match which was lost by the Appellant 1 - 2 to Kazakhstan. As it remained undisputed during the course of the CEDB and the Appeals Body proceedings, the player was registered within the relevant player list, participated in the abovementioned match and played for the full duration of the match.
18. The CEDB in its Decision of 18 May 2017 decided that the Appellant has registered an ineligible player on the relevant player list and has fielded such ineligible player during a match, which is why the match was declared forfeit, having the result that the Appellant was deemed to have lost the match 0:3 (instead of 1-2).
19. The Appeals Body started by recalling the applicable legal framework and in particular Article 43.01 of the 2017-19 UEFA European Under-21 Championship Regulations where it is stipulated that in order to be eligible to participate for the qualifying competition, each association must provide the UEFA administration with a list of 23 players, i.e. the surnames, first names, club and date of birth. This list must be completed online by 12.00CET the day before the match. The Appeals Body further recalled the content of Article 43.07 of the 2017-19 UEFA European Under-21 Championship Regulations according to which all associations are responsible for ensuring that the aforementioned provisions concerning player eligibility and lists of players are observed.
20. Furthermore, the Appeals Body recalled that the player had been sent off with a red card for violent conduct during the Appellant's match against Greece on 12 November 2016 and that the Appellant was informed about the opening of proceedings on 14 November 2016, informing the Appellant not only about the fact that proceedings were opened for "violent conduct" but also that a decision about a possible suspension of the player would be taken on 8 December 2016, noting that "*L'Instance de contrôle, d'éthique et de discipline rendra sa décision à l'occasion de la séance du 08/12/2016.*"
21. Also, the Appeals Body took into account the argument of the Appellant that a couple of days before the match, the latter called the UEFA administration in order to obtain information regarding a possible suspension of another player, Danel Sinani. During the relevant phone call, UEFA informed the Appellant that the suspension for Danel Sinani has been annulled, while providing no information about the player. The Appellant therefore

held that, given that it was never informed about any suspension of the player, the decision against the latter has to be regarded as null and void, having the consequence that the player was not ineligible at the occasion of the match against Kazakhstan.

22. In view of all of the above, the Appeals Body came to the conclusion that that it could not concur with the arguments provided by the Appellant. The Articles 43.01 and 43.07 of the 2017-19 UEFA European Under-21 Championship Regulations clearly stipulate an obligation for the Appellant to ensure that no ineligible players are entered in the player lists and ultimately fielded during matches, whereas it does not provide for an obligation of UEFA to actively inform clubs and associations about possible issues. From the arguments of the Appellant it becomes clear that the latter only inquired information from UEFA regarding another player, whereas the player was not mentioned by the Appellant.
23. Quite on the contrary, the Appeals Body found that in view of the fact that the Appellant had been notified by UEFA that disciplinary proceedings had been opened against the player for violent conduct and that a decision regarding the said violation was to be taken by the CEDB on 8 December 2016, the obligations arising from Articles 43.01 and 43.07 of the 2017-19 UEFA European Under-21 Championship Regulations regarding a potential ineligibility of the player were even increased, i.e. the Appellant absolutely had to follow up following the announced date of the decision and should have made an inquiry to UEFA whether the player had been further suspended by the CEDB or not. On the other hand, merely waiting while assuming that the suspension might have been lifted has to be regarded as rather negligent, contrary to the abovementioned obligations arising from the stated provisions.
24. Consequently, already based on the above, the Appeals Body concluded that irrespective of the question whether the decision of 8 December 2016 had been properly notified, the Appellant was responsible for fielding an ineligible player during its match against Kazakhstan which is why the Appeal lodged by the Appellant already has to be rejected at this point.
25. Subsequently, the Appeals Body referred to Article 34 (9) DR where it is stipulated that “(...) *all such communications by UEFA or the disciplinary bodies take the form of **faxes or emails** (emphasis added) sent by the UEFA disciplinary office.*” In this regard, the Appeals Body noted that in order to be contactable, the Appellant had provided the UEFA administration with box a fax number and an e-mail address which has not subject to changes, i.e. the Appellant was in the past regularly contacted via the relevant means of communication. It appears that also in the case at hand the decision under scrutiny was notified to the contact details UEFA was provided with by the Appellant, which is why the Appeals Body noted that the UEFA administration had fulfilled its formal requirements laid out in Article 34 (9) DR.
26. However, in order to deal with all the arguments raised by the Appellant and to discuss the relevant issues of the Appeal pertaining to the actual notification of the decision under scrutiny, after a thorough analysis of the arguments of the Appellant, the Appeals Body analysed the notification process of official UEFA decisions, i.e. the technical step by step procedure.

27. The Appeals Body noted that every decision upon drafting is uploaded in the pdf format into UEFA's internal platform FAME. In a second step, a communication process is created by the responsible lawyer dealing with the respective disciplinary case and is sent by clicking on a button labelled "SEND VIA FAX/E-MAIL". Next, FAME automatically sends the relevant communication with the attached pdf-formatted decision to the fax number as well as to the e-mail address UEFA was provided with by the relevant club/association. In case an error occurs, FAME immediately responds by sending an error message to the sender stipulating that "*a problem occurred while delivering this message to this email address*" or "*undeliverable*", indicating the reason for the failure such as file size restrictions, offline recipient servers etc.
28. The Appeals Body further noted that in the case at hand, i.e. during the sending process under scrutiny, UEFA, after starting the sending process in FAME, received an error message regarding the fax number and the fax notification, indicating that an error occurred, stipulating "*Not Sent (Error)*". At the same time, an e-mail was sent to the Appellant via FAME and neither UEFA's server indicated an error, nor the recipient's mail server rejected the e-mail, i.e. the response from UEFA's server was positive, showing to the UEFA administration that the e-mail had left the UEFA mail server successfully, while it did not receive a negative (error) message from the Appellant's mail server, indicating to the UEFA administration that the e-mail was successfully received by the latter's server. Consequently, the e-mail was moved to the "SENT MESSAGES" folder showing correctly Joël Wolff as the addressee/recipient, while FAME indicated that the e-mail with the decision to the Appellant was successfully sent on "Thu 08/12/2016 14:45".
29. Taking into account the above while recalling the arguments provided by the Appellant in par. 12 of the Appeal Brief that despite all researches performed by its IT specialists the e-mail could not be found, the Appeals Body was comfortably satisfied that the e-mail was successfully sent to the Appellant by UEFA. It is the conviction of this Panel that the proof provided by UEFA regarding its technical notification procedure clearly established that UEFA has done everything within its powers to notify the decision to the Appellant, without having any indication to believe the contrary. The Appeals Body was therefore comfortably satisfied that the Decision was notified to the Appellant, giving the latter the opportunity to take note of the three-match suspension for the player, making the player ineligible for the match under scrutiny against Kazakhstan.
30. Subsequently, despite the fact that the Appeals Body already came to the conclusion that the Appellant had used an ineligible player during the match under scrutiny, as it was correctly established by the CEDB, the panel turned its attention to the hypothetical question of who would bear the risk of a potential unsuccessful notification of the Decision.
31. In this regard, the Appeals Body noted that the DR only provide for few procedural provisions regarding the notification of decisions, which is why in accordance with Article 5 (b) DR, Swiss law is applicable subsidiarily.
32. According to Swiss procedural law and civil law, there are certain spheres of risk when it comes to the notification of decisions ("*Sphärentheorie*"). Once a message leaves the sender's sphere of risk, it enters the recipient's sphere of risk and every error which might

occur as from then is the latter's problem. The abovementioned theory can then lead to the result that once the messages left the sphere of risk of the sender, the messages is "deemed to be received" ("*Zugangsfiktion*") by the recipient.

33. According to established jurisprudence by Swiss courts and in accordance with the relevant literature, "*a notification or declaration of intent is deemed to be received when it entered the sphere of control of the receipt and one could reasonably assume that the recipient was able to take note of it*"¹⁰. Furthermore, "*written declarations in the course of electronic commerce/communication (especially by means of e-mail) shall be deemed to have been received as soon as they can be retrieved/received and when the recipient has an 'inquiry-obligation' (free translation from German)*".¹¹ "
34. The so-called "inquiry obligation" ("*Abfrage-Obliegenheit*") increases when a party to a proceedings can expect or has to assume that it will receive a communication during the course of these proceedings, i.e. when it should or could assume that the delivery of further communication is imminent. Moreover, the party to such proceedings is responsible for being reachable via the means of communication it opened towards the court/tribunal.¹²
35. Taking into account the abovementioned, the Appeals Body applied these established principles onto the case at hand and noted that the Appellant himself has opened two channels of communication with UEFA, fax and e-mail, i.e. two channels to which the Appellant agreed he wanted to and would be able to receive official communication from UEFA. It is therefore reasonable to argue that the recipient thus bears the risk of any possible error in connection with these channels of communication.
36. The Appeals Body also concluded that the Appellant knew or must have known that the notification of a decision was imminent, given that the Appellant was undisputedly successfully informed that, on the relevant date, a decision regarding a suspension of the respective player was being taken. The Appellant, by means of experience of numerous disciplinary proceedings in the past and taking into account that the sanction proposed by Article 15 (1) (e) DR is three matches, could therefore be absolutely sure that the decision would be notified on the same day or a day later. This imminent notification is irrespective of the question whether the sanction would have been lifted (*quod non*) or imposed. As it was stated above, according to Swiss law, your inquiry obligations as a recipient increases once you have to assume or once you have to count on the fact that "something is coming".

¹⁰ Eine mittelbare Erklärung gilt als zugegangen, sobald sie in den Machtbereich des Empfängers gelangt ist und erwartet werden kann, dieser werde die Erklärung wahrnehmen (BGE 4A_89/2011 E 3; Gauch/Schluop/Schmid, N 199; ausführlich Kramer, BK OR 1 N 87 ff).

¹¹ Schriftliche Erklärungen im elektronischen Geschäftsverkehr (insb. im E-Mail-Verkehr) gelten als zugegangen, sobald sie vom Empfänger abgerufen werden können und falls diesen eine Abfrage-Obliegenheit trifft (Gauch/Schluop/Schmid, N 202 mwH; differenzierend zur Abfrage-Obliegenheit Schwenger, N 27.23).

¹² „Schriftliche Erklärung im E-Mail-Verkehr (Gauch/Schluop/Schmid, Rn. 183 f.). Sie geht dem Empfänger zu, sobald sie von ihm abgerufen werden kann; eine Obliegenheit zum Abruf (zur «Leerung des elektronischen Briefkastens») besteht jedenfalls dann, wenn eine Person ihre E-Mail-Adresse einem grösseren Kreis anderer Personen bekannt gegeben (und sich dadurch mit diesem Übermittlungsweg einverstanden erklärt) hat“.

37. On another token, as it was already stated above, the Appeals Body recalled that according to the applicable Article 43.07 of the 2017-19 UEFA European Under-21 Championship Regulations, every club/association has the responsibility to ensure that no players with pending suspensions are being entered in the relevant player list, i.e. the association also has the obligation to obtain the necessary information from UEFA in this regard. Given that proceedings were opened against the player for a violation which is usually awarded with a three-match suspension and taking into account that the association knew the date of when the decision was being taken, it is justifiable to argue that it was the obligation of the association to make an inquiry about the status of the player, i.e. the inquiry obligation arises not only from Swiss procedural law, but the same *ratio legis* and legal obligation is also stipulated in the UEFA rules and regulations.
38. The Appeals Body was convinced that the Appellant couldn't not assume that after having served only an automatic one-match suspension, the player would be cleared again. However, in the present case, the Appellant only made an inquiry towards UEFA regarding a different player without asking about the player under scrutiny and his suspension.
39. Bearing the above in mind, for numerous reasons explained above, the Appeals Body is comfortable satisfied that the player was ineligible to play during the Appellant's match against Kazakhstan, that the decision regarding the event triggering the ineligibility of the Player was duly notified to the Appellant, that in the hypothetical and unproven case that the Appellant could not take note of the Decision, it was the Appellant who was responsible for such circumstance and who should have made the necessary inquiry to UEFA, as it was correctly decided by the Control, Ethics and Disciplinary Body in its decision of 18 May 2017.
40. Taking into account that the Appellant did not appeal the Decision with regard to the proportionality of the sanction, noting that Article 21 (2) and (4) (a) DR clearly stipulates the legal consequence of forfeit, i.e. the 3-0 defeat, the Appeals Body did not deem it necessary to engage into a further discussion regarding issues pertaining to the proportionality of the Decision.
41. On the basis of the above, the Appeals Body decided to dismiss the appeal of the Appellant on all grounds.

VI. Costs

42. 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).
43. 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.
44. In the present case, the costs of proceedings are €1,000.

Decision of 22 November 2017

Arka Gdynia

(throwing of objects; setting off of fireworks;
stairways blocked; insufficient organization)

Circumstances of the case

According to the official reports of the UEFA Europa League 2017/2018 match between Arka Gdynia and FC Midtjylland on 27 July 2017, Arka Gdynia's supporters ignited an extremely large number of fireworks and a cap of flare was thrown on the pitch from the South Stand by the home supporter. The UEFA delegate also reported that away fans standing blocked the stairways the whole match in lower sector. The Control, Ethics and Disciplinary Body (CEDB) considered that the large number of fireworks during the match shows that the body searching was unsatisfactory. The CEDB decided on 17 August 2017 that a fine of €60'000 was the adequate disciplinary measure to be imposed on the club.

Arka Gdynia appealed the decision stating that there are sufficient mitigating circumstances to impose a maximum sanction amounting to €30'000 or any other lower fine than €60'000.

Legal framework Article 16 (1) of the UEFA Disciplinary Regulations. Article 16 (2) (b) and (c) of the UEFA Disciplinary Regulations. Article 38 UEFA Safety and Security Regulations.

Decision

On 17 August 2017, the CEDB decided to fine Arka Gdynia €60,000.

The Appeals Body decided to partially admit the appeal lodged by Arka Gdynia and thus, the CEDB's decision of 17 August 2017 is amended and Arka Gdynia was imposed a fine of € 50,000 for the setting of fireworks, the throwing of objects and the blocking of stairways.

The Appeals Body decided that the club must not be held responsible for an inadequate body searching during the match and dropped the charges for the insufficient body searching. The Appeals Body considered although it is true that the high amount of fireworks ignited during the match speaks for a negligent attitude in this regard, the burden of proof that there was an inappropriate body searching lies on UEFA and the delegate didn't mention that the body search was badly implemented. The Appeals Body considered that there might be other reasons allowing the entrance of fireworks inside the stadium.

Chairman: Pedro Tomás (Spain)

Members: Michael Maessen (Netherlands)

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 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 in the light of the official reports and the documents of the case file can be summarized as follows:

5 minutes before kick-off, upon the players of both teams entered the pitch - there were about 60 flares at the East and South Stand, used by the home supporters. A dense smoke stayed several minutes. No flares were thrown on the pitch. All were extinguished 1 minute before the kick-off. A big firework was made outside the stadium, but in its southern vicinity, which had no impact except with its sound. 7 photos will be sent later 11th minute - there were about 40 blinking flares which also produced a smoke on the South Stand, used by the home supporters. They were extinguished after 2 minutes. No flare was thrown on the pitch. 3 photos will be sent later. 14th minute - there were 2 flares on the South Stand, used by the home supporters. They were extinguished after 2 minutes. They were not thrown on the pitch. 1 photo will be sent later. 21st minute - the largest firework during the match - there were about 100 flares on the entire South Stand. A big smoke covered the stand and its vicinity. They were burning about 2 minutes, but the smoke stayed longer. No flare was thrown on the pitch. 4 photos will be sent later. Notice - Public announcement were active the entire first half, warning the supporters not to use the fireworks, because it was forbidden by the Polish law and that their club would pay a high fine. Furthermore, using and taking the fireworks into the stadium is a criminal offence by the Polish law - as cameras covered the whole stadium, there is great possibility that certain supporters will be charged at the court. Besides all of that, the supporters used so many flares.

2nd minute - 1 cap of the flare was thrown on the pitch from the South Stand by the home supporter, close to the south goal (of the home team), which was picked-up by the referee. 1 photo of that cap will be sent.

The stairways on the whole East and South Stands were blocked by the home supporters during the entire match. 5 photos will be sent later.

There was an impression that there were not many stewards at the stands, nevertheless that 80 stewards and 140 security personnel were engaged.

3. On 17 August 2017, the Control, Ethics and Disciplinary Body imposed a fine of €60'000 for the setting off of fireworks – Art. 16 (2) DR, the throwing of objects - Art. 16 (2) DR, stairways blocked - Security/Stadium and the insufficient organization - Security/Stadium
4. The Decision with grounds was notified to the Appellant on 29 September 2017.

II. Summary of the proceedings before the Appeals Body

5. On 9 October 2017, Appellant announced its intention to appeal against the Decision.
6. On 1 November 2017, the Appellant filed its grounds for appeal. In substance the club deems that there are sufficient mitigating circumstances in this case to impose a maximum sanction amounting to € 30.000 or any other lower fine than € 60.000
7. No hearing was held, as the appellant did not request it. Consequently, the proceedings have been conducted in writing only.

III. Appeals Body Competence and Admissibility of the Appeal

8. Article 30 (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."
9. Appellant lodged its grounds for appeal by the set deadline and in the form required. The appeals fee was paid on time.
10. 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. Applicable legal framework.

11. Pursuant to Article 52 of the UEFA Statutes, as well as Article 29 of the UEFA Disciplinary Regulations (DR), the Control, Ethics and Disciplinary Body is competent to deal with the case.
12. In light of the above, the UEFA Statutes, rules and regulations, in particular the UEFA Disciplinary Regulations are applicable to these proceedings.
13. According to Article 8 DR, which stipulates the principle of 'strict liability', and Article 16 (2) DR, which builds on this principle, a club is to be held responsible for the improper conduct of its supporters, even if it might not be at fault itself.
14. According to Article 16 (2) DR (emphasis added):

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 a provocative message that is not fit for a sports event, particularly provocative messages that are of a political, ideological, religious or offensive nature;*
- f. acts of damage;*
- g. causing a disturbance during national anthems;*
- h. any other lack of order or discipline observed inside or around the stadium.*

15. According to Article 45 DR, facts contained in official UEFA reports are presumed to be accurate. Proof of their inaccuracy may, however, be provided.
16. 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.
17. As stated in Article 2 of the UEFA Safety and Security Regulations, the purpose of the regulations 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.
18. According to Article 33 (4) UEFA Safety and Security Regulations, each spectator shall be screened and searched by a member of the security personnel of the same sex
19. Of particular relevance for the present case is Article 38 of the UEFA Safety and Security Regulations 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."
20. According to Article 49 of the UEFA Safety and Security Regulations, any breach of the said regulations may be penalised in accordance with the UEFA Disciplinary Regulations.

B. Summary of the Appellants position

21. The club argues that it does not contest the legitimacy of Article 8 of the DR, which stipulates the principle of "strict liability". The club wishes to present all mitigating factors and objective elements of such crowd disturbances that should be taken into consideration by the Appeals Body before deciding on the matter at hand.

22. Regarding the setting off of fireworks, the Club addresses the following aspects
- It decided to hold several meetings with its supporters to inform them about UEFA policy in this regard. It organized a public event which included a distribution of leaflets (in amount of 10.000).
 - Most of the objects were set-off before the kick-off, and therefore did not affect the Match in any way i.e. the Match was not stopped nor delayed due to the usage of the fireworks. Arka's ultras group was denied entrance.
 - The club already undertook a whole range of activities to investigate and explain the incident. In this sense, the club is in constant cooperation with the police responsible for the process of identifying the supporters responsible for the ignition of the fireworks (all necessary materials, including the video monitoring from the Match).
 - It should be underlined that after the Match Arka's officials held numerous meeting with the most active supporter's which resulted in the commitments from various ultras groups to not use pyrotechnics during the next matches on any occasion.
23. With regard to the throwing of objects, the main arguments of the club can be summarized as follows:
- None of the Arka's fans intentionally threw any objects into the pitch. The object that landed on the pitch in the 2nd minute of the Match was a cap from the flare which during ignition automatically was launched to the air (as a process of the flare ignition).
 - The game was not stopped, or delayed, did not cause any damage to the stadium or the persons present, it did not land in any close range to any of the players, nor the referee. The small size of the object. The fan was identified and handed over to the police.
24. Regarding the blocking of stairways, the club submits the following arguments:
- It is constantly trying to implement measures and adjust its internal regulations to make the stands as safe as possible. It hired 70 stewards to be at the South Stand and employ even more of "unofficial" stewards to keep the dialog with the ultras stand.
 - The club addresses to the two conditions to be fulfilled as the basis for a sanction as regards the stairways' incident: 1) all public passageways, corridors, stairs, doors, gates and emergency exit routes shall be kept free of any obstruction and 2) such obstructions could impede the free flow of spectators, In this regard, it deems that the second condition is not fulfilled as Arka fans could move through stairs/passageways during the Match in a freely manner and without any obstruction.
 - Even assuming that some fans temporarily occupied part of the stairways during the Match, such behavior did not impede the free flow of spectators and as a result did not constituted any threat to the health and safety of supporters, players and other persons in the stadium. It also should be noted that the blockage on the stairs and corridas was temporary and did not last for the time of the whole Match.

As regards the inappropriate body searching the club notes the following:

- Finally, the club would like to point out that the Match was secured by 220 stewards hired by the Club. Also an additional security firm was working to keep safety and security.
- The club also recalls that the burden of proving the charge rests with UEFA. This means that UEFA cannot sanction an offence in the absence of sufficient evidence.
- All of the supporters were searched by a member of the security personnel in accordance with the national law.

25. Finally, the club addresses to the proportionality of the sanction:

- The club holds that the sanction is not proportional in the light of previous cases dealt with by the UEFA disciplinary bodies in year 2017, in particular the sanctions imposed on: Apollon Limassol FC on 18 August 2017, FC Zorya Luhansk on 24 February 2017, HNK Hajduk Split on 22 September 2017.
- The club has no previous record of the Club's supporters was recorded in the past since the club did not take part in any UEFA matches for the last 38 years, and therefore the club should not be punished more severely than the club's described in points 27.1-27.3 which have a history of breaching the DR or SRR

26. As a final request, the club requests the UEFA Appeals Body to impose a sanction amounting to EUR 30.000 or any other lower fine than EUR 60.000,00

C. Merits

27. This UEFA disciplinary body understands that the scope of the proceedings need to find an answer to two main questions:

- Are the infringements of this case established?
- Is the sanction proportionate?

28. In the following paragraphs the UEFA Appeals Body will proceed to answer both questions.

a) The infringements by the club

29. According to the appealed decision the club committed the following infractions:

- Setting off of fireworks – Art. 16 (2) DR
- Throwing of objects - Art. 16 (2) DR
- Stairways blocked - Security/Stadium Article 38 UEFA Safety and Security Regulations
- Insufficient organization - Security/Stadium

30. Regarding the setting off of fireworks, the official delegate report describes a situation in which around 200 objects were ignited during the above mentioned match.

31. The club accepts the fact that the objects were set off as described by the UEFA official in his report, but points to the fact that these objects were ignited before the match and did not affect the match in any way. It adds also that following the incident a number of actions

were implemented to investigate and explain the incident, as well as meetings with fan groups were held to avoid the use of pyrotechnics in the future.

32. This UEFA disciplinary body can't comply with the assertions made by the club insofar, even though a high number of fireworks were set off before the match – around 60 flares,, "the largest firework" ignition, in words of the UEFA delegate – around 100 flares, took place in the 21st minute of the match.
33. It is recalled that setting off fireworks is a serious offence because not only can it disrupt the orderly running of the match but also, and more importantly, it can endanger the physical integrity of the persons who are lighting the fireworks, other spectators, officials and even the players on the pitch. For this reason, the use of pyrotechnic devices in stadiums is strictly forbidden.
34. The Appeals Body complies with the view of the Control, Ethics and Disciplinary Body in that applying the principle of strict liability as described in Articles 8 and 16(2) DR, the club shall be held liable for the conduct of its supporters, even if it is not at fault itself. Indeed, it has long been established in case law that strict liability applies regardless of fault (in this regard, see page 12 of the Court of Arbitration for Sport case *CAS 2002/A/423 PSV Eindhoven*).
35. This UEFA disciplinary notes that the club also before this instance hasn't put forward any arguments which would breach the accuracy of the official UEFA report which expressly refers to the setting off of fireworks and is presumed to be accurate under Article 45 DR.
36. Consequently, the club is responsible for any violation conducted by its supporters against the UEFA Disciplinary Regulations. It includes the setting off of fireworks in accordance to Article 16 (2) (c) DR (*CAS 2013/A/3047 FC Zenit St. Petersburg vs Football Union of Russia*).
37. Bearing the above in mind and considering that the facts are not disputed by the club, a large number of fireworks have been ignited by its own supporters, the club is to be held responsible for this misconduct in accordance with Article 16 (2) (c) DR and must be punished accordingly.
38. Regarding the throwing of objects, the official report states that a home supporter threw one cap of the flare was thrown on the pitch from the South Stand.
39. The club stresses that its supporters didn't throw, at least intentionally, any object into the pitch. The referred ca, so the club, automatically separated from the flare when the latter got ignited and flew to pitch driven by the air afterwards. It adds that this incident had no impact on the match, harmed or threatened the integrity of no one present at it.
40. The Appeals Body has some doubts about the accuracy of the statements of the club. There is no evidence in the case file that shows that other caps followed the same path and flew to the pitch in the manner described by the club. In addition, the UEFA delegate clearly states that the cap had been thrown by a supporter from the South stand and brings photographic evidence that, indeed, a plastic cap landed on the pitch.

41. Even accepting the club statements, quad non, it is still the responsibility of the club to protect the playing area from incidents like in the case in hand (Article 16 (1) and (2) (h) DR). The fact that a cap that could potentially affect the integrity of those present at the match is sufficient to declare a lack of order of discipline for which the club must be held responsible in accordance with the above mentioned provisions.
42. With regard, to the blocking of stairways the delegate clearly states that the stairways on the whole East and South Stands were blocked by the home supporters during the entire match. The delegate brought photographic evidence of this incident. He also added that the impression was that there were not many stewards at the stands, even though 80 stewards and 140 security personnel had been deployed for this match.
43. The club deems that there is no infringement of Article 38 Article 38 UEFA Safety and Security Regulations as the requirements are not met. In particular it deems that Arka fans could move through stairs and passageways in a freely manner and without obstruction. Even assuming that the statements of the delegate were partially correct, it deems this temporal misbehaviour did not impede the free flow of spectators.
44. It is recalled that UEFA delegate brought forward a number of evidence demonstrating that indeed stairways at the referred sectors were obstructed. In this sense, it has always been UEFA's position that the presumption of accuracy attached to these reports doesn't need any further evidence. This has also been confirmed by the CAS in CAS 2015/A/3926 at para 79 and 80.
45. Briefly, the Appeals Body recalls, as did CAS, that to assume a "regulatory assumption" in this case makes sense. Only the Appellant has the domestic authority (Hausrecht) and only the Appellant has the possibility to secure the evidence in this respect, for example to take pictures or videorecordings of the behaviour of the spectators. UEFA has not this possibility to secure evidence and for this reason UEFA depends on a regulatory assumption that the inspector's report describes the event correctly. Without this assumption UEFA would not be able to proof violations of UEFA -regulations since it has no access to the respective evidence.
46. Again, the UEL Delegate Report describe a violation of Article 38 of the Security and Safety Regulations. In the UEL Delegate Report it was stated that the stairways on the whole East and South Stands were blocked by the home supporters during the entire match. It attaches a number of pictures to it. As stated above, the statement in the UEL Delegate Report enjoy the regulatory assumption to be correct, thereby shifting the burden of proof on the Appellant. The UEFA delegate report has to be analysed in a consolidated matter and it describes a violation of Article 38 UEFA Safety and Security Regulations.
47. Added to the above considerations stands the fact that the delegate also describes a situation connected to the blocking of stairways that shows that the measures to impede the blocking of the stairways were insufficient. This only adds more emphasis to the fact that the club infringed Article 38 UEFA Safety and Security Regulations.

48. Finally, regarding the insufficient organisation, i.e. inappropriate body searching, the club, the Control, Ethics and Disciplinary Body stated that "*the large number of fireworks witnessed during the match shows that the body searching was unsatisfactory*".
49. The club in its statements notes that the stadium was secured with 220 steards and an additional security company responsible for safety and security. It also states that it is UEFA who has the burden of proof that indeed there was an inappropriate body searching during the match.
50. This UEFA disciplinary body complies in this particular case with the allegations of the club insofar there is no evidence demonstrating that indeed the body searching of spectators was not done properly. It is true that the high amount of fireworks ignited during the match speaks for a negligent attitude in this regard. But the delegate didn't mention that the body search was badly implemented. This UEFA disciplinary body considers that there may be other reasons allowing the entrance of such amount of fireworks inside the stadium.
51. Bearing the above in mind, the club must not be held responsible for an inadequate body searching during the match. Consequently, the Appeals Body drops the charges pressed against the club for the insufficient of body searching.

b) The proportionality of the sanction

52. 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.
53. This UEFA disciplinary body recalls that only applying Annex A on the incident as regards the setting off of fireworks would lead to a minimum sanction of 100'000€, which is the result of multiplying 200 fireworks with €500 fine in accordance with the said Annex A DR. This is almost the double amount the club is appealing against.
54. With regard to the above and preserving the respect of the principle of *reformation in peius*, this UEFA disciplinary body is precluded to impose a harsher sanction, even though if Annex A of the DR strongly advocates for it.
55. In addition to the above, the fact that one of the charges pressed against the club has been dismissed must have also an impact on the final amount of the fine.
56. On the basis of the above, the Appeals Body has no option first to uphold the approach of the Control, Ethics and Disciplinary Body's decision and, second, to reduce the final sanction imposed against the club. Consequently, the Appeals Body imposes a fine €50'000 for the setting of fireworks, the throwing of objects and the blocking of stairways. The charges pressed against the club for the insufficient body searching are dismissed.

V. 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. In this case, since these proceedings were conducted in writing and the appeals has been partially admitted, the costs will be lower. Consequently, the costs of the proceedings are € 1'000 (minus the appeal fee).



CFCB Adjudicatory Chamber

Decision of 12 December 2017

Panathinaikos

(overdue payables)

Circumstances of the case

On 8 November 2017, the Club Financial Control Body (CFCB) Chief Investigator referred the case of the club Panathinaikos to the CFCB Adjudicatory Chamber due to the presence of overdue payables as at 30 September 2017. The club accepted the findings of the CFCB Chief Investigator, admitting the breach of Articles 65(1) and 66(1) of the UEFA Club Licensing and Financial Fair Play Regulations (CL&FFP Regulations). The club states that the aim of the club is to survive, comply with its obligations towards its creditors and asking for leniency considering its critical situation without harming the objectives of the UEFA's Financial Fair Play System. The CFCB Adjudicatory Chamber determined that Panathinaikos has breached Articles 65(1) and 66(1) of the CL&FFP Regulations because it had overdue payables towards other football clubs and in respect to its employees as at 30 September 2017. The CFCB Adjudicatory Chamber deemed that an exclusion from the next UEFA club competition for which the Club would otherwise qualify in the next three (3) seasons and a fine of €200,000 are appropriate penalties. However, considering the circumstances and particularities of the case, the CFCB Adjudicatory Chamber decided that the exclusion as well as half of the fine, i.e. €100,000, will be lifted if the club is able to prove having paid the amounts or concluded an agreement with the creditors with regard to the amounts identified as overdue payables.

Decision

The Adjudicatory Chamber of the Club Financial Control Body (CFCB) decided to exclude Panathinaikos from participating in the next UEFA club competition for which it would otherwise qualify in the next three (3) seasons (i.e. 2018/19, 2019/20 and 2020/21 seasons), unless the club is able to prove by 1 March 2018 that it has paid the amounts or concluded an agreement with the creditors with regard to the amounts that were identified as overdue payables as at 30 September 2017.

The club was also fined €200,000, from which €100,000 is suspended and will only fall due in case the club is not able to prove by 1 March 2018 that it has paid the amounts or concluded an agreement with the creditors with regard to the amounts that were identified as overdue payables as at 30 September 2017.

Chairman: José Narciso da Cunha Rodrigues (Portugal)

Vice-Chairmen: Christiann Timmermans (Netherlands)

Louis Peila (Switzerland)

Members: Charles Flint (England)

Adam Giersz (Poland)

PART I – Introduction

1. On 8 November 2017, the Chief Investigator of the UEFA Club Financial Control Body (the “**CFCB**”) referred the case of Panathinaikos Athletikos Omilos PAE (“**Panathinaikos**” or the “**Club**”) to the CFCB Adjudicatory Chamber.
2. In the present Decision, the CFCB Adjudicatory Chamber examines whether Panathinaikos has breached Articles 65(1) and 66(1) of the *UEFA Club Licensing and Financial Fair Play Regulations – Edition 2015* (the “**CL&FFP Regulations**”) as a result of having overdue payables:
 - (a) towards other football clubs as at 30 June 2017 and 30 September 2017; and
 - (b) in respect of employees as at 30 June 2017 and 30 September 2017.
3. Unless otherwise stated, all figures referred to in this Decision have been rounded up or down (as the case may be) to the nearest thousand.

PART II – Reference by the CFCB Chief Investigator

4. The Hellenic Football Federation (the “**HFF**”) submitted Panathinaikos’ completed monitoring documentation (comprising financial information as at 30 June 2017) in accordance with the deadline set by the UEFA Administration. Panathinaikos also submitted its completed monitoring documentation via the CL/FFP IT Solution.
5. This monitoring documentation included self-declarations by Panathinaikos indicating that it had total overdue payables of €4,447,000 as at 30 June 2017 as follows:
 - overdue payables towards other football clubs of €880,000; and
 - overdue payables in respect of employees of €3,567,000.
6. Panathinaikos further indicated having paid €136,000 of the €3,567,000 overdue amount in respect of employees after 30 June 2017.
7. On 28 July 2017, following the review of the monitoring documentation provided by Panathinaikos, the UEFA Administration requested the Club to reconfirm the overdue amounts and to provide supporting evidence of any subsequent payments made by the Club.
8. On 4 August 2017, the Club reconfirmed the declared overdue amounts as of 30 June 2017 and submitted evidence of subsequent payments amounting to €80,000 of the €880,000 overdue payables towards other football clubs as of 30 June 2017. Subsequently, on 18 August 2017, the Club submitted evidence of additional payments amounting to €696,000 of the €3,567,000 overdue payables in respect of employees as of 30 June 2017.
9. On 31 August 2017, the CFCB Investigatory Chamber met in order to assess the monitoring documentation of the Club and confirmed the position regarding Panathinaikos’ overdue payables as at 30 June 2017.

10. On 15 September 2017, the CFCB Investigatory Chamber informed Panathinaikos that an investigation was opened against the Club because of the significant overdue payables as of 30 June 2017 and the latter was requested to submit its updated monitoring documentation in accordance with Articles 65(2), 66(2) and 66bis(2) of the UEFA CL&FFP in order to prove that it had no overdue payables towards other football clubs, in respect of employees and towards social/tax authorities as at 30 September 2017. Such updated monitoring documentation had to be submitted to the UEFA Administration by no later than 16 October 2017.
11. A conservatory measure consisting of temporarily withholding the UEFA revenues from the 2017/18 UEFA club competitions that the Club may be entitled to receive, was also imposed on Panathinaikos.
12. The Club submitted to the UEFA Administration, via the CL/FFP IT Solution and the Hellenic Football Federation, its updated monitoring documentation, comprising financial information as at 30 September 2017, within the set deadline. This monitoring information included self-declarations by Panathinaikos indicating total overdue payables of €5,631,000 as at 30 September 2017 as follows:
 - overdue payables towards other football clubs of €1,948,000; and
 - overdue payables in respect of employees of €3,683,000.
13. On 23 October 2017, further to the review of the above updated monitoring documentation, the UEFA Administration requested the Club to reconfirm the overdue amounts and to provide supporting evidence of any subsequent payments made by the club.
14. On 25 October 2017, the Club reconfirmed the declared overdue amounts as of 30 September 2017.
15. On 1 November 2017, the Club indicated that it had paid €612,000 of the €3,683,000 overdue amount in respect of employees after 30 September 2017. The Club subsequently provided the corresponding proofs of payments.
16. On 8 November 2017, the CFCB Investigatory Chamber, headed by the CFCB Chief Investigator, Mr Yves Leterme, met in order to assess the overall overdue payables position of the Club. The CFCB Investigatory Chamber confirmed that Panathinaikos had overdue payables towards other football clubs and in respect of its employees for a total amount of:
 - €4,447,000 as at 30 June 2017; and
 - €5,631,000 as at 30 September 2017.
17. On 8 November 2017, the CFCB Investigatory Chamber met in order to assess the overall overdue payables position of Panathinaikos.
18. The CFCB Investigatory Chamber decided that Panathinaikos had:

- (a) total overdue payables towards other football clubs and in respect of its employees of four million, four hundred and forty-seven thousand Euros (€4,447,000) as at 30 June 2017, such amount comprising overdue payables towards other football clubs of eight hundred and eighty thousand Euros (€880,000) and overdue payables in respect of employees of three million, five hundred and sixty-seven thousand Euros (€3,567,000); and.
 - (b) total overdue payables of five million, six hundred and thirty-one thousand Euros (€5,631,000) as at 30 September 2017, such total amount comprising overdue payables towards other football clubs of one million nine hundred and forty-eight thousand Euros (€1,948,000) and overdue payables in respect of employees of three million, six hundred and eighty-three thousand Euros (€3,683,000).
19. Based on the above findings, on 15 November 2017, the CFCB Chief Investigator decided to refer the case to the CFCB Adjudicatory Chamber in accordance with Article 14(1)(d) of the *Procedural rules governing the CFCB – Edition 2015* (the "**Procedural Rules**") and suggested that the following disciplinary measures be imposed on Panathinaikos by the CFCB Adjudicatory Chamber in respect of the Club's alleged breaches of Articles 65(1) and 66(1) of the CL&FFP Regulations:
 - (a) an exclusion from the next UEFA club competition for which Panathinaikos would otherwise qualify in a number of seasons to be determined by the CFCB Adjudicatory Chamber at its discretion, unless Panathinaikos is able to prove by 31 January 2018 that it has paid the amounts towards other football clubs and in respect of its employees that were established by the CFCB Chief Investigator as being overdue payables as at 30 September 2017; and
 - (b) a fine, to be determined by the CFCB Adjudicatory Chamber at its discretion.
20. The CFCB Chief Investigator also decided, on the basis of Article 41 of the Procedural Rules, to extend the conservatory measure that was imposed on 15 September 2017 on Panathinaikos, consisting of temporarily withholding the UEFA revenues from the 2017/18 UEFA club competitions that the Club may be entitled to receive. This conservatory measure remains in force until the final decision of the CFCB Adjudicatory Chamber.

PART III – Jurisdiction of and procedure before the CFCB Adjudicatory Chamber

21. The jurisdiction of the CFCB Adjudicatory Chamber is derived from Article 19(1) of the Procedural Rules, which provides that the CFCB Adjudicatory Chamber has competence to decide on cases referred to it by the CFCB Chief Investigator.
22. On 20 November 2017, the CFCB Chairman informed Panathinaikos of the opening of the judgment stage in accordance with Article 19(3) of the Procedural Rules.
23. Pursuant to Article 20(1) of the Procedural Rules, the Club was invited to submit its written observations by no later than 30 November 2017.

24. The Club submitted a request for the extension of the deadline to submit its Observations.
25. The Chairman of the CFCB granted an extension of the deadline until 4 December 2017.
26. The Club made its written submission within the established deadline (the "**Observations**").
27. Pursuant to Article 21(1) of the Procedural rules, the CFCB Chairman decided to convene an oral hearing on 12 December 2017.
28. The quorum of judges required by Article 25(1) of the Procedural Rules being attained, the members of the CFCB Adjudicatory Chamber conducted their confidential deliberations in accordance with Article 24(1) of the Procedural Rules.

PART IV – Applicable rules and regulations

29. The case concerns alleged contraventions of the CL&FFP Regulations.
30. The CL&FFP Regulations establish a club licensing system for UEFA club competitions and are (*inter alia*) intended to achieve the objectives set out in Article 2 of the CL&FFP Regulations:

"1 These regulations aim:

- a) to further promote and continuously improve the standard of all aspects of football in Europe and to give continued priority to the training and care of young players in every club;*
- b) to ensure that clubs have an adequate level of management and organisation;*
- c) to adapt clubs' sporting infrastructure to provide players, spectators and media representatives with suitable, well-equipped and safe facilities;*
- d) to protect the integrity and smooth running of the UEFA club competitions;*
- e) to allow the development of benchmarking for clubs in financial, sporting, legal, personnel, administrative and infrastructure-related criteria throughout Europe.*

2 Furthermore, they aim to achieve financial fair play in UEFA club competitions and in particular:

- a) to improve the economic and financial capability of the clubs, increasing their transparency and credibility;*

- b) *to place the necessary importance on the protection of creditors and to ensure that clubs settle their liabilities with employees, social/tax authorities and other clubs punctually;*
- c) *to introduce more discipline and rationality in club football finances;*
- d) *to encourage clubs to operate on the basis of their own revenues;*
- e) *to encourage responsible spending for the long-term benefit of football;*
- f) *to protect the long-term viability and sustainability of European club football."*

31. Article 65 of the CL&FFP Regulations is worded as follows:

- "1 *As at 30 June and as at 30 September of the year in which the UEFA club competitions commence, the licensee must not have any overdue payables (as specified in Annex VIII) towards other football clubs as a result of transfers undertaken up to 30 June and up to 30 September respectively.*
- 2 *Every licensee must prove that it has no overdue payables as at 30 June. If a licensee has overdue payables as at 30 June of the year in which the UEFA club competitions commence or if otherwise requested by the UEFA Club Financial Control Body, then it must also prove that it has no overdue payables as at the 30 September.*
- 3 *Payables are those amounts due to football clubs as a result of transfer activities, including training compensation and solidarity contributions as defined in the FIFA Regulations on the Status and Transfer of Players, as well as any amount due upon fulfilment of certain conditions.*
- 4 *By the deadline and in the form communicated by the UEFA administration, the licensee must prepare and submit the transfers information, even if there have been no transfers/loans during the relevant period.*
- 5 *The licensee must disclose:*
 - a) *all new player registrations (including loans) in the 12 month period up to 30 June/30 September, irrespective of whether there is an amount outstanding to be paid at 30 June/30 September;*
 - b) *all transfers for which an amount is outstanding to be paid at 30 June/30 September, irrespective of whether they were undertaken in the 12 month period up to 30 June/30 September or before; and*
 - c) *all transfers subject to a claim pending before the competent authority under national law or proceedings pending before a national or international football authority or relevant arbitration tribunal, as at 30 June/30 September.*

- 6 *The transfers information must contain the following as a minimum (in respect of each player transfer, including loans):*
 - a) *Player (identification by name);*
 - b) *Date of the transfer/loan agreement;*
 - c) *Name of the football club that formerly held the registration;*
 - d) *Transfer (or loan) fee paid and/or payable (including training compensation and solidarity contributions) even if payment has not been requested by the creditor;*
 - e) *Other direct costs of acquiring the registration paid and/or payable;*
 - f) *Amount settled and payment date;*
 - g) *Balance payable as at 30 June/30 September in respect of each player transfer including the due date(s) for each unpaid element;*
 - h) *Conditional amounts (contingent liabilities) not yet recognised in the balance sheet as at 30 June/30 September; and*
 - i) *Amounts subject to any claim/proceedings pending.*
- 7 *The licensee must reconcile the total liability as per the transfers information to the figure in the financial statements balance sheet for 'Accounts payable relating to player transfers' (if applicable) or to underlying accounting records.*
- 8 *The transfers information must be approved by management and this must be evidenced by way of a brief statement and signature on behalf of the executive body of the licensee."*

32. Article 66 of the CL&FFP Regulations is worded as follows:

- "1 *As at 30 June and as at 30 September of the year in which the UEFA club competitions commence, the licensee must not have any overdue payables (as specified in Annex VIII) in respect of its employees (as defined in paragraphs 2 and 3 of Article 50).*
- 2 *Every licensee must prove that it has no overdue payables as at 30 June. If the licensee has overdue payables as at 30 June of the year in which the UEFA club competitions commence or if otherwise requested by the UEFA Club Financial Control Body, then it must also prove that it has no overdue payables as at 30 September.*
- 3 *By the deadline and in the form communicated by the UEFA administration, the licensee must prepare and submit a declaration confirming the absence or existence of overdue payables in respect of employees.*

- 4 *The licensee must disclose:*
 - a) *all employees for which an amount is outstanding to be paid as at 30 June/30 September; and*
 - b) *all employees in respect of which there is a claim pending before the competent authority under national law or proceedings pending before a national or international football authority or relevant arbitration tribunal as at 30 June/30 September.*
- 5 *The following information must be given, as a minimum, in respect of each overdue payable towards employees, together with an explanatory comment:*
 - a) *Name of the employee;*
 - b) *Position/function of the employee;*
 - c) *Start date;*
 - d) *End date (if applicable);*
 - e) *Balance overdue as at 30 June/30 September, including the due date for each overdue element; and*
 - f) *Amounts subject to any claim/proceedings pending.*
- 6 *The declaration must be approved by management and this must be evidenced by way of a brief statement and signature on behalf of the executive body of the licensee."*

33. Article 72 of the CL&FFP Regulations provides that:

- "1 *The UEFA Club Financial Control Body at all times bears in mind the overall objectives of these regulations, in particular to defeat any attempt to circumvent these objectives.*
- 2 *Any breach of these regulations may be dealt with by UEFA in accordance with the Procedural rules governing the UEFA Club Financial Control Body."*

34. Annex VIII of the CL&FFP Regulations defines the notion of overdue payables as follows:

- "1. *Payables are considered as overdue if they are not paid according to the agreed terms.*
2. *Payables are not considered as overdue, within the meaning of these regulations, if the licence applicant/licensee (i.e. debtor club) is able to prove by 31 March (in respect of Articles 49, 50 and 50bis) and by 30 June and 30 September (in respect of Articles 65, 66 and 66bis) respectively that:*

- a) *it has paid the relevant amount in full; or*
- b) *it has concluded an agreement which has been accepted in writing by the creditor to extend the deadline for payment beyond the applicable deadline (note: the fact that a creditor may not have requested payment of an amount does not constitute an extension of the deadline); or*
- c) *it has brought a legal claim which has been deemed admissible by the competent authority under national law or has opened proceedings with the national or international football authorities or relevant arbitration tribunal contesting liability in relation to the overdue payables; however, if the decision making bodies (licensor and/or UEFA Club Financial Control Body) consider that such claim has been brought or such proceedings have been opened for the sole purpose of avoiding the applicable deadlines set out in these regulations (i.e. in order to buy time), the relevant amount will still be considered as an overdue payable; or*
- d) *it has contested to the competent authority under national law, the national or international football authorities or the relevant arbitration tribunal, a claim which has been brought or proceedings which have been opened against it by a creditor in respect of overdue payables and is able to demonstrate to the reasonable satisfaction of the relevant decision-making bodies (licensor and/or UEFA Club Financial Control Body) that it has established reasons for contesting the claim or proceedings which have been opened; however, if the decision-making bodies (licensor and/or UEFA Club Financial Control Body) consider the reasons for contesting the claim or proceedings which have been opened as manifestly unfounded the amount will still be considered as an overdue payable; or*
- e) *it is able to demonstrate to the reasonable satisfaction of the relevant decision making bodies (licensor and/or UEFA Club Financial Control Body) that it has taken all reasonable measures to identify and pay the creditor club(s) in respect of training compensation and solidarity contributions."*

35. Under Article 27 of the Procedural Rules:

"The adjudicatory chamber may take the following final decisions:

- a) *to dismiss the case; or*
- b) *to accept or reject the club's admission to the UEFA club competition in question; or*
- c) *to impose disciplinary measures in accordance with the present rules; or*
- d) *to uphold, reject, or modify a decision of the CFCB chief investigator."*

36. Under Article 28 of the Procedural Rules:

“The adjudicatory chamber determines the type and extent of the disciplinary measures to be imposed according to the circumstances of the case.”

37. Article 29(1) of the Procedural Rules provides the following scale of disciplinary measures that may be imposed on a club (being a defendant who is not an individual):

- “a) warning,*
- b) reprimand,*
- c) fine,*
- d) deduction of points,*
- e) withholding of revenues from a UEFA competition,*
- f) prohibition on registering new players in UEFA competitions,*
- g) restriction on the number of players that a club may register for participation in UEFA competitions, including a financial limit on the overall aggregate cost of the employee benefits expenses of players registered on the A-list for the purposes of UEFA club competitions,*
- h) disqualification from competitions in progress and/or exclusion from future competitions,*
- i) withdrawal of a title or award.”*

38. According to Article 29(3) of the Procedural Rules, such disciplinary measures may be combined.

PART V – Factual and legal appreciation by the CFCB Adjudicatory Chamber

39. Having examined the evidence and the findings of the CFCB Chief Investigator and the Club’s Observations, the CFCB Adjudicatory Chamber determines that Panathinaikos has breached Articles 65(1) and 66(1) of the CL&FFP Regulations because it had:

- (a) total overdue payables towards other football clubs and in respect of its employees of four million, four hundred and forty-seven thousand Euros (€4,447,000) as at 30 June 2017; and
- (b) total overdue payables towards other football clubs and in respect of its employees of five million, six hundred and thirty-one thousand Euros (€5,631,000) as at 30 September 2017.

40. The Club claims that it has made further payment in the total amount of six hundred and sixty-six thousand Euro (€666,000), making reference to the list of payments annexed to the CFCB Investigatory Chamber decision and providing partially translated payment transfer receipts regarding fifty-four thousand Euros (€54,000).
41. The CFCB Adjudicatory Chamber notes that such partial payments were only made after the 30 September 2017 deadline and so have no bearing on the Club's overdue payables position as at that date.
42. In its Observations as well as on the occasion of the hearing, Panathinaikos accepts the findings of the CFCB Chief Investigator, admitting the breach of Articles 65(1) and 66(1) of the CL&FFP Regulations.
43. Panathinaikos states that the aim of the Club is to survive, comply with its obligations towards its creditors, mitigate the breach of the CL&FFP Regulations and recover its financial capability. Panathinaikos emphasises that the Club is making a huge effort to pay and settle all the relevant amounts established as overdue payables as at 30 September 2017 and thus, the Club is asking for leniency considering its critical situation and the circumstances of the case without harming the objectives of the UEFA's Financial Fair Play system.
44. Panathinaikos explains the internal changes which occurred in its structure and management that ultimately led to the current situation. The Club states that in 2010 a new investor took over the club and the new President, in reaction to the financial crisis, put in place an innovative and progressive plan to overcome the crisis. However, according to the Club, the long period of crisis in football in Greece had a huge impact on the business resulting in significant loss of revenue. In this scenario, the Club's management developed a strategic plan in several phases to reduce the budget. However, during the execution of the plan, the President of the Board of Directors announced he was no longer able to continue financially supporting the Club. In particular, the club states that the new Board of Directors was elected and undertook to impose an even stricter plan of reorganization measures and a search for an investor.
45. In this respect, the Club states that it has informed the creditors about its current financial situation in order to find the best solution in the interest of all the parties. In particular, the Club highlights having scheduled two meetings with its creditors to negotiate and find solutions, respectively on 13 December 2017 in Zurich, Switzerland, and on 15 December 2017, in Athens, Greece. Moreover, Panathinaikos affirms being in negotiations to find an investor, business partner or collaborator.
46. The Club further invokes the financial crisis in Greece and all its impacts as a mitigating circumstance.
47. In this context, the Club states that its exclusion from competition as proposed by the CFCB Chief Investigator would damage its financial capability, create further obstacles in the implementation of the business plan and reduce its chances of attracting a potential investor. The Club adds that the imposition of such a strict sanction would also affect its sponsorship agreements.

48. To the contrary, the Club argues that a different disciplinary measure other than its exclusion from competition could be more effective in allowing the Club to achieve the goal of complying with its obligations.
49. Therefore, the Club requests that an alternative disciplinary measure is imposed taking into account the circumstances of its specific case. In particular, the Club asks that the sanction is limited to a reprimand or a fine or another disciplinary measure such as a prohibition on registering new players or a restriction on the number of players that may be registered.
50. Alternatively, if an exclusion from the next UEFA club competition for which Panathinaikos would qualify is imposed, the Club seeks a longer deadline for satisfying the condition than 31 January 2018 as proposed by the CFCB Investigatory Chamber. Panathinaikos asks for an extension until 31 March 2018 to either pay or settle the overdue payables, stating that agreements concluded with creditors with regard to the amounts identified as overdue payables as at 30 September 2017 should also be considered as compliance with the decision and not only full payment of the amounts.
51. According to the Club, the CL&FFP Regulations allow for this possibility and this is the only way the Club can comply with its obligations and protect the interest of the creditors.
52. Considering the arguments of the Club and to have an overview of the financial history of the club, the CFCB Adjudicatory Chamber takes note of the following:
 - (a) on 23 February 2012, the UEFA Control and Disciplinary Body suspended Panathinaikos from the next UEFA competition for which it qualified in the next three seasons because the Club had overdue payables of two million, four hundred and seventy-three thousand Euros (€ 2,473,000) as at 30 September 2011, although the sentence was suspended for a probationary period of two years on proof of payment, by 31 March 2012, of its overdue payables. The UEFA Control and Disciplinary Body further imposed a fine of one hundred thousand Euros (€100,000) on Panathinaikos, although the amount of twenty-five thousand Euros (€ 25,000) was suspended for a probationary period of two (2) years (the "**2012 Decision**"); and
 - (b) on 26 June 2013, the CFCB Adjudicatory Chamber refused the admission of Panathinaikos to the 2013/14 UEFA Europa League because it concluded that Panathinaikos held a licence that had not been issued in accordance with the CL&FFP Regulations and did not fulfil the admission criteria under Article 2.07 c) of the UEFA Europa League regulations (the "**2013 Decision**");
 - (c) On 25 February 2015, the CFCB Chief Investigator and Panathinaikos concluded a Settlement Agreement for one sporting season 2015/16, in accordance with Articles 14(1)(b) and 15 of the Procedural Rules, considering Panathinaikos was in breach of the Break-even and/or the Monitoring Requirements as per Article 57 et seq. of the CL&FFP Regulations (the "**Settlement Agreement**"). On 18 January 2016, the CFCB Chief Investigator confirmed that Panathinaikos had complied with the terms of the Settlement Agreement and that Panathinaikos could exit the settlement regime.

PART VI – Disciplinary Measures

53. In cases such as this, it is particularly important to underline the objectives of the CL&FFP Regulations which include, *inter alia*, the protection of creditors and ensuring that clubs settle their liabilities with employees, social/tax authorities and other clubs punctually, at all times with the protection of the long-term viability and sustainability of European football in mind (in this regard, see CAS 2013/A/3453 *FC Petrolul Ploiesti v. UEFA*, paragraph 79).
54. Articles 65 and 66 of the CL&FFP Regulations play a key role in this respect and any disciplinary measure imposed on a club which has breached these Articles must serve as a sufficient deterrent to discourage other clubs from doing the same. The disciplinary measures imposed must also be fair to those clubs who participate in UEFA competitions in full compliance with the CL&FFP Regulations.
55. In the present case, the Club has, on the one hand, accepted the findings of the CFCB Investigatory Chamber and admitted having breached the CL&FFP Regulations. On the other hand, Panathinaikos has asked for leniency considering the circumstances of the case and the financial situation of the Club caused by different elements.
56. In this regard, the CFCB Adjudicatory Chamber stresses that it is an established principle that a Club's lack of financial means cannot be used as a justification for breaching the CL&FFP Regulations (see in this regard CAS 2006/A/110, *PAOK FC v. UEFA*, paragraph 43).
57. The CFCB Adjudicatory Chamber also underlines that this is not the first time that proceedings have been initiated against Panathinaikos with regard to overdue payables. Panathinaikos was found to have breached Articles 65 of the CL&FFP Regulations by the UEFA Control & Disciplinary Body ("CDB") on 23 February 2012.
58. The CFCB Adjudicatory Chamber notes that Panathinaikos fully complied with the terms of the Settlement Agreement concluded on 25 February 2015 and could exit the settlement regime on 18 January 2016.
59. In continuation, the CFCB Adjudicatory Chamber took note that Panathinaikos has expressed, namely at the hearing, its strong wish to comply with its financial obligations, paying the amounts identified as overdue payables as at 30 September 2017 or concluding agreements with the creditors regarding such amount and in particular, has scheduled two meetings with its creditors to find solutions with the ultimate aim of complying with its financial obligations.
60. The CFCB Adjudicatory Chamber reverts to the proposal of the CFCB Investigatory Chamber, which suggested the imposition of the following disciplinary measures:
 - (a) an exclusion from the next UEFA club competition for which Panathinaikos would otherwise qualify in a number of seasons to be determined by the CFCB Adjudicatory Chamber at its discretion, unless Panathinaikos is able to prove by 31 January 2018 that it has paid the amounts towards other football clubs and in respect of its employees

that were established by the CFCB Chief Investigator as being overdue payables as at 30 September 2017; and

(b) a fine, to be determined by the CFCB Adjudicatory Chamber at its discretion.

61. Having due consideration to the facts, the CFCB Adjudicatory Chamber deems that an exclusion from the next UEFA club competition for which the Club would otherwise qualify in the next three (3) seasons (i.e. the 2018/19, 2019/20 and 2020/2021 seasons) and a fine of two hundred thousand Euros (€200,000) are appropriate penalties.
62. However, considering the circumstances and the particularities of the case, amongst them the business plan presented by the Club and the upcoming meetings with its creditors, the CFCB Adjudicatory Chamber is prepared to give Panathinaikos a chance to implement its business plan, to achieve its financial stability and to protect the creditors.
63. For all these reasons, the CFCB Adjudicatory Chamber decides that the exclusion from UEFA club competitions referred to in Paragraph 61 of this Decision as well as half of the amount of the fine referred to in Paragraph 61 of this Decision (i.e. one hundred thousand Euros (€100,000)) will be lifted if the Club is able to prove, by 1 March 2018, that it has paid the amounts that were identified as overdue payables as at 30 September 2017 (i.e. five million, six hundred and thirty-one thousand Euros (€5,631,000)) or concluded agreements in writing with its creditors in respect of these amounts.
64. In addition, costs of three thousand Euros (€3,000) are required to be paid by the Club, in accordance with Article 32(2) of the Procedural Rules.
65. The conservatory measure imposed by the CFCB Chief Investigator (as referred to in Paragraphs 11 and 20 of this Decision) is lifted and therefore, will no longer be in force.