Case Law
Control, Ethics and Disciplinary Body
Appeals Body
CFCB Adjucatory Chamber

July – December 2018
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Dear Sir or Madam,

We are pleased to provide you with the case law of the UEFA Control, Ethics and Disciplinary Body (CEDB), the UEFA Appeals Body (AB) and the UEFA Club Financial Control Body (CFCB) Adjudicatory Chamber for the period July-December 2018.

According to Article 52 (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 ethics and disciplinary inspector, to publish an anonymized version.”

This document contains the decisions of the UEFA CEDB, the UEFA AB and the UEFA CFCB Adjudicatory Chamber during this period.

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.

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

We would like to inform you that this document is the last one under this format since we are working on a more user-friendly solution for the future. Further information in this respect will be provided on our UEFA.com.

Yours faithfully,

UEFA

Angelo Rigopoulos
Managing Director of Integrity & Regulatory

Jacques Bondallaz
Chief of Regulatory & Disciplinary
Decision of 27 July 2018
PFC CSKA - Sofia
(Improper conduct of official; Direct red card-assault)

Chairman: Lorenz Hans (GER)
Members: Gea Tomás (AND)
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 (“CEDB”) on the basis of the official reports, the written submissions, the exhibits filed and the statements produced by PFC CSKA Sofia (the “club”) 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 referee and the UEFA match delegate present at the UEFA Europa League 2018/2019 qualifying round match between Riga FC and the club on 19 July 2018 (the “match”) can be summarized as follows:

Referee:
- During the second half of the match, assistant coach of the away team (Thomas Neubert) - after being dissent by word has received warnings from the match officials. Later at the second half, the same person (Thomas Neubert) after using foul language against the match officials has been sent of from the technical area.
- In the after match conflict, which was initiated by the away team player #5 and home team player #29 (violent conduct), the away team administrator (Dimitar Vutov) has punched the home team player. Later the away team player #15 and home team player #6 has been shown a red card (violent conduct).

UEFA match delegate:
- Fitness coach was sent off for using foul language against match officials and team administrator Dimitar Vutov has punched home team captain No 29 in the after match conflict initiated by visiting team captain No 5.
- The 4th official Arman Ismuratov informed me that right after the end of the match in front of the referees' dressing room, the fitness coach of the visiting team Mr Thomas Neubert, who was sent off from the technical area for using foul language against match officials, told him "UEFA is the mafia, corrupted" and continued in another language that he could not understand.
II. The club’s statements

3. The club in its statements dated 26 July 2018 stated the following:
   - Its players suffered repeated provocations by players from Riga FC, verbally and physically, throughout the match, which should be taken into account as a mitigating circumstance.
   - The club expresses its regrets for the incidents which occurred at the occasion of the match.
   - With regard to the official report where it is stated that the club’s player wearing number 5, Nikolay Bodurov, initiated the conflict, this is not accurate as said player did in fact try to stop the brawl from happening from the very beginning.
   - As to the player wearing number 15, Kristiyan Malinov, he suffered verbal and physical provocations also directly before the brawl which should be taken into account 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 are applicable to these proceedings.

B. The improper conduct of Kristiyan Malinov, Nikolay Bodurov and Dimitar Vutov

   a) Applicable legal framework and general remarks

7. According to Article 15 (1) (e) of the UEFA Disciplinary Regulations, a suspension for three competition matches or a specified period applies for assaulting another player or another person present at the match.

8. 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 players

9. 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) of the UEFA Disciplinary Regulations. In the case of a particularly serious attack on a
person’s physical or psychological well-being, we therefore talk of “serious assault” in the sense of letter g) of this same provision.

10. According to the constant practice of the UEFA disciplinary bodies, assault in the sense of the above provision consists of any act committed not only intentionally but also recklessly by which the opponent’s physical or psychological well-being is interfered with. Such an act would involve aggressive contact such as slapping, head butted, kicking, punching, shaking, pushing, pinching, hitting, spitting.

11. In the case in hand, it was reported by the referee as well as by the UEFA match delegate present at the match that both Kristiyan Malinov and Nikolay Bodurov committed violent conducts during a brawl between the club’s players and officials and Riga FC players. The official reports further state that the club’s administrator, Mr. Dimitar Vutov, has punched a home-team player.

12. 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”.

13. As far as the club argued that the official report was erroneous when it stated that Nikolay Bodurov did not initiate the brawl but rather tried to calm the situation down, the CEDB thoroughly analysed the video evidence which was presented by the Club and which show the very chaotic and confusing scenes of the brawl which broke out after the match, but could not agree with the arguments made by the club, as the respective video images do not support the description of the incidents made by the club. Since the CEDB was not comfortably satisfied that the report of the referee was inaccurate, in accordance with Article 45 DR, the presumed accuracy of the official report stands.

14. The CEDB hence deemed that the acts of the players Kristiyan Malinov and Nikolay Bodurov as well as the behavior of the club’s official Dimitar Vutov as described by the referee and the UEFA match delegate above constitute assaults under the terms of Article 15 (1) (e) DR and need to be punished accordingly.

C. The improper conduct of Thomas Neubert

a) Applicable legal framework and general remarks

15. According to Article 11 (1) DR, member associations and clubs, as well as their players, officials and members, must respect the Laws of the Game, as well as UEFA’s Statutes, regulations, directives and decisions, and comply with the principles of loyalty, integrity and sportsmanship.

16. As for Article 11 (2) DR, a breach of these principles is committed by anyone: (b) whose conduct is insulting or otherwise violates the basic rules of decent conduct.

17. Pursuant to Article 15 DR:

- The following suspensions apply for competition matches:
  a) suspension for one competition match or a specified period for:
     (i) a second caution in the same match;
     (ii) rough play;
     (iii) repeated protests against or a failure to comply with the referee's orders;
(iv) insulting players or others present at the match;
(v) unsporting conduct;
(vi) provoking spectators;
(vii) participating in a match when suspended or otherwise ineligible to play;
(viii) denying an obvious goal scoring opportunity.

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 official

19. In the case in hand and according to the referee’s report, during the second half of the match, the official of the away team, Mr. Thomas Neubert, after dissenting with the referee’s decisions and having received warnings from the match officials, later during the second half, was using foul language against the match officials and was consequently sent off from the technical area. Likewise, right after the end of the match, Mr. Neubert was making statements that ”UEFA is the mafia, corrupted”.

20. 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. In this regard, the arguments raised by the club do not breach the accuracy of the referee’s report.

21. The CEDB considers that the official’s unsporting behavior breached the general principles of conduct. In this regard, any individual must comply with the principles of ethical conduct, loyalty, integrity and sportsmanship. The official clearly dissented in an aggressive manner with the referee’s decision for which he was sent off, before engaging in insults after the conclusion of the match. 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.

22. Consequently, the actions of the club’s official as described by the referee and the UEFA match delegate constitute a misconduct under the terms of Article 15 (1) (a) (iii) and (iv) DR and needs to be punished accordingly.

IV. The determination of the appropriate disciplinary measure

23. With regard to the conduct of the players and officials, 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.

24. Regarding the players Kristiyan Malinov and Nikolay Bodurov, the CEDB notes that assaulting another player and engaging in violent altercations in the above described manner as a matter of principle, does not allow a plea of mitigation. The CEDB has taken into consideration the fact that the players have no previous records, but given the nature of the act committed, this is not enough to justify a reduction in the standard punishment. In particular, a tense atmosphere or previous provocations at
no constitute a mitigating circumstance. The same goes for the conduct of the club’s official Dimitar Vutov, whose use of violence is inexcusable.

25. In view of the above considerations, a three-match suspension is therefore considered to be the minimum sanction regarding the circumstances. Hence, the players Kristiyan Malinov and Nikolay Bodurov and the official Dimitar Vutov are to be suspended for three UEFA competition matches in which they would otherwise participate.

26. Regarding the improper conduct of the official Thomas Neubert, the CEDB notes that the latter was not only dismissed from the technical area for repeated protests against the referee’s orders as stipulated in Article 15 (1) (iii) DR, but further used insulting language against UEFA match officials, as stipulated in Article 15 (1) (iv) DR. In view of the above violations, the CEDB deems a two-match suspension to be the absolute minimum suspension for the reported behavior.

27. Consequently, the CEDB

decides

1. To suspend the PFC CSKA-Sofia player Malinov Kristiyan for three (3) UEFA competition matches for which he would be otherwise eligible.
2. To suspend the PFC CSKA-Sofia player Bodurov Nikolay for three (3) UEFA competition matches for which he would be otherwise eligible.
3. To suspend the PFC CSKA-Sofia official Thomas Neubert for two (2) UEFA competition matches in which he would otherwise participate.
4. To suspend the PFC CSKA-Sofia official Dimitar Vutov for three (3) UEFA competition matches in which he would otherwise participate.
5. The club ensures the players and officials are informed personally of this decision.

Hans Lorenz
Ad-hoc-Chairman

cc Bulgarian Football Union
I. Facts of The Case

1. The elements set out below are a summary of the main relevant facts, as established by 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 FK Radnicki Niš (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 provided by the UEFA match delegate and the report provided by FARE observer present at the UEFA Europa League 2018/2019 match between the club Maccabi Tel-Aviv on 2 August 2018 (the “match”) can be summarized as follows:

**UEFA match delegate**

- There was a NAZI banner stationed on the southern sector of the stadium Radnicki ultras side on the left side. The banner is the black sun and in the center is a fan with a cap and the name of the ultras Meraklije. I have two photos, one from the FARE observer and one from me.
- In the minute of 44 a strobe was lightning and after the game two flames were lightning, one red and one white. All three in the middle of the southern sector.
FARE

- Approximately 20 minutes before the kick off, Radnicki supporters in the South stand, lower rows to the left from the goal displayed a medium sized banner reading the name of the fan group 'Meraklije' featuring an image of a man on the background of the Black Sun (Schwarze Sonne). The flag remained on display until the final whistle. The Black Sun represents a swastika with twelve arms or a wheel made of twelve Sig-runes. It was used by the SS (the security squadron of the Nazis) as a Nordic-pagan symbol of religion and is often used as an alternative to the swastika.

II. The club’s position

3. The club in its statements dated on 10 August 2018, argued that it was not aware that the banner had Nazi content, given that the black sun was not known to the club to be of such nature. It would have been immediately removed if detected.

4. Regarding the fireworks, the club explained essentially that it did everything to avoid such incidents from happening.

5. 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.

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 above, the UEFA Statutes, rules and regulations, in particular the DR are applicable to these proceedings.

B. The improper conduct of supporters: setting off fireworks

   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 behavior 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.

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, it was reported that the club’s supporters in the 44th minute of the match ignited a strobe and after the game two flames, one red and one white. All three fireworks were set off in the middle of the southern sector where the home-team supporters were seated.

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.

14. 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).

15. 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 behavior

a) Applicable legal framework and general remarks

16. According to Article 8 DR, a club that is bound by a rule of conduct laid down in UEFA’s statutes or regulations may be subject to disciplinary measures and directives if such a rule is violated as a result of the conduct of one of its members, players, officials or supporters and any other person exercising
a function on behalf of the club concerned, even if the club concerned can prove the absence of any fault or negligence.

17. 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.

18. Under Article 14 (2) DR, if one or more of a club’s supporters engages in the behavior described in Article 14 (1) DR, the club shall be punished with a minimum of a partial stadium closure. The following disciplinary measures apply in the event of recidivism: a second offence is punished with one match played behind closed doors and a fine of € 50,000.

19. According to Article 45 DR, facts contained in official UEFA reports are presumed to be accurate. Proof of their inaccuracy may, however, be provided.

\[ b) \quad \text{The responsibility of the Club} \]

20. 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.

21. 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’).

22. It is recalled that it has long been established in case law that strict liability applies \textit{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 \textit{CAS 2002/A/423 PSV Eindhoven}, page 12).

23. UEFA has a policy of zero tolerance towards racism and discrimination on the pitch and in the stands. Racist behavior 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.

24. In the present case, approximately 20 minutes before the kick off, the club’s supporters in the South stand displayed a medium sized banner reading the name of the fan group “Meraklije” featuring an image of a man on the background of the Black Sun. According to the information provided by the FARE observer, the Black Sun represents a swastika with twelve arms or a wheel made of twelve Sig runes. It was used by the SS (the security squadron of the Nazis) as a Nordic-pagan symbol of religion and is often used as an alternative to the swastika.

25. 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 behavior is completely unacceptable and has no place in football.

26. 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 the FARE observer.
27. 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

28. 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.

29. With regard to the racist behavior, 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 behavior entered a new era. This has resulted in more severe sanctions being imposed in respect of racist behavior.

30. Since this case concerns a second infringement of Article 14 (1) DR, the club shall be punished to play their next (1) UEFA competition match as host club behind closed doors. In order to give an incentive to the club to find solutions for these apparent issues it has with racist behavior by its supporters, this sanction is deferred for a probationary period of two years.

31. Likewise, by applying Art. 23 DR, in order to tackle the behavior of the club's supporters, the CEDB decides to order the partial closure of the FK Radnicki Stadium during the next (1) UEFA competition match in which FK Radnicki would play as the host club, and, in particular FK Radnicki shall close the South Stand of the FK Radnicki Stadium.

32. Finally, the CEDB strongly urges the club to tackle such issues in order to avoid more severe sanctions in the future.

33. Regarding the setting off fireworks incident and 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.

34. In the present case, the CEDB identified and took into account the seriousness of the offence committed.

35. In the light of the above considerations, the CEDB deems that an additional fine of 10'000 shall be deemed as the adequate disciplinary measure.

36. In view of all of the above, the CEDB

**decides**

1. To order the FK Radnicki to play their next (1) UEFA competition match as host club behind closed doors. This sanction is deferred for a probationary period of two years.
2. To order the partial closure of the FK Radnicki Stadium during the next (1) UEFA competition match in which FK Radnicki would play as the host club, and, in particular FK Radnicki shall close the South Stand of the FK Radnicki Stadium.

3. To fine FK Radnicki € 10’000.

4. The above fine must be paid into the bank account indicated below within 90 days of communication of this decision.

Thomas Partl
Chairman

Bank details
Union Bank of Switzerland
CH-3001
Acc. n° 235-90 186444.6
Bank code 235
Swift: UBS WCH ZH 80A
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Detail address of UBS AG (Union Bank of Switzerland) - CH – 3001 BERNE
VAT Number in Switzerland : CHE-116.317.087
Fiscal number in Switzerland / canton de Vaud: 21 652

cc Football Association of Serbia
Decision of 23 August 2018
FC Shakhtyor Soligorsk
(Red Card Insulting/molesting acts; Red Card Assault; Improper conduct of the team)

Chairman: Partl Thomas (AUT)
Vice-Chairmen: Berzi Sándor (HUN)
                        Hansen Jim Stjerne (DEN)
Members: Antenen Jacques (SUI)
                        Gea Tomás (AND)
                        Larumbe Beain Kepa (ESP)
                        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. 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 report of the referee, can be summarized as follows:

   Balanovich Siarhei, running next to the ref, complaining first, receiving the yellow card therefore, then telling the referee: “Fuck you!” He was awarded with a red card and left the pitch.

   Laptseu Dzianis, after a yellow-red card was awarded to an away-team player, players were confronting each other during the course of which the player gave a head but to a home-team player wearing number 3. He was sent off for violent conduct.

   The player Laptseu Dzianis after the match was waiting for the referees in the tunnel, blocking and hassling them, calling them fascists. He had to be held back.
II. The club’s position

3. FC Shakhtyor Soligorsk (the “club”) in their statements dated on 13 August 2018 bases its position on the following assertions:

“Please be sure that after second game with Lech, head coach and club administration spoke with all players according inadmissibility of obtaining such number of fouls and cautions. Particular attention was focused on unsporting behavior. Players were agreed with everything and we can fully assure you that such number of cautions caused by the high bar of the heat of the match and the fatigue of the players, but not by an aggressive attitude towards rivals and officials. In case of personalities, Siarhei Balanovich is one of the most disciplines players. Last four years he played in FC Amkar in Russian Premier League and got only nine yellow cards and none red card during this period. Dzianis Laptseu has the same number of cautions during last seasons. And we think that this direct dismissal was due more to the ploy of the Lech player.

FC Shakhtyor Soligorsk kindly asks to apply minimum sanctions to the club and the above players. Anyway we will respect any decision of UEFA Control, Ethics and Disciplinary Body”.

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 (the “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 are applicable to these proceedings.

B. The red card for the player Laptseu Dzianis

a) Applicable legal framework and general remarks

7. According to Article 11 (1) DR, member associations and clubs, as well as their players, officials and members, must respect the Laws of the Game, as well as UEFA’s Statutes, regulations, directives and decisions, and comply with the principles of loyalty, integrity and sportsmanship.

8. Pursuant to Article 15 DR:

i. The following suspensions apply for competition matches:
a) suspension for one competition match or a specified period for: 

(…)

d) suspension for three competition matches or a specified period for insulting any match official;

e) suspension for three competition matches or a specified period for assaulting another player or another person present at the match;

9. Regarding Article 23 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.

10. 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 player

11. In the case in hand and according to the referee’s report, the player first gave a head but to the home-team player wearing number three, for which he was sent off for violent conduct. He then waited for the referees in the tunnel, blocking and hassling them, calling them fascists. The CEDB noted that he even had to be held back.

12. The club in its statements refers to an alleged extreme level of fatigue of the player and not because of an aggressive attitude, further providing video evidence which allegedly shows that the red card was not warranted.

13. 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. In this regard, the arguments raised by the club do not breach the accuracy of the referee’s report.

14. According to the constant practice of the UEFA disciplinary bodies, assault in the sense of the above provision consists of any act committed not only intentionally but also recklessly by which the opponent’s physical or psychological well-being is interfered with. Such an act would involve aggressive contact such as slapping, head butted, kicking, punching, shaking, pushing, pinching, hitting, spitting.

15. The CEDB after analyzing the official reports and the video footage considers that the player clearly engage into the opposing team’s player shoving his forehead against the head of the latter. Such behavior clearly qualifies as assault in the abovementioned sense.

16. Consequently, the actions of the player Laptseu Dzianis as described by the referee and the delegate constitute a misconduct under the terms of Article 15 (1) (e) of the DR and needs to be punished accordingly. Equally, the CEDB concludes that by blocking and hassling the referees, insulting them, he clearly violated Article 15 (1) (d) DR.
C. The red card for the player Balanovich Siarhei,

   a) Applicable legal framework and general remarks

17. According to Article 11 (1) DR, member associations and clubs, as well as their players, officials and members, must respect the Laws of the Game, as well as UEFA’s Statutes, regulations, directives and decisions, and comply with the principles of loyalty, integrity and sportsmanship.

18. Pursuant to Article 15 DR:

   i. The following suspensions apply for competition matches:

   (…)

   d) suspension for three competition matches or a specified period for insulting any match official;

19. 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 player

20. In the case in hand and according to the referee’s report, the player Balanovich Siarhei, was running next to the referee, complaining first, receiving the yellow card therefore, and then telling the referee: “Fuck you!” He was awarded with a red card and left the pitch.

21. The club in its statements refers to the fact that the player is normally a very fair and disciplined player who usually does not engage in such acts.

22. 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. In this regard, the arguments raised by the club do not breach the accuracy of the referee’s report.

23. The CEDB after analyzing the official report considers that the player by telling “Fuck you!” to the referee clearly violated Article 15 (1) (d) DR and must be punished accordingly.

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

   a) Applicable legal framework

24. According to Article 15 (4) DR a sanction can be imposed 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

25. In the present case, seven (7) of the club’s players were cautioned by the referee during the Match, thereof three (3) dismissals. This is not contested by the Club.

26. 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 measure

27. With regard to the conduct of the players, 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.

28. The CEDB is impressed by the highly violent and insisting attitude of the player Laptseu Dzianis who has violated two separate provisions of Article 15 DR, by not only head-butting another player first, but by insulting the referee next, even blocking and harassing him.

29. The arguments raised by the club are irrelevant in this particular case. The fact that the player might have reacted due to fatigue cannot be regarded as a valid justification for such behavior. On the contrary, it needs to be regarded as an aggravating circumstance that the player, after he had time to cool down, was ambushing the referees, further confronting him.

30. There would be good reasons to assume that by even engaging in physical contact with the referee, the player Laptseu Dzianis might have violated Article 15 (1) (h) DR, but the CEDB finally concluded that the intensity of the physical contact was not sufficient. However, such behavior in accordance with Article 15 (1) (d) DR still needs to be punished with a three match suspension.

31. Additionally, for the head butting, a particularly brutal and reckless act, a three-match suspension should be regarded as the absolute minimum sanction. The CEDB could not take into account any mitigating circumstances which would allow for a plea of mitigation. Hence, the player Laptseu Dzianis is to be sanctioned with a six-match suspension.

32. Regarding the player Balanovich Siarhei, by applying Article 15 (1) (d) DR, noting that no mitigating circumstances are applicable here, the CEDB deems that a three-match suspension is also deemed the adequate sanction.

33. Regarding the improper conduct of the team, the CEDB identified and took into account the following:

- the club’s previous record;
- Article 6 (5) DR and Annexe A (VIII).

34. In the light of the above considerations, the CEDB deems that €4’000 shall be deemed as the adequate disciplinary measure.

35. Consequently, the CEDB

**decides**

1. To suspend the FC Shakhtyor Soligorsk player Laptseu Dzianis for six (6) UEFA competition matches for which he would be otherwise eligible.

2. To suspend the FC Shakhtyor Soligorsk player Balanovich Siarhei for two (2) UEFA competition matches for which he would be otherwise eligible.

3. To fine FC Shakhtyor Soligorsk € 4’000.
4. The club ensures the players are informed personally of this decision.
5. The above fine must be paid into the bank account indicated below within 90 days of communication of this decision.

Thomas Partl
Chairman

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Acc. n° 235-90 186444.6
Bank code 235
Swift: UBS WCH ZH 80A
IBAN CH30 002352359018644

cc Belarus Football Federation

Detail address of UBS AG (Union Bank of Switzerland) – CH - 3001 BERNE
VAT Number in Switzerland : CHE-116.317.087
Fiscal number in Switzerland / canton de Vaud: 21 652
Decision of 23 August 2018

FK Crvena Zvezda
(Throwing of objects, Stairways blocked, Illicit banner)

Chairman: Partl Thomas (AUT)
Vice-Chairmen: Berzi Sándor (HUN)

Hansen Jim Stjerne (DEN)
Members: Antenen Jacques (SUI)
Gea Tomás (AND)
Larumbe Beain Kepa (ESP)
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:

   - According to the UEFA Referee’s report:
     After the goal of away team, supporters of Red Star located at the East stand of the stadium threw half full plastic bottle of water, there was not any impact on the players.

   - According to the UEFA Delegate’s report:
     According to the referee's report, in minute 25, after the away team’s goal, their players were celebrating in front of the East Sector, a half full water bottle was been thrown, which did not hit anyone.
     During the entire match, home fans in North stand (sectors 1-8) and West Tribune (sector 3 -4) blocked the stairways completely.
- According to the Security Officer report:
  After the away team scored and celebrated the goal in front of the home supporters a small (half filled) water bottle was thrown into the direction of the field of play. It reached nearly the pitch close to the s/e corner without causing any bodily harm. The referee confiscated the bottle.

  Among others, a large Graffiti which said "UEFA supports terrorism" with a machine gun displayed was found close to the ticket booth.

II. The Respondent’s position

3. The Club in their statements dated on 21 August 2018, bases its position on the following assertions:

- Concerning the violation of the Art. 16(2) UEFA DR, on the basis of the sole wording of art.16 par. (2) lit. b – it is evident that the act of throwing includes a few objects. Objects of the execution act – objects - are defined in plural. In the report of the UEFA Delegate it is mentioned that “a small (half filled) water bottle was thrown”.

- FK Crvena Zvezda doesn’t contest this incident; however, it wants to indicate that it was an isolated incident which took place after the away team scored the equalizer goal, just one minute after the home team (FK Crvena Zvezda) scored a goal and took a lead. This incident of supporter (one supporter) is a spontaneous, emotional reaction on the events on the pitch and it didn’t leave any harmful consequences.

- FK Crvena Zvezda doesn’t contest allegations of the UEFA Delegate’s report and of the Security Officer, nor the sole violation, but it stresses that the blockade of the stairways considerably occurred in the ultra-zone of the stadium and that such incidents didn’t cause any harmful consequences on the sole course of the match, nor on the security of spectators. In addition, FK Crvena Zvezda points out mitigating circumstances that Security Officer alleged.

- Concerning the disputable photo close to the ticket booth of the club with the wording "UEFA supports the terrorism", our intention is to underline that the concrete wording has to be observed in the context of the adhesion of Kosovo into the UEFA membership. It is well known that UEFA on its 40th Ordinary Congress which took place on 3 May 2016 received Kosovo into the membership and that this act constituted the violation of its own Statute (Art. 5) as well as the violation of the Charter of the United Nations (Art.4), since Kosovo hasn't been the member of the UN nor it is at the moment. Besides, the sole result of the election 26 “for” 24 “against” and two composed voices sufficiently illustrate the fact that the Decision was political and manipulated instead of legal and sporting one. Apart from this, FC Crvena Zvezda has no intention to further elaborate the political background of the adhesion of Kosovo in UEFA, but it wants to allege that Kosovo still constitutes the integral part of the Republic of Serbia according to the Serbian Constitution and the Resolution of the UN no.1244.
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 throwing of objects

a) Applicable legal framework and general remarks

7. According to Article 16 (2) DR:

However, all associations and clubs are liable for the following inappropriate behavior 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.

8. 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.

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. 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.

11. In the case at hand, after the goal of away team, supporters of Red Star located at the East stand of the stadium threw a half full plastic bottle of water, which did not have any impact on the players.

12. The club notes that the wording of Art. 16(2) UEFA DR is plural and therefore not applicable to an isolated incident. The club also notes that such incident was only spontaneous and an emotional reaction to a sporting event.

13. 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). Furthermore, the text does not comprise any considerations for the possibility of treating isolated incidents as a mitigating factor to the application of the rule.

14. 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.

C. The blocking of stairways

a) Applicable legal framework and general remarks

15. 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.”

16. 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

17. 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.

18. 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).

19. 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.

20. 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.

21. In the present case, the UEFA match delegate reports that during the entire match, home fans in North stand (sectors 1-8) and West Tribune (sector 3 -4) blocked the stairways completely.

22. The club does not contest the occurrence of the incident nor the violation of the rule, but it puts an emphasis on the fact that the occurrence was limited to the “ultra-zone” of the stadium and no harmful consequences were to be reported.

23. 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. Article 38 UEFA Safety and Security Regulations aims at ensuring a free flow of spectators in case of emergency, and the absence of emergency could not be used as a means to free the club from its obligations of security, which comprise both an obligation of means and an obligation of results. Indeed, the safe organisation of a match undoubtedly needs to remain a standard and an objective for the club, and one of the mandatory means to achieve such aims is ensuring the free flow of spectators in case of emergency at all times.

24. 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 illicit banners

a) Applicable legal framework and general remarks

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

“However, all associations and clubs are liable for the following inappropriate behavior 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."

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. 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

28. The CEDB wishes to stress that it cannot allow football matches organised by UEFA to become forums for people who want to abuse the game's popularity to publicise political, religious, ideological, offensive and/or provocative opinions which are unrelated to sports events.

29. This is the reason why Article 16(2)(e) DR expressly forbids the transmission of any message which is not fit for football during a football match.

30. In the present case, a large Graffiti which said "UEFA supports terrorism" with a machine gun displayed was found close to the ticket booth. This element was mentioned in the Security Officer’s report.

31. Concerning the graffiti accusing UEFA of supporting terrorism, the offensive nature of the message displayed is undoubtedly falling under the scope of Article 16(2)(e).

32. Terrorism is a very serious issue which threatens the security of civilians throughout the world, and public gatherings are a well-known choice of target. UEFA competition games are by definition public gatherings of the highest magnitude, and the message conveyed by the different elements of the graffiti only aim at damaging the reputation of an organisation such as UEFA. The association of the name of UEFA and the term terrorism in addition to a weapon constitute a highly offensive message.

33. The provocative nature of the graffiti, given the above elements, is established in the eyes of a reasonable and objective observer. This standard allows for clarity as a reasonable and objective observer would undoubtedly consider the message display in such Graffiti as provocative.

34. Not only is this message highly provocative and offensive, the club’s attempt to blame UEFA for its alleged political actions in favour of Kosovo indicate that the aforementioned message is not condemned but rather condoned. Such logic cannot be entertained under the watch of UEFA, which aims at promoting football without tolerating the transmission of messages deemed unfit for sport.

35. In the CEDB’s opinion, such imagery/message is not only clearly offensive but also unfit for a sport’s event pursuant to Article 16(2)(e) DR.
36. On the basis of the foregoing, according to Article 16(2)(e) DR, the Club is to be held responsible for the misconduct of its supporters and must be punished accordingly.

IV. The determination of the appropriate disciplinary measure

37. 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, regarding the throwing of objects and the blocking of stairways, 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: FK Crvena Zvezda has already been punished for throwing of objects (Art. 16 (2) DR) and for blocking of stairways (Art. 38 Safety and Security reg) on various instances.

39. Regarding the display of illicit banners (Art. 16 (2) DR) FK Crvena Zvezda has already been punished on various instances.

40. The number of repeated offences and breaches of the Disciplinary Regulation raises certain concerns as per the approach the club has when ensuring the smooth running of sporting events. It is indeed unacceptable to accumulate and repeat offences without attempting to identify clearly the flaws of the organisation and to positively influence the behavior of its supporters. Such cases should be heavily sanctioned as UEFA tries to purge the sport of football of unethical conduct. Nonetheless, UEFA also understands that its reprehension process must be run in an educational light. Disciplinary measures are not only made to sanction the club but also to educate the latter and facilitate its contribution to UEFA competitions. For that matter, a certain degree of leniency is attached to the sanction.

41. In the light of the above considerations, the Control, Ethics and Disciplinary Body considers the imposition of a € 57’000 fine on FK Crvena Zvezda as the appropriate disciplinary measure.

42. Consequently, the CEDB

decides

1. To fine FK Crvena Zvezda € 57’000.
2. The above fine must be paid into the bank account indicated below within 90 days of communication of this decision.
Thomas Partl
Chairman

cc Football Association of Serbia

Bank details
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Detail address of UBS AG (Union Bank of Switzerland) – CH - 3001 BERNE
VAT Number in Switzerland : CHE-116.317.087
Fiscal number in Switzerland / canton de Vaud: 21 652
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 PFC Levski Sofia (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 report of the UEFA match delegate and the report provided by the FARE observer present at the UEFA Europa League 2018/2019 match between the club and FC Vaduz played on 17 July 2018 (the “match”) can be summarized as follows:

**UEFA match delegate**

*Ultras of Levski unsatisfied with the present result (2:2), chanted against the management of the club demanding their resignation. A group of 50-70 of them moved from their stand behind the goal to another stand (neighboring stand above the tunnel). They tried to enter the pitch. Some of them (5-6) only managed to climb on the roof that covers the tunnel. Security and police that was allocated in the immediate vicinity reacted immediately and they stopped them quickly and efficiently.*
After the final whistle visiting players entered then tunnel immediately in order to avoid possible encounter with home fans. Ultras of FC Levski unsatisfied with the result, first they ripped approximately 30 chairs from the stands, then threw them towards pitch. Most of them ended up on the roof of the mobile tunnel. The rest of it “landed” on the ground between the pitch and the fence. Nobody (Players, Officials or club representatives) was in dangerous position.

During the part of the match, especially on the stand with home ultras, stairways were blocked. Announcement was made over PA system. Ultras respected the warning for 15-20 minutes but again especially in last 20 minutes of the match they blocked the stairs again.

Monkey chanting towards player No. 10 from visiting team FC Vaduz. It lasted 10 seconds. I witnessed myself. Monkey chanting towards another black player from visiting team (This is the information I got from FARE officer, I did not hear it). Some ultras at the stands wearing T-shirts with discriminatory symbols (Celtic Cross and Reichsadler – photos provided).

FARE report

Approximately in the 73rd minute into the match, several dozen Levski supporters in Sector B performed racist monkey noises ‘Uh-uh-uh’ towards Vaduz player Mohamed Coulibaly was with the ball approaching Levski goals. The chanting reoccurred approximately in the 78th minute into the game towards Coulibaly.

II. The club’s position

3. The club in its statements dated on 23 July 2018, argued that the alleged racist incident was not witnessed by anyone except the FARE observer, i.e. no one in the stands or mass media, which shows the episodic nature of the incident. The report of FARE and the delegate are contradicting, and the FARE report is not an official report presumed to be accurate.

4. The club further explains that the number of people attempting to enter the pitch was only an insignificant group of 5-6, which was immediately stopped by stewards and police. This should be taken into account as a mitigating circumstance.

5. Regarding the alleged discriminatory symbols, the club contests the discriminatory nature of the symbols. Also, the delegate only mentions that the symbols were mentioned to him by the FARE observer, who, in the end, did not even lay down the occurrence of the symbols in his report. Therefore, the fact cannot be taken as established.

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 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 racist behavior**

   a) **Applicable legal framework and general remarks**

9. 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.

10. 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.

11. Under Article 14 (3) (a) DR, if one or more of a club’s supporters engages in the behavior described in Article 14 (1) DR, the club shall be punished with a minimum of a partial stadium closure whereas a second offence is punished with one match played behind closed doors and a fine of € 50,000. According to Article 14 (3) (b) DR, any subsequent offence is punished with more than one match behind closed doors, a stadium closure, the forfeiting of a match, the deduction of points and/or disqualification from the competition.

12. 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**

13. 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.

14. 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’).

15. 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).
16. UEFA has a policy of zero tolerance towards racism and discrimination on the pitch and in the stands. Racist behavior 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.

17. In the present case, it was reported by both the UEFA match delegate as well as by the FARE observer that supporters of the club were performing monkey chants towards the player wearing number 10 from the visiting team FC Vaduz. According to the information of the UEFA match delegate, who had witnessed the incident himself, such chants lasted 10 seconds.

18. The UEFA match delegate further noted that another episode of monkey chanting towards another black player from the visiting team was observed by the FARE observer, whereas the UEFA match delegate hasn’t witnessed the incident himself, for which there appears to be no documentary evidence.

19. Finally, the UEFA match delegate reported that some ultras at the stands were wearing t-shirts with discriminatory symbols such as the “Celtic Cross” and “Reichsadler”. He provided pictures corroborating such report.

20. Taking into account the arguments being made by the club with regard to the accuracy of what was reported by the UEFA match delegate and the FARE observer, the CEDB notes that the UEFA match delegate himself has only witnessed the alleged racist incident against the visiting team player wearing number 10, whereas the second incident was apparently only witnessed by the FARE observer. Therefore, by applying Article 45 DR and the presumption of accuracy which is only awarded to the official reports of UEFA, the CEDB concluded that there was not sufficient evidence pertaining to the second allegation of monkey sounds being made to a black player. The CEDB however equally emphasized that the UEFA match delegate has witnessed the first reported incident himself and took well note of the photo evidence regarding the Nazi symbolism used on the shirts of the club’s supporters.

21. With this being established, the CEDB recalls that imitating monkey noises is a racist practice which is often used to racially abuse players of African origin or generally of black skin colour, as such gestures or noises are deemed to dehumanize the target of such abuse and show their inferiority by putting the relevant player on a level of monkeys.

22. The CEDB recalls the arguments provided by the club, who had stated that the monkey sounds were only made by a very small group pf spectators, a number which should be regarded as negligible compared to the large amount of spectators present in the stadium.

23. The CEDB cannot accept such explanations and strongly emphasizes that any form of racist behavior has to be condemned, irrespective of the number of people show displayed such despicable conduct. The monkey chants were audible enough that both the UEFA match delegate as well as the FARE observer were able to take note of it and a duration of 10 seconds can obviously not be regarded as negligible.

24. The CEDB cannot emphasize enough that such behavior is completely unacceptable and has no place in football as it does not only go against the values which are inter alia enshrined in the UEFA Statutes and the DR, but which go against the rules of decency and humanity.
25. Bearing the above in mind, this UEFA disciplinary body has no doubt that the chants made by the club’s supporters fit with the wording of Article 14 DR and are to be deemed as discriminatory chants.

26. In this sense, the Club has not provided any evidence that would breach the accuracy of the UEFA delegate’s official report which clearly states that the chants were made by its supporters.

27. 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.

C. The improper conduct of supporters: the crowd disturbances, throwing of objects and field invasion

a) Applicable legal framework and general remarks

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

“However, all associations and clubs are liable for the following inappropriate behavior 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.”

29. 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

D. Crowd disturbances and throwing of objects

30. In the present case, it was reported that after the final whistle visiting players entered then tunnel immediately in order to avoid possible encounter with the home-team supporters, some of which, unsatisfied with the result, ripped approximately 30 chairs from the stands, then threw them towards pitch. As it was reported, most of them ended up on the roof of the mobile tunnel while the rest of it landed in the area between the pitch and the fence.
Generally speaking, throwing objects is a very 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 the perpetrator(s), other spectators, officials and even the players on the pitch. For this reason, throwing objects in stadiums is strictly forbidden.

Likewise, incidents such as the one reported by the UEFA match delegate 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 behavior 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.

Again, 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.

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).

The CEDB recalls the fact that official reports are presumed to be accurate in accordance with Article 45 DR and that the club hasn’t provided any evidence to breach this extent.

Consequently, in light of the foregoing and applying Articles 8 and 16 (2) (b) DR, the club is to be held responsible for the misconduct of its supporters and the violations of Article 16 (2) (b) and (h) DR and must be penalised accordingly.

E. Field invasion by supporters

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.

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.

In the case in hand, it was reported that a group of 50-70 of the club’s supporters moved from their stand behind the goal to another stand attempting to enter the pitch. As it was reported by the UEFA match delegate, between five and six only managed to climb on the roof that covers the tunnel and were immediately stopped by Security and police that was allocated in the immediate vicinity.

The above-mentioned facts have been established by the UEFA delegate in his report. In view of Article 45 DR, said report is presumed to be accurate and the burden of proof to establish the contrary is shifted onto the club.

As it was stated above, the club is strictly liable for the misconducts committed by its supporter and in accordance with the above provisions shall be sanctioned accordingly, here for the violation of
Article 16 (2) (a) DR, which has been established to the comfortable satisfaction of the CEDB in accordance with Article 24 DR.

F. Insufficient organization: blocking of stairways

a) Applicable legal framework and general remarks

42. According to Article 49 of the UEFA Safety and Security Regulations, any breach of the said regulations may be penalised in accordance with the DR.

43. 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.

44. 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.”

45. Moreover, 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

46. 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.

47. 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).

48. In the case at hand, according to the report of the UEFA delegate, especially on the stand with home ultras, stairways were blocked. Even though an announcement was made over the PA system, the club’s ultra-supporters respected the warning only for between 15 and 20 minutes but again, especially in the last 20 minutes of the match, blocked the stairways impeding the free flow of spectators.

49. Consequently, the CEDB that 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

50. 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.

51. The members of the CEDB were eager to point out that the particularities of the present case require a firm response to deter similar incidents/behavior in the future.

52. With regard to the racist behavior, 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 behavior entered a new era. This has resulted in more severe sanctions being imposed in respect of racist behavior.

53. The CEDB recalls that by a previous decision of the CEDB dated 19 July 2018, the club was already sanctioned with a partial stadium closure and fine of 10’000 as well as with a match to be played behind closed doors, the latter to be deferred on a probationary period until 23 July 2020.

54. With this being established, the CEDB emphasizes that the club has not only committed an incident of a similar nature as it is provided for in Article 19 (1) DR but has committed the exact same offense as in the previous case which was analysed and decided by the CEDB on the aforementioned date. Since this represents an obvious case of recidivism, which counts as an aggravating circumstance (cf. Article 19 (2) DR), the CEDB decides to enforce the originally suspended disciplinary measure of playing one (1) UEFA competition match as a host club behind closed doors decided by the Control, Ethics and Disciplinary Body on 19 July 2018, and, consequently, to order the club to play their next (1) UEFA competition match as host club behind closed doors.

55. Additionally, with regard to the present violation of Article 14 (1) DR, since this case concerns a fourth infringement of Article 14 (1) DR, the club shall be ordered to an additional UEFA competition match as host club behind closed doors, as provided for in Article 14 (3) (a) DR.

56. The CEDB, turning again to Article 23 DR, notes further that there are no mitigating circumstances which would speak in favour of the club and which would warrant for a reduction of the standard sanction provided for in Article 14 (3) (a) DR.

57. Finally, with regard to the further violations of the DR established by the CEDB in the present proceedings, the CEDB took into account the multiplicity and severity of the incidents as well as the illustrious previous record of the club and deems that an additional fine of €30'000 should be regarded as an appropriate and adequate sanction for the behavior of the club's supporters.

58. Consequently, the CEDB decides

1. To enforce the originally suspended disciplinary measure of playing one (1) UEFA competition match as a host club behind closed doors decided by the Control, Ethics and Disciplinary Body on 19 July 2018, and, consequently, to order PFC Levski Sofia to play their next (1) UEFA competition match as host club behind closed doors.
2. To order the PFC Levski Sofia to play one additional (1) UEFA competition match as host club behind closed doors.
3. To fine PFC Levski Sofia € 30’000.
4. The above fine must be paid into the bank account indicated below within 90 days of communication of this decision.

Thomas Partl
Chairman

cc Bulgarian Football Union

Bank details
Union Bank of Switzerland
CH-3001
Acc. n° 235-90 1864446
Bank code 235
Swift: UBS WCH ZH 80A
IBAN CH30 002352359018644

Detail address of UBS AG (Union Bank of Switzerland) – CH - 3001 BERNE
VAT Number in Switzerland : CHE-116.317.087
Fiscal number in Switzerland / canton de Vaud: 21 652
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:

- According to the UEFA official report:

  In the 71th minutes of the game, when the ball was in play, the away supporters threw 3 fireworks in to the field of play, landed inside the penalty area. They didn’t touch any player. The play was stopped and continued after one minute. In the 73th minutes of the game, when the ball was in play, the away supporters threw 1 firework in to the field of play, landed inside the goal area. It didn’t touch any player. The play was stopped and continued after this. Few seconds before the final whistle, assistant coach of FK Sarajevo, Cosic Dzenis, shouted to the 4th official: -Fuck you, then I made the final whistle, and he ran to me and shouting: -Fucking UEFA.

- According to the UEFA official delegate:

  Four flares were thrown from the North Stand (away-team fans area) on the pitch. The referee stopped the match. The Bergamo-goalkeeper and a firefighter put the flares out of the pitch. After the match I was informed by the referee-team about the behavior of the assistant-coach of FK Sarajevo, Cosic Dzenis. While the final whistle he shouted to the 4th Official: “Fuck you”. After the match I was informed by the referee-team about the behavior of the assistant-coach of FK Sarajevo, Cosic Dzenis. After the final whistle he entered the pitch and shouted to the Referee: “Fuck UEFA”.

Chairman: Partl Thomas (AUT)
II. The Respondent’s position

3. The Club in their statements dated on 1 August 2018, bases its position on the following assertions:

   - A total of 5 (five) fireworks were set off by persons in the away fans stand and four objects were thrown. The number of fireworks set off in comparison to the number of fans in attendance demonstrates that the distinct majority attended to support their team, with only a few silly individuals spoiling the experience for all. FKS does respectfully request, however, that UEFA takes into consideration the demonstrable efforts made by FKS in the past years under its new administration, to change this culture. Invariably, a change of culture is one that cannot be made in a short space of time.

   - Mr Dzenis has not been cited by FIFA, UEFA or BIH FA in the past for any matter involving improper conduct, and if the panel does deem Mr Dzenis to be guilty of the charge after considering the testimony, it is respectfully requested that UEFA take this matter in the lightest manner possible within the regulations, due to the strong denial by Mr Dzenis, the lack of evidence to corroborate the charge, and the impeccable record Mr Dzenis maintains both with his national federation and within international competition at present.

   - It is prayed that, in light of the above-given information, and the appendices that follow, leniency is applied by UEFA in administering the sanctions for the disciplinary breach of Article 16 (2) under the DR. Should the panel consider that the standard of proof required for Mr Dzenis to be found guilty of said charge, it is submitted that utmost leniency should be applied to Mr Dzenis in this case, and UEFA would be invited to consider as such.

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/throwing of fireworks and/or objects and the acts of damages

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 behavior 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.

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 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.

11. 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.

12. 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).
13. In the present case, there were several instances where flares were thrown on the pitch, causing the referee to stop the match. Also, the intervention of a firefighter was required.

14. 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, as well as showing a complete disregard for any civic rules. The UEFA disciplinary body cannot consider the alleged demonstrable efforts made by the club to change its culture as a mitigating factor. The safe and smooth running of sporting events must be a standard to comply with, and any effort made to reach this standard, although it is to be encouraged, does not make the principle of strict liability any less applicable.

15. In continuation, the CEDB recalls that acts of damages are to be considered a reproachful and regretful act of vandalism, which is completely against the spirit and objectives of the organisation of sports events.

16. In the case in hand, the Club’s supporters destroyed parts of a restroom in the stadium.

17. Recalling Article 45 DR, the facts contained in official UEFA reports are presumed to be accurate. Proof of their inaccuracy may, however, be provided.

18. In this regard, however, the Club does not deny the incidents.

19. 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).

20. The Control, Ethics and Disciplinary Body considers that the actions perpetrated by the Club’s supporters opposes to the principles and values of UEFA.

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

C. The misconduct of the official

  a) Applicable legal framework and general remarks

22. 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.

23. 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.

24. 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”.

25. 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

26. In the case in hand and according to the official reports, the assistant-coach of the club, Cosic Dzenis, shouted to the 4th Official “Fuck you” during the final whistle. After the game, he entered the pitch and shouted again, to the Referee this time, and said “Fuck UEFA”.

27. 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.

28. The club objects to the facts provided in official UEFA reports. However, given the presumption of accuracy of the reports, the burden of proof shifts to the club. In this case, by not providing the disciplinary body with sufficient evidence to deny the accuracy of the official UEFA report, the club failed to render the official UEFA reports inadmissible. Therefore, the accuracy and the veracity of the reports is not to be denied in this case.

29. 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.

30. In the present case, the 4th official and the referee were targeted. The referee is the highest authority on the football pitch and conveys the values of the organisation on and off the pitch. Attacking, whether verbally or physically, the highest authority, displays a general distrust in the organisation of sporting events by UEFA, which is unacceptable as UEFA aims at collaborating with the clubs for the smooth running of the games. Such instances are unacceptable.

31. 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.

32. 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.

33. It must be stressed that the circumstances of this incident draw 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.

34. Consequently, the actions of the club official Mr Cosic Dzenis 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.

IV. The determination of the appropriate disciplinary measure

35. 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.

36. In the present case, the Control, Ethics and Disciplinary Body identified and took into account the following concrete circumstances:

- the seriousness and multiplicity of the offences committed;
- the fact that the fireworks thrown caused the match to be interrupted

37. In the light of the above considerations, the CEDB deems that a € 13’000 fine, the obligation to contact Atalanta BC for the settlement of the damages caused as well as a suspension of FK Sarajevo official Cosic Dzenis for 2 UEFA competition matches constitute adequate measures and consequently decides

1. To fine FK Sarajevo € 13’000.
2. The above fine must be paid into the bank account indicated below within 90 days of communication of this decision.
3. FK Sarajevo is ordered to contact Atalanta BC within 30 days for the settlement of the damages caused by its supporters.
4. To suspend the FK Sarajevo official Cosic Dzenis for 2 UEFA competition matches for which he would be otherwise eligible.
5. The club ensures the player is informed personally of this decision.
Case Law - July to December 2018

Thomas Partl
Chairman

cc Football Federation of Bosnia and Herzegovina

Bank details
Union Bank of Switzerland
CH-3001
Acc. n° 235-90 186 444.6
Bank code 235
Swift: UBS WCH ZH 80A
IBAN CH30 002352359018644

Detail address of UBS AG (Union Bank of Switzerland) – CH - 3001 BERNE
VAT Number in Switzerland : CHE-116.317.087
Fiscal number in Switzerland / canton de Vaud: 21 652
Case Law - July to December 2018

Decision of 23 August 2018

AC Sparta Praha

(Improper conduct of the team; throwing of objects; field invasion by supporters; setting off fireworks; illicit chants; insulting-red card)

Chairman: Partl Thomas (AUT)
Vice-Chairmen: Berzi Sándor (HUN)
               Hansen Jim Stjerne (DEN)
Members: Antenen Jacques (SUI)
         Gea Tomás (AND)
         Larumbe Beain Kepa (ESP)
         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 (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 AC Sparta Praha (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’s report

After the final whistle on the way to the tunnel - still on the pitch - the captain of Sparta Praha Josef Šural No. 23 came to me and he used offensive, insulting and abusive language (Fuck you, ref! - several times, Fuck UEFA! Fucking mafia! You are pig!). I sent him off directly showing him a red card. This happened in the presence of the second assistant referee. After two minutes he came again and he repeated this abusive language again. Afterwards the stewards intervened and took him out.
In the 77th minute when the ball was in play in the middle of the field, the fans of Sparta Praha in the corner where the ultra-fans are based threw a lot of plastic bottles into the field of play and afterwards they entered into the field of play after pushing down some LED boards in the corner, they also took out the corner flag. I stopped the match immediately and it was needed that the stewards intervened and evacuated the spectators from the field of play. I was able to restart the match after two and half minutes.

UEFA match delegate’s report

Because of the very hot weather in Prague – the home team announced in the organizational meeting its intention to offer free of charge water bottles (0,5 L) to the spectators in the stadium. I recommended in the meeting to the home team not only to remove the cap on the bottles – but also only to offer water free of charge in plastic cups like the soft drinks / beer they would sell. They said they would try to do so but in fact the water was offered free of charge in 0,5 L plastic bottles without the cap. This led to uncountable bottles being thrown onto the pitch and its surroundings during the whole match and after the final whistle. Bottles were coming from most sectors – but mostly though from the stand opposite to the main stand and the corner close to the Sparta ultra-supporters’ sectors (H37-40). This happened few times in the first half but as the tension grew in second half uncountable incidents occurred – bottles were thrown onto the field of play or its surroundings. This kept on going for some minutes after the final whistle. Never did I see any bottle hit a player nor the referees. Stewards were again and again running onto the pitch - even when the ball was in play – to pick up the bottles to remove them from the field of play. The worst incident happened when the away team scored from a penalty in the 75 min and the scorer ran into this before mentioned corner of the pitch to celebrate. From the sectors close by (H41-D49/50) came flying at him numerous water bottles like arrows without hitting him or anyone else.

The away team scored from a penalty in the 75 min reducing the home team lead to 2 -This happen at the end where the Sparta Praha ultra-supporters were located in the stadium. The scorer celebrated the goal in the corner closest to the Sparta ultras. Water bottles were thrown at the scorer as mentioned above. One supporter from the ultras sector jumped over the fence in sector D46 in the 75 min but at this moment of time did not go over the LED boards. Little later (76 min) another jumper came over the LED boards – a home team supporter in front of sectors D51/52 – but was immediately stopped by the stewards before he could run onto the field of play. At the same time the first jumper (from D46) started attacking a barrier in the corner behind the LED boards and soon more ultras came to assist him – jumping over the fence in the corner (sector D48). The ultras soon outnumbered the stewards – became more aggressive and pushed down part of the LED boards in the corner running onto the field of play. Around 20 ultras came onto the field of play – one of them even removed the corner flag. When this happened, the referee stopped the match (78 min) and the players gather in front of the technical area. Soon more stewards/security personnel joined the stewards in this corner to deal with the pitch invasion and managed to control the situation driving back the ultra-supporters into sector D48. The referee restarted the match in 81 min (after about 2 min and 30 sec break). During this ultra supports still in the stand were chanting for a minute or so: UEFA mafia. (By the way these supporters were also chanting UEFA mafia in 88 min.) I went down from my seat to the technical area when this happened and spoke with the referee, 4th official, the police commander and...
main contact of Sparta. In my opinion the referee did well to handle this difficult situation as well of course the stewards to manage to control the ultras in a relatively quick manner.

In minutes 66, 76, three minutes and six minutes after the end of the match, a total of three fireworks were set off.

II. The club´s position

3. The club in their statements dated on 10 August 2018, argues that it put emphasis on security when it removed the caps from the water bottles, this to prevent dehydration of spectators while emphasizing security.

4. The pitch invasion was caused by the provocative behavior from a player of Subotica who celebrated in front of the Sparta ultra-supporters. Such behavior violates the principle of fair play and is unacceptable. The club’s stewards however did y great job immediately solving the situation.

5. 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.

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 above, the UEFA Statutes, rules and regulations, in particular the DR are applicable to these proceedings.

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

   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 behavior 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.

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. 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.

12. 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.

13. 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).

14. In the present case, it was reported that in minutes 66, 76 as well as three minutes and six minutes after the end of the match, a total of three fireworks were set off.

15. 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.

C. The field invasion

a) Applicable legal framework and general remarks

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

“However, all associations and clubs are liable for the following inappropriate behavior 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;

i) the throwing of objects;

j) the lighting of fireworks or any other objects;
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**k) the use of laser pointers or similar electronic devices;**

**l) 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;**

**m) acts of damage;**

**n) the disruption of national or competition anthems;**

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

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. 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.

19. 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, while Article 40 SSR puts the equivalent obligation on match organizers to prevent exactly that.

20. In the present case, it was reported that one of the club’s supporters from the ultras sector jumped over the fence in sector D46 in the 75th minute without going over the LED boards. In the 76th minute, another jumper came over the LED boards but was immediately stopped by the stewards before he could run onto the field of play. It was further reported that at the same time, the first jumper started attacking a barrier in the corner behind the LED boards and soon more ultras came to assist him – jumping over the fence in the corner. The club’s ultra-supporters soon outnumbered the stewards and became more aggressive and pushed down part of the LED boards in the corner running onto the field of play. At this point, it was reported that around 20 of the club’s ultra-supporters came onto the field of play, even removing the corner flag. The match was then stopped by referee in the 78th minute of the match and the players gather in front of the technical area. The referee restarted the match in the 81st minute of the match.

21. Such incidents cannot be regarded as harmless as they represent a serious departure from security protocol and cannot be ignored. It is important to remember that it is not necessary for anyone to be injured or for a security issue to be caused before a sanction can be imposed in such cases.

22. The CEDB takes into account that these violent acts of hooliganism were performed by the club’s supporters, whose attitude can only be regarded as despicable and intolerable. Likewise, it is noted that the club did not provide any documentary evidence or arguments which would put in doubt the presumed accuracy of the official reports which very detailed describe the relevant incidents.

23. Consequently, by applying the principle of strict liability, the club shall be held responsible for the behavior of its supporters who violated Article 16 (2) (a) DR and shall be punished accordingly.
D. The throwing of objects

   a) Applicable legal framework and general remarks

24. According to Article 16 (2) DR:

   “However, all associations and clubs are liable for the following inappropriate behavior 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; ...”.

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. 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.

27. In the present case, plastic bottles were thrown onto the pitch on several occasions during the Match
    as well as after its conclusion.

28. The offence is clearly described by the delegate in his official report (which, according to Article 45
    DR, carries the presumption of accuracy) and is not denied by the club.

29. The CEDB considers that such incidents 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. Likewise,
    the CEDB notes that the UEFA match delegate had specifically recommended to only hand out the
    water - which was undoubtedly necessary in view of the hot temperatures – in light plastic cups,
    which was ultimately ignored.

30. 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.

31. Consequently, 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.

E. The illicit chants

   a) Applicable legal framework and general remarks
32. According to Article 16 (2) DR:

However, all associations and clubs are liable for the following inappropriate behavior 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.

33. 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.

34. 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

35. The CEDB 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) DR expressly forbids the transmission of any message which is not fit for football during football matches.

36. In the present case the club’s supporters chanted “UEFA Mafia”.

37. The CEDB, after evaluating the information provided by the UEFA delegate concerning the chants in question, has no doubt as that the content is not fit for a sport’s event as it is insulting and of a clearly provocative nature.

38. Consequently, and in line with UEFA’s established jurisprudence in relation to such chants, such message violates Article 16 (2) (e) DR. The club shall, therefore, be held responsible and punished accordingly.

F. The inappropriate behavior of Mr. Sural

a) Applicable legal framework and general remarks
39. According to Article 11 (1) DR, member associations and clubs, as well as their players, officials and members, must respect the Laws of the Game, as well as UEFA’s Statutes, regulations, directives and decisions, and comply with the principles of loyalty, integrity and sportsmanship.

40. 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.

41. According to Article 15 (1) DR, the following suspensions apply for competition matches: suspension for three competition matches or a specified period for insulting any match official.

42. 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

43. According to the official reports, just after the end of the Match, the club’s player Josef Šural insulted the referee by saying “Fuck you, ref! - several times, Fuck UEFA! Fucking mafia! You are pig!”

44. Nonetheless, the CEDB states that the attitude shown by the player is very regretful and such behavior has to be regarded as absolutely unacceptable, violating the basic principles of fair-play and decent conduct.

45. As it was already noted above, Article 45 DR stipulates that official reports are presumed to be accurate. In strict application of such provision, acknowledging that the Club has not disputed the occurrence of the events, the CEDB comes to the conclusion that by addressing insulting language to the referee and UEFA in general, the player has thereby violated Article 11 (2) (b) DR and Article 15 (1) (d) DR and needs to be punished accordingly.

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

\[a\] Applicable legal framework

46. According to Article 15 (4) DR a sanction can be imposed 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

47. In the present case, five (5) of the Club’s players were cautioned by the referee during the Match as well as one dismissal. This is not contested by the Club.

48. 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 measure

49. 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.

50. Regarding the throwing of objects, field invasions by supporters, setting off of fireworks and the illicit chants, the CEDB identified and took into account the following concrete circumstances:

- the seriousness and multiplicity of the offences committed;
- Article 6 (5) DR and Annexe A (I);
- the club’s previous record: it has already been punished for the improper conduct of its supporters and, in particular, for the setting off of fireworks, throwing of objects and the illicit chants.
- the violent conduct and the despicable behavior displayed by the club’s supporters, not only causing a delay of the game, but potentially tarnishing the image of UEFA and of its prestigious competitions. In this sense, UEFA wishes to emphasize that it cannot tolerate such acts of hooliganism.

51. In the light of the above considerations, the Control, Ethics and Disciplinary Body deems that 50’000€ shall be deemed as the adequate disciplinary measure.

52. Regarding the improper conduct of the club’s team, the CEDB took into account Article 6 (5) DR and Annexe A (VIII) as well as the clubs previous record who has been punished already twice for the same violation. Hence, a further fine of €5’000 shall be deemed appropriate.

53. Regarding the insulting behavior displayed by the club’s player Šural Josef, the club took into account the aggressive and insulting attitude of the player, the fact that he even came back once to continue his insults as well as the fact that as the captain of the team, he particularly should serve as a role model. Hence, a four-match suspension is deemed as the appropriate sanction for the player.

54. Consequently, the CEDB

**decides**

1. To fine AC Sparta Praha € 50’000.
2. To fine AC Sparta Praha € 5’000 for the improper conduct of the team.
3. To suspend the AC Sparta Praha player Šural Josef for four (4) UEFA competition matches for which he would be otherwise eligible.
4. The club ensures the player is informed personally of this decision
5. The above fine must be paid into the bank account indicated below within 90 days of communication of this decision.
Thomas Partl
Chairman

cc Football Association of the Czech Republic

Bank details
Union Bank of Switzerland
CH-3001
Acc. n° 235-90 186444.6
Bank code 235
Swift: UBS WCH ZH 80A
IBAN CH30 002352359018644

Detail address of UBS AG (Union Bank of Switzerland) – CH - 3001 BERNE
VAT Number in Switzerland : CHE-116.317.087
Fiscal number in Switzerland / canton de Vaud: 21 652
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Decision of 20 September 2018
Romanian Football Federation
(Setting off fireworks; Racist behavior; Insufficient organization)

Chairman: Partl Thomas (AUT)
Members: Antenen Jacques (SUI)
Gea Tomás (AND)
Leal João (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 (the “CEDB”) on the basis of the official reports, the written submissions, the exhibits filed and the statements produced by the Romanian Football Federation (the “association”) in the course of the CEDB proceedings. Whilst the CEDB has considered all of the facts, allegations, legal arguments and evidence submitted in these proceedings, it refers in this decision only to the submissions and evidence it considers necessary to explain its reasoning.

2. According to the facts of this case, as established by the official reports of the UEFA match delegate, the UEFA Safety & Security Officer and the report provided by FARE at the UEFA Nations League 2018/2019 match between the Serbian Football Association and the association on 10 September 2018 (the “Match”), can be summarized as follows:

**UEFA match delegate**
- During the minute 4.20, in the stand Sector H occupied by the fans of Romania, a Bengal Light turned on until the minute 6.20, without affecting the development of the game.
- Second, chanting “Ubij siptara” (meaning “kill the Albanian”) for 5-10 seconds (started by Romanian followed by a group of Serbian fans) happened twice, around minutes 85 and 88. In fact, the FARE observer, after checking the video material, will explain it in his official report, as I could not see it from my position.

**UEFA Safety & Security Officer**
- At minute 4.20 Bengal and strobe lights from the away team supporters’ sector (H).

**FARE**
- 22:26: Approximately in the 85th minute into the game, several dozen Romania. national team away supporters in the North stand sector H started chanting in Serbian ‘Ubij, ubij, ubij shiptara-a-a’ (Eng: “Kill the Albanian”). ‘Shiptar’ is a derogatory word used against Albanians. The chanting...
was repeated one more time in the 88th minute into the game. The first time in the 85th minute the chanting was started by Romanian fans from North stand sector H and a group of Serbian fans located at East stand sector S and North stand sector T front rows joined the chanting.

- The chant in Serbian is well known and used by many fans from other countries such as Russia, Poland and others whose fans have close relationships with Serbian fan groups.

II. The association’s statements

3. The association in its statements dated 18 September 2018 stated the following:

- All reported incidents were of low intensity compared to the degree of risk to this match and the importance of the game. The incidents had no influence on the sporting results of the game.

- Specifically, with regard to the setting off of fireworks, the association notes that nobody was injured from the Bengal light and it was not thrown onto the pitch. Also, it was the organizing association who was responsible for the proper body searches who were searching supporters as well as their bags.

- Regarding the chants made by its supporters, the association refers to the definition of racism and discrimination in the “Oxford Advanced Learner’s Dictionary” and stated that "it is thus without a doubt that the chants of that particular group of supporters mentioned by the FARE observer do not fall under the category of racial or discriminatory behavior but are mere acts of indulging the rival Serbian gallery".

- Likewise, such type of chants is often used in rival club confrontations without them being deemed racist, but rather part of the football and supporter phenomenon.

- Pertaining to the alleged insufficient organization, the association stresses that it took all necessary measures to prevent any incidents, such as notifying the Serbian Federation in due time with regard to high risk supporters, and the responsible RFF safety and security manager exchanged several e-mails with its Serbian counterpart. Also, three members of the Romanian authorities were present and active in all meetings and assist at the body searches.

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 DR, the CEDB is competent to deal with this case.

6. In light of the foregoing, UEFA’s statutes, rules and regulations (in particular the DR) are applicable to these proceedings.
B. The setting off of fireworks

a) Applicable legal framework and general remarks

7. According to Article 16 (2) DR:

“However, all associations and clubs are liable for the following inappropriate behavior 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:

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

8. 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 association

9. Setting off fireworks is a very serious offence because not only can this behavior disrupt the orderly running of the match but also, 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.

10. In the present case, it was reported that during minute 4:20 of the Match, in the stand Sector H occupied by the association’s supporters, a Bengal Light was set off and kept burning until minute 6:20 of the Match, without affecting the development of the game.

11. These incidents are clearly described in the official reports which, according to Article 45 DR, carry the presumption of accuracy.

12. The CEDB takes into account the precautions and effort made by the association, pointing however to the principle of strict liability as described in Articles 8 and 16 (2) DR, where it is stipulated that an association 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. Consequently, recalling that the occurrence of the incident has been sufficiently established by the official reports and the documentary evidence provided, according to Article 16 (2) (c) DR, the association is to be held responsible for the misconduct of its supporters and must be penalised accordingly.

C. The Racist behavior

a) Applicable legal framework and general remarks

14. 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.

15. 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.

16. Under Article 14 (2) DR, if one or more of a member association or club’s supporters engage in the behavior described in paragraph 1, the member association or club responsible is punished with a minimum of a partial stadium closure.

b) The responsibility of the association

17. Article 14 DR is a special rule taking over the principle set out in Article 8 DR which stipulates that clubs are responsible for the racist conduct of their supporters. This responsibility applies to offences committed by any person supporting the team before, during or after the match, irrespective of the fault of the club in question (i.e. “strict liability”).

18. The fight against racism is an extremely high priority for UEFA. UEFA has a policy of zero tolerance towards racism and discrimination on the pitch and in the stands. Any racist behavior is considered a serious offence under the DR and shall be punished with regard to the circumstances and the relevant club’s previous record with the utmost severe sanctions.

19. Further, it has long been established in case law that strict liability applies regardless of fault. As a matter of fact, the Club cannot therefore argue that it is not liable on the grounds that it did not commit any fault (see CAS 2002/A/423 PSV Eindhoven, page 12).

20. In the present case, it was reported by a FARE observer present in the stadium during the Match that approximately in the 85th minute into the game, several dozens of the association’s supporters in the North stand sector H started chanting in Serbian “Ubij, ubij, ubij shiptara-a-a” (Eng: “Kill the Albanian”). According to the FARE observer, “Shiptar” is a derogatory word used against Albanians.

21. The CEDB acknowledges that the association in its defence referred to the definition of “racism” and “discrimination” and was in this context stating that the chants made by its supporters were not falling under the category of racial or discriminatory behavior but were “mere acts of indulging the rival Serbian gallery”.

22. With this being established, the CEDB, after thorough analysis of the relevant video evidence provided by FARE during the course of these disciplinary proceedings, concludes that the occurrence of the chants made by the association’s supporters has been established. Also, the association did not dispute the chants being made, but only proposes a different interpretation of such chants.

23. Turning its attention to the aforementioned interpretation of the chant “Ubij, ubij, ubij shiptara-a-a”, the CEDB could not agree with the arguments provided by the association in its statements.
To this disciplinary body, there is no question that such chants were not made in “indulge” rival supporters, and it is certainly not the case that such chants are a normal part of football culture.

The chant prompts supporters to kill Albanians, i.e. it not only directly induces violence but it thereby uses the derogatory term “shiptara” which is often used to insult people of Albanian ethnicity. In this sense, the CEDB states that no dictionary is needed in this regard, and by no means can simply wordplay turn such an obviously discriminatory insult into merely provocative chant.

The CEDB notes that evidently such behavior is completely unacceptable and has no place in football. The scale of such behavior at the Match is truly abhorrent and represents an obvious and serious breach of Article 14 (1) DR. The fact that the association would regard such chants as a normal part of football rivalries is on the other hand rather worrisome.

In light of the foregoing, the CEDB concludes that the conduct of the association’s supporters clearly violated Article 14 (1) DR and must be punished accordingly.

D. Insufficient organization: no travelling stewards

a) Applicable legal framework and general remarks

According to Article 24 (2) UEFA Safety and Security Regulations:

If more than 500 supporters are expected to travel to an away match, the visiting association or club concerned is required to appoint an adequate number of stewards to accompany and assist supporters during their journeys to and from the venue and at the match, and to liaise between the public authorities and the supporters.

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 association

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 specifically concerning the safety of travelling supporters.

In the case in hand, the UEFA match delegate reported that no stewards were travelling with the visiting supporters, despite the fact that more than 500 supporters were travelling with the team to Serbia.

The CEDB deems that the report of the UEFA match delegate is sufficiently clear with regard to the violation of Article 24 (2) of the UEFA Safety and Security Regulations.

The CEDB also noted that the club did not provide any evidence which would indicate a potential inaccuracy of the report of the UEFA match delegate, who had not only clearly described the circumstances concerning the lack of stewards.
34. Bearing the above in mind, the association is to be held responsible for the violation of Article 24 UEFA Safety and Security Regulations and must be punished accordingly.

IV. The determination of the appropriate disciplinary measures

35. 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.

36. In the present case, with regard to the setting off of fireworks offences, the CEDB takes into account the severity of the incident, i.e. the dangerous nature of the offences committed (noting that lighting fireworks at football matches creates a serious risk for the safety of spectators, officials and players), recalling that the firework kept burning for almost two entire minutes, as well as Article 6 (5) DR and Annex A (I).

37. In view of the above, the CEDB deems that a fine of €2’000 should be regarded as the appropriate sanction.

38. With regard to Article 14 DR, the CEDB recalls that UEFA has a zero-tolerance approach to racism and discrimination at football matches.

39. The CEDB in this regard emphasizes that messages such as the one chanted by the association’s supporters have no place in football and cannot be tolerated in football stadiums, particularly at UEFA competition matches.

40. On this basis, while issuing a strong warning to the association to tackle such racist behavior in the future, the CEDB considers it appropriate to order the partial closure of the association’s stadium during the next (1) UEFA competition match in which the association would play as the host team. The association shall inform UEFA at least seven days prior to the match, the sector(s) to be closed, which shall at least comprehend 1’000 seats.

41. Likewise, the association is ordered to implement the following directive in the next UEFA competition match which the association shall play as the host team: to display a banner with the wording “#EqualGame”, with the UEFA logo on it. The banner shall be displayed in the above-mentioned location. Additionally, the banner will cover this section of the stadium.

42. As regards the insufficient organization, the CEDB takes into account Article 6 (5) DR and Annex A (II) and concludes that a warning is the appropriate sanction.

43. In the light of the above considerations, the CEDB
decides

1. To order the partial closure of the Romanian Football Federation Stadium during the next (1) UEFA competition match in which Romanian Football Federation would play as the host association. The Romanian Football Federation shall inform at least 7 days prior to the match, the sector(s) to be closed, which shall at least comprehend 1’000 seats.

2. To order Romanian Football Federation to implement the following directive in the next UEFA competition match which the association shall play as the host team: to display a banner with the wording “#EqualGame”, with the UEFA logo on it. The banner shall be displayed in the above-mentioned location. Additionally, the banner will cover this section of the stadium.

3. To fine Romanian Football Federation € 2’000 for the setting off of fireworks.

4. To warn the Romanian Football Federation for the insufficient organization.

5. The above fine must be paid into the bank account indicated below within 90 days of communication of this decision.

Thomas Partl
Chairman

Bank details
Union Bank of Switzerland
CH-3001
Acc. n° 235-90 186444.6
Bank code 235
Swift: UBS WCH ZH 80A
IBAN CH30 002352359018644

Detail address of UBS AG (Union Bank of Switzerland) – CH - 3001 BERNE
VAT Number in Switzerland : CHE-116.317.087
Fiscal number in Switzerland / canton de Vaud: 21 652
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, and 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 FC Dynamo Kyiv (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 incidents stipulated in the official reports of the UEFA match delegate and the UEFA security officer of the UEFA Champions League 2018/2019 match between the club and AFC Ajax played on 28 August 2018 (the “match”) can be summarized as follows:

UEFA match delegate’s report

Kick-off was 2 min. 38 sec. late. Reason was that 10 Dynamo supporters from sector 21 jumped over the pitch perimeter fences onto the running track area of the pitch and started to run towards the Ajax fans being in sector 3. They were stopped by stewards on halfway at sector 9 and 7 and could not reach Ajax fans. They threw a chair towards the stewards and started to fight against them. Stewards finally did not suffer any injuries, and they managed to stop the Dynamo troublemakers, and a large group of policemen came immediately to the running track and lined up in front of
sector 3 of the Ajax fans in order to defend them, demonstrating strength. When this incident happened teams were already in the tunnel, ready to enter the pitch, but the UEFA Security officer Mr. Meese asked the referee to wait for a while in the tunnel, until the dangerous situation was cleared and the stewards were safe.

33 min. before kick-off (at 21.27 hrs local time) a sound bomb exploded in the stadium on south tribune, home fans area. As there were no smoke, it was not possible to specify the exact place of origin.

One sound bomb at the time of line-up was set off from home sector 21, and another one in minute 50’ coming from the south tribune of the home team fans, none of them caused any injuries.

The stairways between sector 41 and 43, and between 43 and 45 were totally blocked during the whole game, preventing the free flow of spectators in case of emergency evacuation. These sectors were occupied by the Dynamo Ultras, hardcore fans. The stewards did not try to intervene "not to create even bigger problems".

UEFA security officer’s report:

At the time of the line-up, one firecracker was set off in Sector 21, occupied by Dyn. Kyiv ultras. In min. 50, one firecracker was set off in Sector 4 occupied by Dyn. Kyiv supporters and thrown into the away sector 4. No one was hit.

The stairways between sectors 41/43 and 43/45 in the northeast curve lower were obviously congested by persistent standing Home ultras, and there was no free space for spectators in case of emergency evacuation. No reaction by stewards.

Just before the teams would enter the field of play for the match kick-off, home ultras were invading the running track seeking for a confrontation with Ajax fans. Stewards who would stopped them were threatened.

Just before kick-off, the police responded very quickly and adequately following Dyn. Kyiv ultras had invading the running track and were looking for a confrontation with the Ajax fans. The police performance was highly effective, and they adopted an adequate profile for the fixture.

3. In a communication provided by the club on 5 September 2018, the club has requested full and accurate information from the Ukrainian police and NSC Olimpiyskyi stadium in order to provide the CEDB with a statement. The latter has not been transmitted to the CEDB.

II. Merits of the Case

A. UEFA’s competence.

4. 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.
5. In light of the above, the UEFA Statutes, rules and regulations, in particular the DR are applicable to these proceedings.

B. The setting off of fireworks

a) Applicable legal framework and general remarks

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

   However, all associations and clubs are liable for the following inappropriate behavior 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; (…)

7. 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.

8. Moreover, 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

9. 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 and particularly the throwing of pyrotechnic devices in stadiums is strictly forbidden.

10. In the present case, it has been established by the UEFA match delegate and the UEFA security officer in their official reports that the club’s supporters ignited at least three fireworks before kick-off and during the match, one of which was even thrown into the away sector 4, luckily without hitting anyone.

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. Further, the club did not provide any arguments in the present case with regard to the setting off and throwing of fireworks which would indicate a potential inaccuracy of the official report, which is presumed to be accurate according to Article 45 DR.

13. In light of the aforementioned, 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.
C. The throwing of objects

a) Applicable legal framework and general remarks

14. According to Article 16 (2) DR:

“However, all associations and clubs are liable for the following inappropriate behavior 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; ...”.

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.

b) The responsibility of the club

16. 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.

17. In the present case, a chair was thrown by home supporter towards the stewards who were then confronted physically.

18. The CEDB would like to point out that incidents of such nature are unacceptable during sporting events. UEFA has made the eradication of hooliganism one of its priorities as it should not be tolerated in areas where supporters’ only wish is to watch a match and be entertained by it. Furthermore, stewards should not, under any circumstances, be targeted by violent acts, as they aim at maintaining the safety of all the persons involved in the sporting event. Attacking stewards goes against the values UEFA conveys and brings not only the club but the organisation into disrepute.

19. The offence is clearly described by the UEFA match delegate in his official report which, according to Article 45 DR, carries the presumption of accuracy.

20. The CEDB considers that such incidents 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. In this sense, the CEDB stresses that it is particularly despicable that objects have been thrown on the stewards.

21. 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.

22. Consequently, 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.
D. The blocking of stairways

   a) Applicable legal framework and general remarks

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

24. As stated in Article 2 SSR, 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.

25. Of particular relevance for the present case is Article 38 SSR which provides that “the match organiser must take measures to ensure that all public passageways, corridors, stairs, doors, gates and emergency exit routes are kept free of any obstructions, which could impede the free flow of spectators.”

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. 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.

28. 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).

29. In the case at hand, according to the official report of the UEFA match delegate present at the match, the stairways between sector 41 and 43, and between 43 and 45 were totally blocked by home supporters during the whole game, preventing the free flow of spectators in case of emergency evacuation.

30. The CEDB takes note again that the club did not provide any statements suited to break the accuracy of the official UEFA report, cf. Article 45 DR and the burden of proof which would have been on the club to provide documentary evidence, providing proof for its explanations (cf. CAS 2015/A/3926 FC Gelsenkirchen-Schalke 04 v UEFA, paras. 80ff). Therefore, the accuracy of the UEFA delegate report is not to be questioned.

31. Consequently, the CEDB comes to the conclusion that the club as the host and match organiser violated Article 38 SSR and must be punished accordingly.
E. Field invasions by supporters

a) Applicable legal framework and general remarks

32. According to Article 16 (2) DR, all clubs (...) are liable for the following inappropriate behavior 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. (...)

33. 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

34. 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 conduct, invasions are strictly forbidden.

35. 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) (a) DR, while Article 40 SSR puts the equivalent obligation on match organizers to prevent exactly that.

36. In the present case, according to the official report provided by the UEFA match delegate, 10 home supporters from sector 21 jumped over the pitch perimeter fences onto the running track area of the pitch.

37. Obviously, such behavior cannot be tolerated. The fact that the club’s supporters jumped over fences, crossed the running track and charged towards the away-supporters is a serious breach of Article 16 (2) (a) DR and a very serious deviation from the applicable security protocol.

38. Since there are no valid arguments or reason potentially justifying such behavior which is in blatant contradiction to the applicable rules, regulations and values UEFA stands for, such incidents cannot be tolerated.

39. Consequently, the club shall be held responsible for the inappropriate behavior of its supporters and the violation of Article 16 (2) (a) DR and shall be punished accordingly.

F. The improper conduct of supporters: the crowd disturbances

   a) Applicable legal framework and general remarks

40. According to Article 16 (2) DR (emphasis added):
“However, all associations and clubs are liable for the following inappropriate behavior 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: (…)

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

41. According to Article 8 DR, which stipulates the principle of “strict liability”, and Article 16 (2) DR, which builds upon 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.

42. 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

43. In the present case, according to the official reports provided by the UEFA match delegate and the UEFA security officer, 10 home supporters from sector 21 jumped over the pitch perimeter fences onto the running track area of the pitch and started to run towards the away fans being in sector 3 in an attempt to confront and fight them. They were stopped by stewards on halfway at sector 9 and 7 and could not reach away fans.

44. As it was stated already above, the reports further note that the club’s supporters then engaged in violent acts against the stewards, inter alia throwing a chair, requiring the intervention of additional police forces who lined up in front of sector 3.

45. The CEDB would like to point out that events of such belligerent nature are unacceptable during sporting events. UEFA has made the eradication of hooliganism one of its priorities. The safety of everybody present in and around the stadium should be a standard and not an objective, and obviously neither away supporters nor stewards should be targeted by violent acts as they present a danger to safety and security in the stadium. Such acts of hooliganism as displayed by the club’s supporters clearly go against the values UEFA conveys and brings, yet again, not only the club but the organisation into disrepute.

46. Consequently, by 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). It is therefore, in order to determine and establish the violation of the DR, irrelevant what kind of precautions the club has taken in order to avoid such incident, as such question is to be considered in the context of the determination of the concrete disciplinary sanction.

47. 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.
G. **The late kick-off**

a) **Applicable legal framework and general remarks**

48. According to Article 11 (2) (h) DR, a breach of the DR is committed by anyone who is responsible for a late kick-off.

49. 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**

50. In the case in hand, it was reported that the kick-off of the first half of the match was delayed for 2 minutes and 23 seconds, due to the violent events and disturbances perpetrated by the home fans in the stadium. The teams were already in the tunnel when the events occurred, but they were strongly advised to stay for safety purposes.

51. On a preliminary basis, the CEDB acknowledges that the official report provided by the UEFA match delegate is presumed to be accurate, as it is stipulated in Art. 45 DR. The burden of proof is therefore on the club to show to this disciplinary body a potential inaccuracy of the said report.

52. With the violation of Article 11 (2) (h) DR being established, noting that the crowd disturbances caused by the club’s supporters led to the late kick-off, the CEDB recalls that 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.

53. In addition, respect needs to be paid to the nature of the competition of the UEFA Champions League as one of UEFA’s flagship club competitions. In this view, any behavior tending to tarnish the image of this major competition cannot be accepted and must therefore be punished accordingly.

54. In view of all of the above, the CEDB is comfortably satisfied that the club – by applying the principle of strict liability for the behavior of its supporters - did in fact cause a late kick-off in the first half and needs to be punished accordingly.

III. **The determination of the appropriate disciplinary measure**

55. 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.
56. Regarding the insufficient organization pertaining to the blocking of stairways, the CEDB took into account:

- the seriousness and multiplicity of the offence committed;
- the club’s previous record, having been punished seven times for blocking of stairways;
- applying Article 6 (5) DR and its Annex A (II) which stipulates standard measures for said violation.

57. Regarding the crowd disturbances, the setting off of fireworks, the throwing of objects and the pitch invasion, the CEDB took into account:

- the seriousness and multiplicity of the offences committed; acts of hooliganism and violence in stadiums should not be tolerated under any circumstances;
- the violence attached to the events, which is unacceptable;
- the fact that such crowd disturbances led to the match commencing late;
- the club’s previous record: club has already been punished for throwing of objects on four occasions, for setting off of fireworks six times and for crowd disturbances twice;
- Article 6 (5) DR and its Annex A (I).

58. In view of the above, the CEDB deemed that a mere financial sanction was not sufficient for the despicable behavior displayed by the club’s supporters and found it appropriate that a partial closure of the club’s stadium, namely sector 4, during the next UEFA competition match in which the club would play as the host club be imposed as a sanction. The closing shall at least comprehend 2’000 seats.

59. In addition to the above, the CEDB deemed that a € 44’000 fine constituted an appropriate sanction.

60. Regarding the late kick-off, the CEDB deemed that in light of the events, a warning to the club constituted an appropriate sanction.

61. Consequently, the CEDB

**decides**

1. To order the partial closure of the FC Dynamo Kyiv Stadium, namely sector 4, during the next (1) UEFA competition match in which FC Dynamo Kyiv would play as the host club. The FC Dynamo Kyiv shall inform UEFA of the closing of the aforementioned sector, which shall at least comprehend 2’000 seats, at least 30 days prior to the match.
2. To fine FC Dynamo Kyiv € 44’000.
3. To warn FC Dynamo Kyiv.
4. The above fine must be paid into the bank account indicated below within 90 days of communication of this decision.
Thomas Partl
Chairman

cc: Football Federation of Ukraine

Bank details
Union Bank of Switzerland
CH-3001
Acc. n° 235-90 186444.6
Bank code 235
Swift: UBS WCH ZH 80A
IBAN CH30 002352359018644

Detail address of UBS AG (Union Bank of Switzerland) – CH - 3001 BERNE
VAT Number in Switzerland : CHE-116.317.087
Fiscal number in Switzerland / canton de Vaud: 21 652
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 FC København (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 incidents stipulated in the official report of the UEFA match delegate of the UEFA Europa League 2018/2019 match between the club and Atalanta BC played on 30 August 2018 (the “match”) can be summarized as follows:

   In the 26th min.1 plastic Cup was thrown onto the pitch (close to the Goal line) by the home fans from B stand lower Level. Nobody was hit. In the 74th min.1 plastic Cup was thrown onto the pitch (Penalty area) by the home fans from B stand lower Level. In the 83rd min. 8 plastic Cups were thrown onto the pitch (Penalty area) by the home fans from B stand lower Level. After the final whistle home fans entered the pitch from their sectors on the B stand lower Level.

   The home fans on the B stand lower Level were standing blocking stairways during the whole match.
Half an hour before kickoff the home fans lit a smoke bomb on the B stand lower Level. 1 min. before kickoff the home fans lit at least 25 flares and 4 smoke bombs on the B stand lower Level. In 17th min. the home fans lit 1 flare on the B stand lower Level. After the Penalty kicks the home fans lit at least 12 flares and some smoke bombs on the B stand lower Level. None of the above-mentioned flares were thrown but were held in hand and have had any influence on the match.

Home team-fan from the lower level of B-stand ran onto the pitch. After a few minutes, more people, most likely wives and children of home team players, came onto the pitch to celebrate the qualification for the group stage together with the hard-core fans on the B-stand. Also, media representatives (cameramen and photographers) came onto the pitch. The security stewards on duty did nothing to prevent the people from getting onto the pitch. The whole time the security did not intervene with any of this.

II. The club’s position

3. The club in their statements dated on 9 September 2018, bases its position on the following assertions:

- The picture documentation is from an angle which could give the impression that stairways are blocked, but if the picture was taken from a straighter angle, the delegate would have been able to see that it is not the case and that our security personnel was ongoing aware of anyone blocking the stairways.

- The media in question on the pitch was the rights holder and the club media. The right to access the pitch after the match for video coverage was agreed between the club and the rights holder.

- After the match it is correct that wives and kids of the players etc. were invited to the pitch to celebrate the historic result with the husband/father. This was known and controlled by the club, so everyone on the pitch after the match (except the very few supporters, who were identified and banned afterwards) were known by the club.

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 (the “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 are applicable to these proceedings.
B. 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 behavior 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.

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. Moreover, 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

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 and particularly the throwing of pyrotechnic devices in stadiums is strictly forbidden.

11. In the present case, it has been established by the UEFA match delegate in his official report that the club’s supporters ignited at least forty fireworks inside the stadium during the match.

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 provide any arguments in the present case with regard to the setting off of fireworks which would indicate a potential inaccuracy of the official report, which is presumed to be accurate according to Article 45 DR.
14. In light of the aforementioned, 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 throwing of objects

a) Applicable legal framework and general remarks

15. According to Article 16 (2) DR:

“However, all associations and clubs are liable for the following inappropriate behavior 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; …”.

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. 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.

18. In the present case, more than eight plastic cups were thrown onto the pitch by the club’s supporters.

19. The offence is clearly described by the UEFA match delegate in their official report which, according to Article 45 DR, carries the presumption of accuracy.

20. The CEDB considers that such incidents 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. In this sense, the CEDB stresses that it is particularly despicable that objects have been thrown on the penalty area.

21. 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.

22. Consequently, 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.

D. Insufficient organisation: the blocking of stairways

a) Applicable legal framework and general remarks
23. According to Article 49 of the UEFA Safety and Security Regulations (the “SSR”), any breach of the said regulations may be penalised in accordance with the DR.

24. As stated in Article 2 SSR, 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.

25. Of particular relevance for the present case is Article 38 SSR which provides that “the match organiser must take measures to ensure that all public passageways, corridors, stairs, doors, gates and emergency exit routes are kept free of any obstructions, which could impede the free flow of spectators.”

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. 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.

28. 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).

29. In the case at hand, according to the official report of the UEFA match delegate present at the match, the home fans on the B stand lower level were standing and blocking the stairways during the whole match.

30. The CEDB takes note again that the club did not provide any statements suited to break the accuracy of the official UEFA report, cf. Article 45 DR and the burden of proof which would have been on the club to provide documentary evidence, providing proof for its explanations (cf. CAS 2015/A/3926 FC Gelsenkirchen-Schalke 04 v UEFA, paras. 80ff). Indeed, it has been mentioned in the club’s statements that the angle of the picture documentation gave presumably false impression that the stairways were blocked. No further documentation was provided by the club to ascertain that it was not the case. Therefore, the accuracy of the UEFA delegate report is not to be questioned.

31. Consequently, the CEDB comes to the conclusion that the club as the host and match organiser violated Article 38 SSR and must be punished accordingly.

E. Insufficient organisation: Unauthorised media on the pitch

a) Applicable legal framework and general remarks
32. According to Article 72.03 of the Regulations of the UEFA Europa League 2018-21, “no media representatives are allowed to go on to the field of play before, during or after the match, with the exception of the camera crew covering the team line-ups at the start of the match and up to two cameras of the host broadcaster filming after the end of the match, including extra time and kicks from the penalty mark. The same applies to the tunnel and dressing-room area, with the exception of UEFA-approved super-flash and flash interviews, pre- and post-match indoor studio presentations and a camera of the host broadcaster filming the following activities:

   a) team arrivals as far as the dressing-room area (more than one camera may be used for this);
   b) players in the tunnel just before entering the field for the pre-match warm-up and for the start of the first and second halves;
   c) players returning from the field after the pre-match warm-up.”

33. 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

34. According to the official report of the UEFA delegate, media representatives came onto the pitch at the end of the match, without the intervention of the security stewards to prevent such behaviors.

35. According to Article 72.03 of the Regulations of the UEFA Europa League 2018-21, “no media representatives are allowed to go on to the field of play before, during or after the match, with the exception of the camera crew covering the team line-ups at the start of the match and up to two cameras of the host broadcaster filming after the end of the match, including extra time and kicks from the penalty mark.” In the present case, it can be seen on the documentation provided in the UEFA delegate report that three members of the media holding up cameras were present on the pitch after the match. Article 72.03 clearly indicates that the limit on cameras of the host broadcaster is two. The rule has therefore been breached, irrespective of the agreement between the club and the broadcaster, as mentioned in the club’s statements.

36. The CEDB deems that the violation of Article 72 of the abovementioned regulations dealing with media access during UEFA competition matches, stipulating clear rules with regard to the access of media to the pitch and the technical area, has been clearly established by the official report, the content of which is presumed to be accurate in accordance with Article 45 DR.

37. In the light of the above circumstances, the CEDB is comfortably satisfied that club violated Article 72.03 of the Regulations of the UEFA Europa League 2018-21 Cycle and needs to be punished accordingly.

F. Field invasions by supporters

   a) Applicable legal framework and general remarks
38. According to Article 40 Safety & Security Regulations (the “SSR”), the match organiser must ensure that players and match officials are protected against the intrusion of spectators into the playing area.

39. 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

40. 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.

41. 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, while Article 40 SSR puts the equivalent obligation on match organizers to prevent exactly that.

42. In the present case, according to the official report provided by the UEFA match delegate, home team fans from the lower level ran onto the pitch and were then followed by more people to celebrate the qualification for the group stage. During this event, the security did not intervene.

43. Such incidents may appear harmless; however, they represent a serious departure from security protocol and cannot be ignored. It is important to remember that it is not necessary for anyone to be injured or for a security issue to be caused before a sanction can be imposed in such cases.

44. The club stated that solely family members of the players were invited to celebrate the results, and this took place under the supervision of the club.

45. As noted above, the club is strictly liable for such pitch invasions in accordance with Article 40 SSR, and it is irrelevant whether these supporters were home or away-supporters.

46. The CEDB wants to point out that it has sympathy for the club, its members and the families as they are rejoiced over the results of sporting events. Nonetheless, the security protocol is thoroughly enforceable in order to ensure not only that players are covered from the risk of unpredictability invaders may present, but also to ensure that all individuals on the pitch can be identified. Consequently, the club remains liable for such pitch invasions.

47. Consequently, the club shall be held responsible for the insufficient organisation and shall be punished accordingly.

IV. The determination of the appropriate disciplinary measure

48. 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.

49. Regarding the throwing of objects and setting off of fireworks, the CEDB took into account:
   - the seriousness and multiplicity of the offences committed;
   - the club’s previous record: the club has already been punished for throwing of objects twice and four times for setting off of fireworks.

50. Regarding the insufficient organization with regard to the pitch invasion and the blocking of stairways, the CEDB took into account:
   - the seriousness and multiplicity of the offences committed;
   - the club’s previous record: club has already been punished for blocking of stairways on three occasions.
   - Article 6 (S) DR and its Annexe A (II) which stipulates standard measures for said violations;
   - the fact that the club did not react to the pitch invasion. Although the CEDB has sympathy for the club and the involvement of families in its success, the security protocol must strictly be enforced in order to prevent potential incidents as such practices could lead to riskier situations.

51. In view of the above, the CEDB deemed that a € 57’000 fine constituted an appropriate sanction.

52. Regarding the unauthorised media on the pitch, the CEDB took into account the fact that the club only exceeded the limits imposed by Article 72.03 of the Regulations of the UEFA Europa League 2018-21 due to one additional camera.

53. In view of the above, the CEDB deemed that a warning constituted an appropriate sanction.

54. Consequently, the CEDB

\textbf{decides}

1. To warn FC København.
2. To fine FC København € 57’000.
3. The above fine must be paid into the bank account indicated below within 90 days of communication of this decision.

Thomas Partl
Chairman

\textit{cc: Danish Football Association

\textit{Bank details
Union Bank of Switzerland
CH-3001
Acc. n° 235-90 186444.6
Bank code 235}
Case Law - July to December 2018

Swift: UBS WCH ZH 80A
IBAN CH30 002352359018644

Detail address of UBS AG (Union Bank of Switzerland) – CH - 3001 BERNE
VAT Number in Switzerland : CHE-116.317.087
Fiscal number in Switzerland / canton de Vaud: 21 652
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 (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 the CEDB 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. The most relevant facts of this case as reported by the referee and the UEFA match delegate present at the UEFA Youth League 2018/2019 match between Manchester United Youth and Juventus Football Club Youth (the “club”) on 23 October 2018 (the “match”) can be summarized as follows:

Referee’s report: “Bandeira Da Fonseca Rafael Alexandre (...) Violent conduct”
- "48. Spielminute: Rote Karte für den Spieler Rafael Fonseca (Nr.7, Juventus Turin). Nachdem der Ball von Manchester ins Seitenaus gespielt wurde, erhielt Juventus Turin Einwurf. Dabei lief zunächst der Spieler Nr.9 (Manchester) dem Ball hinterher und nahm diesen auf. Im Anschluss lief der Spieler Nr.9 (Manchester) seinem Gegenspieler Nr.7 mit dem Ball in den Händen entgegen. Danach schlug der Spieler Nr.7 seinem Gegenspieler mit der flachen Hand und traf diesen im Halsbereich. Unmittelbar danach lief ich den Spielern entgegen und zeigte dem Spieler Nr.7 die rote Karte. (...)”

(Free English translation):
- “48th minute: Red card for the player Rafael Fonseca (no. 7, Juventus Turin). After the ball was played outside the pitch by Manchester, Juventus Turin was awarded a throw-in. During its course, player no. 9 of Manchester was following the ball and picked it up. Subsequently the player no. 9 of Manchester was approaching his opponent wearing no.7 with the ball in his hands. Then no. 7 slapped his opponent with an open hand in the neck area. Directly afterwards I was running towards the players and showed the red card to no. 7. (...)”

UEFA match delegate:
- One of the player from Juventus was sent off for a violent conduct, after the game in very polite way he came to referee and apologized for his unsporting behaviour.
II. Merits of the Case

A. UEFA’s competence and relevant provisions applicable to the case

3. 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.

4. Pursuant to Article 5(a) DR, the UEFA Statutes, rules and regulations, in particular the DR, are applicable to these proceedings.

5. The following relevant provisions apply to the case at hand.

6. According to Article 15(1)(e) DR, “suspension for three competition matches or a specified period for assaulting another player or another person present at the match”.

7. Pursuant to Article 45 DR, “[facts contained in official UEFA reports are presumed to be accurate. Proof of their inaccuracy may, however, be provided].”

8. Pursuant to Article 23 DR, “[t]he competent disciplinary body determines the type and extent of the disciplinary measures to be imposed according to the objective and subjective elements of the offence, taking account of both 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. [...]”

B. The responsibility of the player Bandeira Da Fonseca Rafael Alexandre for the violent conduct

9. 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.

10. According to the constant practice of the CEDB, 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 non-exhaustively involve aggressive contact such as slapping, head-butting, kicking, punching, shaking, pushing, pinching, hitting or spitting.

11. In the case in hand, it was reported by the referee present at the match that after a player of the opponent team had not immediately given the ball to the player Bandeira Da Fonseca Rafael Alexandre so he could perform a throw-in, the latter slapped his opponent in the neck area with an open hand. The referee of the match had qualified such act as violent conduct, which, in the constant jurisprudence of the CEDB, is regarded as an assault in the sense of Article 15(1)(e) DR, if no other circumstances indicate otherwise.
12. The CEDB, having thoroughly analysed the official report by the referee of the match, had no doubt that the act of the player Bandeira Da Fonseca Rafael Alexandre, slapping another player as described by the referee above, constitutes an assault under the terms of Article 15(1)(e) DR and needs to be punished accordingly.

III. The determination of the appropriate disciplinary measure

13. Regarding the violent conduct committed by the player Bandeira Da Fonseca Rafael Alexandre, the CEDB notes that assaulting another player and engaging in violent altercations in the above described manner, as a matter of principle, does not allow a plea of mitigation.

14. The CEDB has taken into consideration the fact that the player has no previous record and that he apparently apologized for his behavior to the referee after the match, but given the nature of the act committed, this is not enough to justify a reduction in the standard punishment.

15. In this regard, the CEDB stresses that slapping another player for whatever reason, based on whichever provocation, is not acceptable. In view of the above considerations, recalling the established jurisprudence of the CEDB in such matters, the CEDB came to the conclusion that a three-match suspension is therefore considered to be the minimum sanction regarding the circumstances. Hence, the player Bandeira Da Fonseca Rafael Alexandre is to be suspended for the next three UEFA competition matches in which he would otherwise participate.

16. Consequently, the CEDB

decides

1. To suspend the Juventus Football Club Youth player Bandeira Da Fonseca Rafael Alexandre for three (3) UEFA competition matches for which he would be otherwise eligible.
2. The club ensures the player is informed personally of this decision.

Thomas Partl
Chairman

cc: Italian Football Association
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 (CEDB) on the basis of the official reports, the written submissions, the exhibits filed and the statements produced by AFC Ajax (the “club”) in the course of the CEDB proceedings. While the CEDB 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. The most relevant facts of this case, as reported by the official reports of the UEFA officials present at the 2018/2019 UEFA Champions League match between the club and SL Benfica played on 23 October 2018 (“the match”), are as follows:

UEFA match delegate’s report:

“Generally organization was very good, however no reaction by stewards when stairs were occupied by home and visiting supporters during WHOLE MATCH (in sector behind the goal -home and visiting in the corner). Stairs were blocked in the visiting sector (no instructions, no reaction by the stewards).

2 empty plastic cups were thrown by home supporters on the pitch, landed in penalty box, nobody was hit, game was not stopped.”
2 half-empty plastic cups were thrown by home supporters from side-sector, nobody was hit, game was not stopped, objects were removed immediately in minute 50. Also 1 lighter and 1 plastic flag was thrown at the same time on the pitch, nobody was hit, match was not stopped.

1 empty plastic cup was thrown by home supporters, landed outside the field of play All cases were in result of frustration after referee’s decisions.”

UEFA security officer’s report:

“Incident 1: In minute 39 of the first half when the Referee booked the Ajax goalkeeper several objects were thrown towards the playing area by Ajax supporters in the lower tier of the East Stand in Sector 123 and from the lower tier of the South Stand in Sectors 125 - 126. The objects appeared to be plastic drinking cups used to serve beer. No player of official was hit by any object and the game was not stopped or delayed.

Incident 2: In minute 48/49 of the second half several more objects were again thrown towards the playing area by Ajax supporters in the lower tier of the East Stand when the Referee booked another Ajax player. Again the objects appeared to be plastic drinking cups. Again no player of official was hit by any object and the game was not stopped or delayed.

Incident 3: In minute 54 of the second half a further object was thrown towards the playing area by Ajax supporters in the lower tier of the East Stand in Sector 123, again in protest at a decision of the Referee. Once again the object appeared to be a plastic drinking cup and again no player of official was hit by any object and the game was not stopped or delayed.

Incident 4: In minute 79 of the second half further objects were thrown towards the pitch by Ajax supporters in the lower tier of the East Stand, again in protest at a decision of the Referee. Once again the object appeared to be a plastic drinking cup and again no player of official was hit by any object and the game was not stopped or delayed.

Post match the UEFA Security Officers walked around the pitch perimeter in front of the East and South Stands and photographed a number of objects which were those thrown by the Ajax supporters. These were mainly plastic beer cups but also a roll of tape, a small Ajax banner and a cigarette lighter.

[Blocking of stairways] continues as a recurring problem / issue for Ajax, who are fully aware and taking steps to try to deal with the matter, however it is going to take time. In all parts of the stadium (North, East and West Stands) except the South Stand stewards were highly visible walking up and down the stairs to keep them clear - with great success. The lower tier of the South Stand where the Ajax Ultras congregate in Sectors 125 - 129 is where the difficulty lies, in particular in the stairways between Sectors 126 / 127 / 128. Ajax staff have held meetings with the Ultra supporters to discuss this, most recently on the evening of MD-1. In addition they have removed 300 seats from the lower tier to create more space, they highlight the dangers in articles on the club website and show a video of an Ajax supporter who suffered a heart attack in the stadium and the importance of keeping the stairs / gangways clear for the emergency services. At the current time the Ultra supporters ignore all the advice and continue to block the stairs. Even when a steward moves amongst them to ease them back into the sector, as was seen on several occasions, as soon as he/she moves away they return to their places on the stairs / gangways. On this occasion there were once again some supporters blocking the bottom part of the stairs in the upper tier. This appears particularly dangerous as the supporters are packed together right at the front of the upper tier overlooking the lower tier.”
II. The club’s position

3. The club, in its statements dated on 30 October 2018, bases its position on the following assertions:

- Contrary to the UEFA match delegate’s findings, AFC Ajax’ stewards did indeed try to keep the stairways clear. This is confirmed by UEFA’s security officer’ report.

- AFC Ajax wants to emphasise that light-weighted objects like plastic cups and flags are unfit to harm people and evenly unfit to affect the play whatsoever, especially when thrown across a significant distance. This also implies that these objects were not thrown with the intention to inflict damage upon anybody or anything – it’s simply done out of enthusiasm or frustration. This may not be “proper cricket”, but in AFC Ajax’ view the inherent harmlessness of these objects is a factor that should enter the equation when one is reviewing and judging the actions of AFC Ajax and its supporters.

- The cigarette lighter was found after the match and was located next to the pitch. It has not been established (neither by the UEFA match delegate, nor by UEFA’s security officers and nor by AFC Ajax officials) when and by whom it was deposited. Therefore, we cannot exclude the possibility that this cigarette lighter was – for instance – accidently dropped by a photographer after the match.

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 and relevant provisions applicable to the case

5. Pursuant to Articles 33(3), 52 and 57 of the UEFA Statutes, as well as Article 29(3) of the UEFA Disciplinary Regulations (DR), the CEDB is competent to deal with the case.

6. Pursuant to Article 5(a) DR, the UEFA Statutes, rules and regulations, in particular the DR, are applicable to these proceedings.

7. The following relevant provisions apply to the case at hand.

8. According to Article 16 DR, “1 [h]ost 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. 2 [...] [A]ll 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; [...]”.


According to Article 6.01 of the Regulations of the UEFA Champions League (2018/19 Season), “[o]n entering the competition, participating clubs agree: […] e. to observe the UEFA Safety and Security Regulations for all matches in the competition;”

As stated in Article 2 SSR, “[t]he aim of these regulations is to make the match organiser and participating […] clubs aware of their duties and responsibilities before, during and after a match in order to safeguard the safety and security of everyone present, as well as of the stadium and its installations.”

Of particular relevance for the present case is Article 38 SSR which provides that “[t]he 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.”

According to Article 49 of the UEFA Safety and Security Regulations (the “SSR”), “[a]ny breach of these regulations may be penalised by UEFA in accordance with the UEFA Disciplinary Regulations.”

Pursuant to Article 45 DR, “[f]acts contained in official UEFA reports are presumed to be accurate. Proof of their inaccuracy may, however, be provided”.

Pursuant to Article 23 DR, “[t]he 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. […] 3 Disciplinary measures can be reduced or increased by the competent disciplinary body on the basis of the circumstances of the specific case. […]”.

Article 25 DR stipulates as follows: “1 Recidivism occurs if another offence of a similar nature is committed within […] c. two years of the previous offence if that offence was related to order and security at UEFA competition matches […]. 2 Recidivism counts as an aggravating circumstance”.

Pursuant to Article 6(5) DR, “Annex A contains a list of standard disciplinary measures which may be taken into consideration by the relevant disciplinary body when rendering its decision”.

B. Responsibility of the club for the blocking of stairways

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 imposing the obligation on the match organiser to keep all public passageways free of any obstruction.

It is well established jurisprudence of CAS 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 (cf. CAS 2015/A/3926 FC Gelsenkirchen-Schalke 04 v. UEFA).

19. In the case at hand, it was reported by the UEFA match delegate that no reaction was shown by home-club’s stewards when stairs were occupied by home and visiting supporters during entire match. The CEDB noted that the UEFA security officer on the other hand had reported that in all parts of the stadium - except the South stand where the club’s ultra-supporters are situated - stewards were highly visible walking up and down the stairs to keep them clear, this apparently with great success.

20. The CEDB notes that the club has provided the CEDB with written statements, pointing to the remarks made by the UEFA security officer who had confirmed that the club’s stewards reacted adequately and with great success.

21. Having analysed all official reports and the statements made by the club, the CEDB acknowledged the appreciable efforts made by the club to clear the stairways in all sectors. However, the CEDB also noted that the stairways in the South sector remained blocked during the entire match. Such circumstance is explicitly stated in the report of the UEFA security officer and the club has not provided any statements indicating a potential inaccuracy of the facts stated in such report, which, according to Article 45 DR, are presumed to be accurate.

22. In view of the above, the CEDB concluded that the club as the host and match organiser violated Article 38 SSR and must be punished accordingly.

C. Responsibility of the club for the throwing of objects

23. It shall be recalled that the throwing of objects is a serious offence in that not only can it disrupt the orderly running of the match, but it could also endanger the physical integrity of the attendees, e.g. the spectators, officials, stewards and even the players on the pitch. For this reason, the throwing of objects is strictly forbidden at UEFA matches.

24. In the case at hand, it was reported that on numerous occasions during the match, the club’s supporters threw empty and half-filled plastic cups in the direction of the pitch.

25. The club has not challenged the accuracy of the report in its written statements, hence the facts are believed to be accurate in accordance with Article 45 DR. As far as the club argued that plastic cups would not represent any danger to anyone when being thrown, the CEDB strongly disagrees. When someone on the pitch is hit by such cup, significant injuries can be the consequence as it was already the case in previous matches played in UEFA competitions. Reference is made in this regard to the 2018/19 UEFA Europa League match between SK Sturm Graz and AEK Larnaca played on 9 August 2018, on the occasion of which an assistant referee at the side-line was hit with a plastic cup and had to be brought to the hospital, being treated for a bleeding head wound. This, in view of the CEDB,
illustrates that whenever objects of such nature are being thrown in a stadium, serious consequences can derive from such action, which is why the CEDB is not willing to tolerate such behaviour.

26. Likewise, the CEDB stressed that it is irrelevant out of which motivation such cups are being thrown, given that the danger and risk inherent to the throwing of objects is equally given.

27. Also, the CEDB has no doubt that the facts stipulated in the official reports regarding the objects found on the pitch are correct. There is no proof for the mere theory that photographers would have lost such objects after the match, particularly when the official reports explicitly refer to the throwing of objects from such sectors.

28. Further, the CEDB would like to recall that, according to Article 16(2) DR, the principle of strict liability is established for clubs who are to be held responsible for the behaviour of their supporters, a principle which has been confirmed in case law, namely by CAS jurisprudence (CAS 2013/A/3047 FC Zenit St. Petersburg v. Football Union of Russia).

29. Consequently, according to Article 16(2)(b) DR, the club is to be held responsible for the misconduct of their supporters and must be sanctioned accordingly.

IV. The determination of the appropriate disciplinary measure

30. With regard to the blocking of stairways, the CEDB decided to apply Article 6(5) DR and its Annex A(II), which provides standard measures for said violations. Annex A(II) envisages a € 12’000 fine for the second offence, and although the consideration of the sanction is casuistic, it has been standard practice for the CEDB (for reference, cf. the decisions of the UEFA disciplinary bodies published on the UEFA website) to add the sum of € 2’000 per each additional previous offence. In the case at hand, there are four previous offences in the last two years, which counts as an aggravating circumstance in accordance with Articles 25(1)(c) and 25(2) DR.

31. In view of the above, the CEDB deemed that a cumulative fine of €18’000 is the appropriate disciplinary measure for the blocking of stairways.

32. Regarding the throwing of objects, the CEDB notes the seriousness of the offence committed while acknowledging that the club has already been punished for throwing of objects on six occasions within the last two years, which, as already stated above, counts as an aggravating circumstance in accordance with Articles 25(1)(c) and 25(2) DR.

33. In the light of the above considerations, the CEDB deems that a € 15’000 fine is an appropriate amount for the aforementioned offence, i.e. for the throwing of objects.

34. Consequently, the CEDB
decides

1. To fine AFC Ajax € 18’000 for the blocking of stairways.
2. To fine AFC Ajax € 15’000 for the throwing of objects.
3. The above fines in the total amount of € 33’000 must be paid into the bank account indicated below within 90 days of communication of this decision.

Thomas Partl
Chairman

cc: Royal Netherlands Football Association

Bank details
Union Bank of Switzerland
CH-3001
Acc. n° 235-90 186444.6
Bank code 235
Swift: UBS WCH ZH 80A
IBAN CH30 002352359018644

Detail address of UBS AG (Union Bank of Switzerland) – CH - 3001 BERNE
VAT Number in Switzerland : CHE-116.317.087
Fiscal number in Switzerland / canton de Vaud: 21 652
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 (CEDB) on the basis of the official reports, the written submissions and the exhibits filed and the statements produced by FC Porto (the “club”) in the course of the CEDB proceedings. While the CEDB 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. The most relevant facts of this case as reported by the UEFA match delegate present at the 2018/2019 UEFA Champions League match between FC Lokomotiv Moskva and the club on 24 October 2018 (the “match”) are as follows:

UEFA match delegate

“At 20.33 I received a mail from MatchOps informing me that some Porto players were warming up with training tops that had logos of Altice (front) and Super Bock (back). I didn’t immediately noticed the mail, but when I did, I checked (around 20.45) and didn’t see anybody with publicity on the back. I asked a Porto staff member who told me that there had been only one, who returned to the dressing room.

Teams were supposed to leave dressing rooms at 21:54:00. Away team left at 21:57:46. Time line up was 2 minutes late. Kick-off was at 22:02:32, i.e. 152 seconds late.”

II. Statements from the club

3. The club in its statements essentially stated the following:

- A player had to go back to the dressing room to change his warm-up gear after the intervention of the UEFA match delegate (as stated in the latter’s report), which delayed the entire warm-up schedule of the team.

- In case of such a recognized exceptional circumstance, the coach cannot be held liable by applying the principle of strict liability, given that he was not responsible as it is required by
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 and relevant provisions applicable to the case

5. Pursuant to Articles 33(3), 52 and 57 of the UEFA Statutes, as well as Article 29(3) and (2)(b) of the UEFA Disciplinary Regulations (DR), the judge sitting alone of the CEDB is competent to deal with the case.

6. Pursuant to Article 5(a) DR, the UEFA Statutes, rules and regulations, in particular the DR, are applicable to these proceedings.

7. The following relevant provisions apply to the case at hand.

8. Article 11 DR states as follows: “1 [...] 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 ethical conduct, loyalty, integrity and sportsmanship. 2 For example, a breach of these principles is committed by anyone [...] h) who [...] is responsible for a late kick-off”.

9. Pursuant to Article 45 DR, “[f]acts contained in official UEFA reports are presumed to be accurate. Proof of their inaccuracy may, however, be provided”.

10. Pursuant to Article 23 DR, “[t]he 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. [...] 3 Disciplinary measures can be reduced or increased by the competent disciplinary body on the basis of the circumstances of the specific case. [...]”.

11. Article 25 DR stipulates as follows: “1 Recidivism occurs if another offence of a similar nature is committed within: a. one year of the previous offence if that offence was punished with a suspension of up to two matches; b. ten years of the previous offence if that offence was related to match-fixing or corruption; c. two years of the previous offence if that offence was related to order and security at UEFA competition matches; d. three years of the previous offence in all other cases. 2 Recidivism counts as an aggravating circumstance”.

12. According to Article 26 DR, “[a]ll disciplinary measures may be suspended, with the exception of: a. warnings; b. reprimands; c. bans on all football-related activities; d. disciplinary measures related to match-fixing, bribery and corruption. 2 The probationary period must be a minimum of one year and a
maximum of five. This period may be extended in exceptional circumstances. If a further offence is committed during the probationary period, the competent disciplinary body, as a rule, orders that the original disciplinary measure be enforced. This may be added to the disciplinary measure imposed for the new offence.

13. According to Article 6(5) DR, “Annex A contains a list of standard disciplinary measures which may be taken into consideration by the relevant disciplinary body when rendering its decision”.

B. The responsibility of the club and coach for the late kick off

14. In the case in hand, it was reported by the UEFA match delegate that the teams were supposed to leave the dressing rooms at 21:54:00, but the club left the dressing room only at 21:57:46, leading to a late kick-off of 2 minutes 32 seconds.

15. On a preliminary basis, the CEDB acknowledges that the official report provided by the UEFA match delegate is presumed to be accurate, as it is stipulated in Art. 45 DR. The burden of proof is therefore on the club to demonstrate to this disciplinary body a potential inaccuracy of the said report.

16. The CEDB further recalls the arguments provided by the club which essentially noted that one of its players was mistakenly using a wrong training top, making his immediate return to the dressing room necessary, thereby delaying his warm up and consequently all the team’s match preparation. The club concluded that it – and its coach – should not be held liable for such unforeseen circumstances.

17. After having analysed the official report of the UEFA match delegate as well as the arguments provided by the club, the CEDB could not agree with the explanations given by the latter. Even though it holds true that apparently one single player had to go back to the dressing room to change his warm up gear during the warm-up, the mere allegation that this would have delayed the warm-up of the entire team – even if that was an established fact - is not a conclusive justification as to why the team would not have been able to leave the dressing room on time following the conclusion of the warm-up and the team’s return to the dressing room.

18. In this sense, the CEDB first noted that it is the responsibility of each club to only use apparel which is in line with the relevant UEFA regulations. Any delay deriving from the failure to comply with such regulations which, as in this case here, lead to the team to return to the dressing room later as planned following the warm-up, cannot be held in favour of the club and cannot have the consequence that the team is awarded with an extra time to stay in the dressing room. The CEDB emphasized that this cannot be regarded as an unforeseeable circumstance, but quite contrary as a circumstance the club is responsible for.

19. Further, the CEDB recalled that, 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, as it was the case here where the home-team was ready and had to wait for the away-team coming out of the dressing room. In this sense, the CEDB found that it is unacceptable that the club came out of the dressing room almost four minutes later than required.
20. With this being established, the CEDB concluded that the violation of Article 11(2)(h) DR has been established.

21. On this basis, even though the club was reminded of such principles already multiple times before as it will be explained below, the CEDB recalls again that, apart from the principle of equal treatment and the aspect of fairness towards the opposing team (which complied with the rules) it needs to be taken into account that every delay of the kick-off time might lead to serious consequences for the relationship of UEFA and its commercial partners.

22. In addition, respect needs to be paid to the nature of the competition of the UEFA Champions League as one of UEFA’s flagship club competitions. In this view, any behaviour tending to tarnish the image of this major competition cannot be accepted and must therefore be punished accordingly.

23. Referring to the responsibility of the coach, the CEDB stressed that the head coach of a club 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.

24. The CEDB deems that the respect of the timing shall also be considered as being within the scope of those matters under the head coaches’ 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.

25. Irrespective of the warm-up schedule of the team, reminding again that only the club was responsible for such circumstance, it was clear that the team had to leave the dressing room at 21:54:00 but only left at 21:57:46. The coach, as the highest authority in the dressing room, is ultimately responsible that his players leave the dressing room on time and line-up in the tunnel in order for the match to start on time. This was not the case and, recalling again that no unforeseeable circumstances led to the delay but quite contrarily only the actions and the behaviour of the club, its players and in the end of its head coach, the latter should have given the relevant directions to his team to leave the dressing room on time and in line with the instructions given by the referees.

26. In view of all of the above, the CEDB is comfortably satisfied that the club did in fact, as stated above, cause a late kick-off and, in addition to that, concludes that there are no particular circumstances that may exculpate the coach. Consequently, the coach, Mr. Sergio Paulo Marceneiro Da Conceição, shall also be held responsible for the late kick off infringement, and, therefore, be considered as having violated Article 11(2)(h) DR.

IV. The determination of the appropriate disciplinary measure

27. In the present case, the CEDB identified and took into account the seriousness of the offence committed, recalling that the last player left the dressing room almost four minutes late, leading to a late kick-off of 2 minutes and 32 seconds.
28. The CEDB further acknowledged that the club has already been punished for causing a late kick-off on three further occasions, whereas the club’s coach, Mr. Sergio Paulo Marceneiro Da Conceição, has been punished once in the last three years for the violation of Article 11(2)(h) DR. In accordance with Article 25(1)(d) and (2) DR, this shall count as an aggravating circumstance.

29. By choosing to apply Article 6(5) DR and Annex A(I) regarding the coach, in view of his one previous record, the CEDB deems that the standard sanction shall be considered the appropriate sanction, i.e. to suspend the club’s coach Marceneiro Da Conceicao for one UEFA competition match in which he would otherwise participate, suspending said suspension for a probationary period of one year, in accordance with Article 26 DR.

30. On the other hand, pertaining to the club, in view of its previous record of three previous late kick-off violations, the CEDB decided to increase the standard sanction for a second infringement as stipulated in Article 6(5) DR and Annex A(I). In application of its established jurisprudence to increase the fine by € 5’000 for each further late kick-off offense (for reference, cf. the decisions of the UEFA disciplinary bodies published by UEFA on its website), the CEDB decided that a fine of € 20’000 shall be deemed appropriate for the club.

31. Consequently, the CEDB

**decides**

1. To fine FC Porto € 20’000 for the late kick-off.
2. The above fine must be paid into the bank account indicated below within 90 days of communication of this decision.
3. To suspend the FC Porto coach Mr. Sergio Paulo Marceneiro Da Conceição for one (1) UEFA competition match in which he would otherwise participate. Said suspension is deferred for a probationary period of one year.
4. The club ensures the coach is informed personally of this decision.

Thomas Partl
Chairman

**Bank details**
Union Bank of Switzerland
CH-3001
Acc. n° 235-90 186444.6
Bank code 235
Swift: UBS WCH ZH 80A
IBAN CH30 002352359018644

Detail address of UBS AG (Union Bank of Switzerland) – CH - 3001 BERNE
VAT Number in Switzerland : CHE-116.317.087
Fiscal number in Switzerland / canton de Vaud: 21 652

cc: Portuguese Football Association
Decision of 22 November 2018

PFC CSKA Moskva

(Setting off of fireworks, Stairways blocked, Throwing of objects)

Chairman: Partl Thomas (AUT)

Vice-chairmen: Berzi Sándor (HUN)
               Hansen Jim Sterne (DEN)

Members: Antenen Jacques (SUI)
         Gea Tomás (AND)
         Larumbe Beain Kepa (ESP)
         Lorenz Hans (GER)
         Řepka Rudolf (GER)
         Wolf 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 (CEDB) on the basis of the official reports, the written submissions, and the exhibits filed and the statements produced by PFC CSKA Moskva (the “club”) in the course of the CEDB proceedings. While the CEDB 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. The incidents reported by the UEFA match delegate of the 2018/19 UEFA Champions League match between the club and AS Roma played on 7 November 2018 (the “match”) are as follows:

   “Use of pyrotechnics in the 50th and 88th minute of the match. They were thrown from the D stand, section 123 and 124 Luzhniki Stadium by CSKA Moskva supporters. At 50”, after the CSKA Moskva goal, was one big firecracker, 5 Bengal fire and about 10 bright lights. At 88” more than 20 Bengal fires and a lot of smoke. The match was delayed for almost one minute because of this smoke.

   The CSKA Moskva supporters were blocking many stairways during the match. Luzhniki stadium, stand B, section 147-148 during the first halve, Stand D the stairways between 117-128 and the stairways between 219-230 were blocked during the whole match.”

II. The club’s statements

3. The club in its statements dated 12 November 2018 essentially stated the following:
- The club apologizes for the throwing of fireworks, stressing that it will do its best to avoid such incidents in the future.

- Regarding the blocking of stairways, the club stressed that the incident did not cause harm to supporters. The supporters just got emotional and left their seats to support their team. Such emotions are an integral part of the game of football.

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 and relevant provisions applicable to the case

5. Pursuant to Articles 33(3), 52 and 57 of the UEFA Statutes, as well as Article 29(3) of the UEFA Disciplinary Regulations (DR), the CEDB is competent to deal with the case.

6. Pursuant to Article 5(a) DR, the UEFA Statutes, rules and regulations, in particular the DR, are applicable to these proceedings.

7. The following relevant provisions apply to the case at hand.

8. According to Article 16 DR, “[h]ost 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. All clubs are liable for the following inappropriate behaviour on the part of their supporters and may be subject to disciplinary measures and directives even if they can prove the absence of any negligence in relation to the organisation of the match: […] (b) the throwing of objects; (c) the lighting of fireworks or any other objects […]”.

9. According to Article 6.01 of the Regulations of the UEFA Champions League (2018/19 Season), “[o]n entering the competition, participating clubs agree: […] e. to observe the UEFA Safety and Security Regulations for all matches in the competition”.

10. As stated in Article 2 of the UEFA Safety and Security Regulations (the “SSR”), “[t]he aim of these regulations is to make the match organiser and participating […] clubs aware of their duties and responsibilities before, during and after a match in order to safeguard the safety and security of everyone present, as well as of the stadium and its installations.”

11. Of particular relevance for the present case is Article 38 SSR which provides that “[t]he 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.”
12. According to Article 49 SSR, “any breach of these regulations may be penalised by UEFA in accordance with the UEFA Disciplinary Regulations.”

13. According to Article 45 DR, “[f]acts contained in official UEFA reports are presumed to be accurate. Proof of their inaccuracy may, however, be provided.”

14. Pursuant to Article 23 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. [...] 3 Disciplinary measures can be reduced or increased by the competent disciplinary body on the basis of the circumstances of the specific case. [...]”

15. Article 25 DR stipulates as follows: “Recidivism occurs if another offence of a similar nature is committed within: [...] c. two years of the previous offence if that offence was related to order and security at UEFA competition matches [...]. 2 Recidivism counts as an aggravating circumstance”.

16. According to Article 26 DR, “All disciplinary measures may be suspended, with the exception of: a. warnings; b. reprimands; c. bans on all football-related activities; d. disciplinary measures related to match-fixing, bribery and corruption. 2 The probationary period must be a minimum of one year and a maximum of five. This period may be extended in exceptional circumstances. 3 If a further offence is committed during the probationary period, the competent disciplinary body, as a rule, orders that the original disciplinary measure be enforced. This may be added to the disciplinary measure imposed for the new offence.”

17. According to Article 6(5) DR, “Annex A contains a list of standard disciplinary measures which may be taken into consideration by the relevant disciplinary body when rendering its decision”.

B. The responsibility of the club for the setting and throwing of fireworks

18. Setting 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 other spectators, officials, the players on the pitch and the persons who are lighting the fireworks. For this reason, the use and particularly the throwing of pyrotechnic devices in stadiums is strictly forbidden.

19. In the present case, it has been established by the official report of the UEFA match delegate that the club’s supporters ignited fireworks on numerous occasions during the match, namely in minutes 50 and 88. According to the official report, a total of 36 fireworks was set off by the club’s supporters, some of which were thrown from the D stand in sections 123 and 124.

20. Applying the principle of strict liability as described in Article 16(2) DR, the club shall be held liable for the conduct of its supporters, even if it is not at fault itself (cf. CAS 2002/A/423 PSV Eindhoven v. UEFA).
21. The CEDB notes that the club did not provide any arguments in the present case which would indicate a potential inaccuracy of the facts contained in the official report, which are presumed to be accurate according to Article 45 DR.

22. Considering the aforementioned, the club is to be held responsible for the improper conduct of its supporters and must be punished for the reported lighting and throwing of fireworks in accordance with Article 16(2)(b) and (c) DR.

C. The responsibility of the club for the blocking of stairways

23. 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 imposing the obligation on the match organiser to keep all public passageways free of any obstruction.

24. It is well-established jurisprudence of CAS 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 any obstruction (cf. CAS 2015/A/3926 FC Gelsenkirchen-Schalke 04 v. UEFA).

25. In the case at hand, according to the official report of the UEFA match delegate present at the match, the club’s supporters were blocking many stairways during the match. In Stand B, section 147-148, the blocking occurred during the first half, whereas in Stand D the stairways between sections 117-128 and the stairways between sections 219-230 were blocked during the whole match.

26. The CEDB recalls that the club has not disputed the accuracy of the facts stipulated in the official report, but has merely argued that the blocking of stairways did not cause any harm to others and that the relevant stairways and passageways were only blocked because the club’s supporters were celebrating. In this sense, the CEDB noted that the official report clearly refers to the blocking of stairways and the CEDB has no doubt regarding the accuracy of such report, which is presumed to be accurate in accordance with Article 45 DR. The question as to why the club’s supporters were blocking the stairways in the relevant sectors is irrelevant in this regard.

27. Consequently, the CEDB comes to the conclusion that the club as the host and match organiser violated Article 38 SSR and must be punished accordingly.

IV. The determination of the appropriate disciplinary measure

28. Regarding the behaviour of the club’s supporters with regard to the setting off and throwing of fireworks, the CEDB took into account the seriousness and multiplicity of the offences committed as well as the club’s previous record, noting that the club has already been punished four times for setting off fireworks and three times for the throwing of objects in the last two years, which, in accordance with Article 25(1)(c) and (2) DR, counts as an aggravating circumstance.
29. In view of the circumstances of this case, following a thorough analysis of the official report and the photo evidence which shows the extreme smoke and the perilous nature of the incident, recalling the severity of incidents which not only have to be considered as particularly dangerous but which also caused the match to be delayed, the CEDB decided that in view of the circumstances of this case, it was not sufficient to impose a standard sanction for the reported violations, as it would have been an option in accordance with Article 6(5) DR and its Annex A(I).

30. In consideration of the abovementioned aggravating circumstances, in accordance with Article 23(1) DR, in order to directly tackle the behaviour of the supporters and to sanction the club equally, the CEDB deemed it is the appropriate sanction to order the partial closure of the club’s stadium during the next UEFA competition match in which it would play as the host club, and, in particular to order the club to close sectors D123 and D124 from where the fireworks were thrown, while also fining the club € 30’000. However, to give a second chance to the club’s supporters from refraining from such behaviour in the future, the CEDB decides that the partial stadium closure is suspended for a probationary period of one (1) year in accordance with Article 26 DR.

31. The CEDB encourages the club to further tackle the issues it obviously has with the behaviour of its supporters, especially regarding the setting and throwing of fireworks, to avoid the sanction from being lifted and further sanctions to be imposed on the club.

32. Concerning the probationary period pertaining to the partial stadium closure, the CEDB referred to Article 26(1) DR, which explicitly gives UEFA’s disciplinary bodies the option to suspend disciplinary measures. Article 26(3) DR further establishes that “[i]f a further offence is committed during the probationary period, the competent disciplinary body, as a rule, orders that the original disciplinary measure be enforced.” In this regard, pertaining to the question of what kind of further violation the club would need to commit for it to be considered “a further offence” as stipulated in Article 26(1) DR, the CEDB referred to Article 25(1) DR, where it is stated that “[r]ecidivism occurs if another offence of a similar nature is committed” (emphasis added). In this sense, the CEDB would emphasise that, clearly, not every future violation of the DR committed by a club’s supporters would suffice to lift the probationary period and activate the suspended partial stadium closure. The aforementioned Article 25(1) DR clearly states that offences regarded as recidivist offences and, hence, potentially leading to the enforcement of a suspended sanction in accordance with Article 26(1) DR need to be of a similar nature, i.e. of a similar and comparable severity, gravity and intensity. In this sense, reference is made to Article 23(1) DR, which gives UEFA’s disciplinary bodies broad discretion regarding the determination of the appropriate and adequate sanction. It is therefore up to a future panel, and not for this present CEDB panel, to decide whether future violations of the DR can be considered as being of “a similar nature”, as has been confirmed by CAS jurisprudence (cf. CAS 2013/A/3139, para. 130).

33. Regarding the insufficient organisation with regard to the blocking of stairways, the CEDB took into account the seriousness and multiplicity of the offence committed as well as the club’s previous record, noting as an aggravating circumstance that the club has already been punished for blocking of stairways on two occasions during the last two years (cf. Article 25(1)(c) and (2) DR).

34. Here, the CEDB chose to apply Article 6(5) DR and its Annexe A (II) and, in application of the CEDB’s constant practice to increase the standard sanctions provided in the Annexe A(II) for each further offence by €2’000 (for reference, cf. the decisions of the UEFA disciplinary bodies published by UEFA on its website), decided to impose a fine of €14’000 for the blocking of stairways.
35. Consequently, the CEDB

deides

1. For the throwing of fireworks, to order the partial closure of the PFC CSKA Moskva stadium during the next (1) UEFA competition match in which PFC CSKA Moskva would play as the host club, and, in particular the club shall close sectors D123 and D124, and to fine PFC CSKA Moskva € 30’000. The partial stadium closure is suspended for a probationary period of one (1) year.
2. To fine PFC CSKA Moskva € 14’000 for the blocking of stairways.
3. The above fines in the total amount of € 44’000 must be paid into the bank account indicated below within 90 days of communication of this decision.

Thomas Partl
Chairman

Bank details
Union Bank of Switzerland
CH-3001
Acc. n° 235-90 186444.6
Bank code 235
Swift: UBS WCH ZH 80A
IBAN CH30 002352359018644

cc The Football Union of Russia

Detail address of UBS AG (Union Bank of Switzerland) – CH - 3001 BERNE
VAT Number in Switzerland : CHE-116.317.087
Fiscal number in Switzerland / canton de Vaud: 21 652
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 (CEDB) on the basis of the official reports, the written submissions, and the exhibits filed and the statements produced by the The Football Association of Ireland (the “association”) in the course of the CEDB proceedings. While the CEDB 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. The incidents reported by the UEFA match delegate of the 2018/19 UEFA Nations League match between the association and Wales played on 16 October 2018 (the “match”) are as follows:

   “After the goal was scored a laser pointer was visible on the big flag behind the Welsh supporters in the 59’ minute. Three minutes later the same pointer was visible on the pitch, in the match video between 61’40 and 61’46 in the neighborhood of the ball.”

II. The association’s statements

3. The association in its statements dated on 24 October 2018 stated the following:

   - Regarding the use of the laser pointer, the association admits the facts and regrets and condemns the conduct of the Irish supporters while emphasizing that the matches between the Republic of Ireland and Wales are often classified as “derbies.”

   - Regarding the disciplinary history of the Irish supporters, the association remarks that it is the first charge of misconduct of its supporters since 2016.

4. The more detailed arguments made by the association in support of its written submissions are set out bellow in as far as they are relevant.

III. Merits of the case

   A. UEFA’s competence and relevant provisions applicable to the case
5. Pursuant to Articles 33(3), 52 and 57 of the UEFA Statutes, as well as Article 29(2)(b) and (3) of the UEFA Disciplinary Regulations (DR), the chairman of the CEDB as a judge sitting alone is competent to deal with the case.

6. Pursuant to Article 5(a) DR, the UEFA Statutes, rules and regulations, in particular the DR, are applicable to these proceedings.

7. The following relevant provisions apply to the case at hand.

8. According to Article 16 DR, "[h]ost [...] national associations 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. However, all associations [...] 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: [...] (d) the use of laser pointers or similar electronic devices; [...]”.

9. According to Article 45 DR, "[f]acts contained in official UEFA reports are presumed to be accurate. Proof of their inaccuracy may, however, be provided."

10. Pursuant to Article 23 DR, "[t]he 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. [...] Disciplinary measures can be reduced or increased by the competent disciplinary body on the basis of the circumstances of the specific case. [...]”.

11. According to Article 6(5) DR, "Annex A contains a list of standard disciplinary measures which may be taken into consideration by the relevant disciplinary body when rendering its decision".

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

12. Laser pointers can seriously affect the physical well-being of the person who is targeted and can also disrupt the match. Accordingly, any use of such devices is strictly prohibited, irrespective of whether someone is directly targeted or not.

13. In the case at hand, according to the report of the UEFA match delegate, after the goal was scored a laser pointer was visible on the big flag behind the Welsh supporters in the 59’ minute. Furthermore, the report stipulated that three minutes later, the same pointer was visible on the pitch in the direct vicinity of the ball.

14. In its statements, the association admitted the facts. Applying the principle of strict liability as described in Article 16(2) DR, the association shall be held liable for the conduct of its supporters, even if it is not at fault itself (cf. CAS 2002/A/423 PSV Eindhoven).
15. Considering the aforementioned, the association is to be held responsible for the improper conduct of its supporters and must be punished for the use of laser pointers in accordance with Article 16(2)(d) DR.

IV. The determination of the appropriate disciplinary measure

16. Regarding the use of laser pointers, the CEDB took into account that there was no record of previous offences committed by the association in this regard.

17. In the view of the circumstances of this case, the CEDB decided to apply Article 6(5) DR and its Annex A(I), which provides for standard sanctions for the use of laser pointers. In application of such provision, the CEDB decided to impose a fine of €8’000.

18. Consequently, the CEDB

**decides**

1. To fine The Football Association of Ireland € 8’000 for the use of laser pointers.
2. The above fine must be paid into the bank account indicated below within 90 days of communication of this decision.

Thomas Partl
Chairman

Bank details
Union Bank of Switzerland
CH-3001
Acc. n° 235-90 186444.6
Bank code 235
Swift: UBS WCH ZH 80A
IBAN CH30 002352359018644

Detail address of UBS AG (Union Bank of Switzerland) – CH - 3001 BERNE
VAT Number in Switzerland : CHE-116.317.087
Fiscal number in Switzerland / canton de Vaud: 21 652
Decision of 17 July 2018

FC Zenit

(Racist behavior)

Circumstances of the case

According to the report submitted by FARE, at approximately the 73rd minute of the match, when RB Leipzig player Naby Keïta was receiving medical treatment for an injury, FC Zenit (the “Appellant”) supporters started singing parts of the 1999 song by a Russian rock band ‘Zapreschennye Barabanschiki’ which included the phrase “They killed a negro”. The use of said lyrics was also corroborated by the video evidence provided by FARE.

The Appellant argued that the Russian word “негр” (eng: “negro”) bears no negative connotation in the Russian language, and that the song chanted by its fans has never been considered inappropriate or even racist in Russia. The Appellant adds that the lyrics are merely satirical and ends on a positive note, as the ‘black man’ mentioned in the song is resurrected after having been killed. Finally, the Appellant claims that the CEDB incorrectly concluded that a reasonable onlooker would understand the Russian language and therefore the lyrics sung by its supporters.

Legal framework

Article 14(1), (2) and (3) of the UEFA Disciplinary Regulations.

Decision

The Appeals Body confirmed that in the context in which it was used, the lyric sung by FC Zenit’s supporters was discriminatory and violated the Disciplinary Regulations. The Appeals Body rejected the appeal and confirmed the CEDB’s decision.

Chairman: Pedro Tomás (ESP)
Vice-chairmen: Michael Maessen (NED)
            Levent Biçakci (TUR)
Member: Urs Reinhard (SUI)

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 31 May 2018 (the “Decision”), the official reports, the written submissions of Football Club Zenit (the “Appellant” or the “Club”), 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. The key elements of the present case can be summarised as follows:
   - Several thousand of the Appellant’s supporters situated in Sections D105-107 and D207-213 of the Club’s stadium started singing a line from a Russian rock song called “They killed a negr”. The respective line of said song can be translated from Russian as: “Ay-ya-ya-ya they killed a negr, for no reason, just like that Bastards, they finished him off”.
   - The two central stairways in the D tribune lower were blocked.
   - In the 82nd minute of the match, one signal flare was fired by the Appellant’s supporters; it was thrown to the middle of the pitch, immediately burned out and no one was hit.

4. Disciplinary proceedings were opened against the Club on 16 March 2018 and the CEDB convened on 31 May 2018 to decide the case. The Decision with grounds was notified to the Club on 7 June 2018.

5. In the Decision with grounds, the CEDB concluded that the Club has breached Article 14 (1) and Article 16 (2) of the UEFA Disciplinary Regulations (the "DR") as well as Article 38 of the UEFA Safety and Security Regulations.

6. On this basis, the CEDB decided to:
   - order Football Club Zenit to play its next (1) UEFA competition match as host club behind closed doors and to fine Football Club Zenit € 50’000 for the racist behavior of its supporters.; and
   - fine the Club €20,000.

II. Summary of the proceedings before the Appeals Body

7. On 9 June 2018, the Appellant announced its intention to appeal against the Decision.

8. On 18 June 2018, the Appellant filed its grounds for appeal.

9. In its statement, the Appellant stated the following:
   - The Russian word негр/negr bears no negative connotations in Russian language. As an article from English Wikipedia puts it: “In Russia, the term негр (negr) was commonly used in the Soviet period without any negative connotation, and its use continues in this neutral sense.” The most appropriate translation of the word негр into English would be “black man”, transmitting a neutral connotation to an English speaking audience.
- The video for the song received extensive airplay on MTV Russia, receiving a prestigious Russian music award. The song has never been considered inappropriate, or even racist, in the Russian Federation.

- The tune of the song is done in reggae style, giving it “comical air”. The text of the song is clearly a satirical one, condemning the killers, calling them bastards. The song ends on a positive note, as the black man gets resurrected and starts walking again.

- Bearing in mind that the fans sang the chant in Russian, the CEDB trapped itself in a vicious circle by asserting that a reasonable onlooker understands Russian but ignores the Russian context of the song.

- No match official took note of the chant during the game despite the fact that allegedly several thousands of supporters sang it. Reasonable onlookers, along with “the worldwide audience”, which predominantly does not speak Russian, did not understand a word of this chant and ignored its meaning. Accordingly, they could not possibly consider this chant racist.

- A reasonable observer does not speak Russian, does not understand the chant and, therefore, does not consider it racist. Or, a reasonable onlooker might translate the song from Russian by learning simultaneously about the local context and then, again, he does not consider the song racist, but satirical. *A contrario*, the solution that CEDB offers in its decision – that a reasonable onlooker learns the translation of the text from Russian but inexplicably and deliberately ignores the Russian context – is unfounded, one-sided and biased.

10. 28 June 2018, the UEFA Ethics and Disciplinary Inspector (the “EDI”) submitted his reply to the appeal. Said reply was sent to the Appellant on 2 July 2018.

11. In his statement the EDI noted the following:

- The Appellant does not contest the content of the FARE Report, only its interpretation by the CEDB, whose decision it considers self-contradictory, as it didn’t take properly into account the background behind the chant in question.

- UEFA is willing to, in principle, accept that the word “негр” in itself is not offensive in Russia (despite its English translation “negro” may arguably be more offensive from a racism perspective, depending on the context of its use). UEFA also understands that the song sung by the Appellant’s supporters is known as a popular satirical song from 1999 that is not considered offensive. However, when put in the context of the Match, the song acquires a discriminatory nature that doesn’t go unnoticed.

- It is no coincidence that the Club’s supporters began singing the song immediately after rival Guinean player Naby Keita was injured and required medical assistance: they sang the song at
that moment because Mr. Keita is black. In this sense, the Appellant’s fans acted with the clear intent of mocking and insulting Mr. Keita due to the color of his skin. The bottom line is that, regardless of intention (which in this case exists), the Appellant’s supporters insulted the player’s dignity strictly because of his skin color.

- It is important to clarify that while the ‘objective observer’ test referred to by the CED B has been applied in the past for the purposes of identifying the wrongdoers (i.e., the team that they support), in this case it is undisputed that the thousands of persons signing the discriminatory song were the Appellant’s fans. However, UEFA notes that such assessment has also been used to establish whether the conduct of identified supporters constitutes a breach of Art. 14 DR, within the specific context of the incidents in question. This test has therefore correctly been applied by the CEDB when assessing the specific circumstances of this case.

12. The more detailed arguments made by the Appellant in support of his written submissions are set out below in as far as they are relevant.

III. Appeals Body Competence and Admissibility of the Appeal

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

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

15. It follows that the Appeals Body has competence to decide on the present appeal and that the appeal is admissible. The Appeals Body may therefore consider its merits and can therefore re-examine the case in full, both factually and legally, in accordance with Article 65 (2) DR.

IV. Legal Considerations Of The Appeals Body

A. The legal framework

16. 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.

17. In accordance with Article 14 (3) DR, the following disciplinary measures apply in the event of recidivism: a) a second offence is punished with one match played behind closed doors and a fine of € 50,000; (...).
18. The Appeals Body also notes that, under Article 45 DR, facts contained in official UEFA reports are presumed to be accurate. Proof of their inaccuracy may, however, be provided.

B. In the present case

19. This case is about a large number of supporters of FC Zenit who during a UEFA Europa League match chanted “Ay-ya-ya-ya they killed a negr, for no reason, just like that Bastards, they finished him off” while a black player was laying on the ground and receiving medical treatment.

20. The Control, Ethics and Disciplinary Body in its decision considered, amongst others, that the chant given in this specific context had a racist/discriminatory component and ordered FC Zenit to play its next match behind closed doors and fined the latter 50’000€.

21. On a preliminary basis, the Appeals Body wishes to make two observations:

22. First, the Appellant chose to only address the Article 14 DR violation, while accepting the violation of Article 16 (2) DR and Article 38 Safety and Security Regulations. Hence, this Appeals Body will only focus its deliberations on the question whether or not the song under scrutiny could be considered racist under the present circumstances.

23. Secondly, the Appeals Body notes that the occurrence of the song, i.e. the fact that the Appellants supporters were singing the song under scrutiny at the moment which was reported by the FARE observer, remained undisputed. It is therefore irrelevant whether or not the match officials have heard and/or reported the incident or not, given that its occurrence has been clearly established. It therefore remains for the Appeals Body to analyse and interpret the song taking into account the circumstances of the case.

24. Bearing the above in mind, the Appeals Body deems that the scope of the current appeal proceedings is aimed exclusively at the responsibility and the sanction imposed against FC Zenit for the chants sung by its supporters during the above-mentioned match. In this regard, it is deemed that the following questions need to be evaluated:

- Is the chant provided by the FC Zenit supporters violating the UEFA Disciplinary Regulations?
- In the affirmative, is the sanction imposed against FC Zenit proportionate.

25. Again, this UEFA disciplinary body notes that the more detailed arguments made by the Appellant in support of his written submissions are set out below in as far as they are relevant.

C. Was the chant sung by the supporters racist and/or discriminatory?

26. With the above being established, the Appeals Body recalls the events as they have been established by the FARE observer and remained undisputed during the course of the proceedings before the UEFA disciplinary bodies. According to said report, the Appellant’s supporters sang the song “They
killed a negr/black man” in the exact moment during the game when the black RB Leipzig player Naby Keita received medical treatment on the pitch.

27. This Appeals Body shares the view of the CAS in a similar case, CAS 2013/A/ 3324 and 3369, at para 9.14, in which it considered that Article 14 UEFA DR has two elements which must be satisfied before sanctions can be imposed:

1. There must be an insult to the human dignity of either a person or a group of persons;
2. The insult must be on grounds of, inter-alia, race or ethnic origin.

28. Furthermore, the insult can be conveyed by whatever means, which would include chanting; it is, however, the Appeals Body view that it is not necessary for an offence to be committed under Article 14 UEFA DR to prove that the person charged intended to insult; it is sufficient that he or she did insult. The precondition of intention is significantly not prescribed by the Article.

29. Moreover, an insult within the meaning of Article 14 DR can have different expressions, e.g. diminishing an ethnic origin, using the race as an insult, ridiculing someone for being from a specific ethnic origin, race, gender or sexual orientation, use of racist symbolism, etc. This has been endorsed by the CAS most recent jurisprudence (amongst others CAS 2013/A/ 3324 and 3369; CAS 2015/A/4256 and CAS 2016/A/4780)

30. In the Appeals Body view the test of whether or not there has been an insult qualifying for sanctions under Article 14 UEFA DR, is the perception of the reasonable onlooker. It is in that sense objective not subjective.

31. Finally, with regard to this same CAS jurisprudence, the Appeals Body also appreciates that "in the law, context is everything" so to determine whether words, chants gestures or other behavior constitute racial insults all the circumstances must be considered; who is saying what to (or about) whom, when, what, how and against what background (others CAS 2013/A/ 3324 and 3369).

32. In this regard, it is noted that the Appellant mostly argues that the word “negr” merely constitutes a neutral word for a person of colour and has no racist connotation whatsoever, while the EDI referred to the concrete context under which the term was used, stressing that under the present circumstances, the Appellant’s supporters insulted the abovementioned player by singing the song.

33. Bearing this in mind, the Appeals Body first wants to stress that the mere fact that a word might sound or be neutral by itself, standing alone, can have no determining influence when analysing the question whether or not the concrete usage of the word was racist or not. Almost every word by itself does not necessarily have an insulting or negative connotation, while almost every word under the wrong circumstances and when used with a bad intention can be used as an insult. In this context, the Appeals Body stresses that extreme caution should be applied whenever terms making reference to skin colour, race, ethnic origin, religion or sexual orientation are used in general.

34. After a careful analysis of the sequence of events, the Appeals Body has to agree with the interpretation given by the appealed decision and hence has to reject the arguments provided by the Appellant pertaining to the usage of the song.
35. The Appeals Body has no doubt that the song under scrutiny might have been a successful song in Russia. This is however not the crucial fact of this case given that the nature and the content of the song should not be analysed and judged in general, standing alone, but in the context of the football match, given that, as already established before “in the law, context is everything” (CAS 2013/A/ 3324 and 3369).

36. The context of this case has been clearly established by the official reports and has been accepted by the Appellant throughout the proceedings before UEFA, which is that exactly when the black player Naby Keita was just receiving medical treatment on the pitch, the Appellant’s supporters chanted the song of a black person being killed. In particular, the supporters chanted this song to mock the player while he was injured on the ground. It is exactly the fact of using his skin colour to reach the purpose of their mockery which is under scrutiny in the current proceedings.

37. Consequently, the question to be answered is subsequently how an objective onlooker would perceive such sequence of events. As it was correctly stated by the CEDB in its Decision, the standard by which the context of an incident needs to be assessed is what “a reasonable and objective observer” would conclude in the light of the factual circumstances, i.e. in the eyes of a reasonable and objective observer”.

38. In this sense, the Appeals Body cannot agree with the arguments provided by the Appellant regarding the general qualification of the person of the objective onlooker. In view of the Appeals Body, an objective onlooker is neither a completely uninformed person who does not know the language and who doesn’t understand the words, nor is an objective onlooker a scholar who knows the exact linguistic interpretation of every word in the context of local customs and traditions. This UEFA disciplinary body deems that an objective onlooker is placed rather between those two concepts, i.e. someone who is neither overly sensitive nor ignorant, who perceives what happens in front of him and draws his conclusions from what he hears and sees in front of him.

39. In sum, an objective onlooker would have noted that at a specific moment of the match when a black player was injured on the pitch and had to undergo treatment, the spectators started singing a song about a black person being killed, just like that.

40. It is also considered that the Appellant’s spectators sung the song because the player who was on the floor was a black person. Consequently, the mere existence of the chant at this precise moment is directly connected with the colour of the skin of the player.

41. It is therefore clearly from the sequence of the events that the Appellant’s supporters intended to ridicule Mr. Keita by making reference to the colour of his skin, singing about a black man who gets killed. This circumstance is highly offensive, insulting and denigrating for the player, who had to endure this song chanted by a large number of supporters while receiving medical care. It is irrelevant whether the word “негр” should be translated with “negro” or “black man”, emphasizing again that it is not the mere word which is decisive, but its usage in the present context.

42. On this basis, the Appeals Body concludes that the CEDB was correct to decide that the Club had breached Article 14(1) DR.
D. Was the sanction imposed by the Control, Ethics and Disciplinary Body proportionate?

43. 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.

44. As a preliminary note, the Appeals Body wishes to underline that within the context of its principle of zero tolerance with regard to the racist behavior, following the implementation of the 2013 edition of the DR (and as subsequently confirmed again in the next editions of the DR), UEFA’s fight against racist behavior entered a new era. This has resulted in more severe sanctions being imposed in respect of racist behavior.

45. Within this legal context the Appeals Body appreciates that none of the arguments presented by the Appellant are addressed to the proportionality of the sanction. It follows that the Appellant implicitly accepted the fact that in these circumstances, and provided that the chant is declared against Article 14 DR, the sanction imposed by the Control, Ethics and Disciplinary Body is an adequate punishment.

46. Turning back to the present case, the Club has one previous record of racist behavior by its supporters and such recidivism must be taken into consideration. In addition, this was not an incident of one individual, but of several thousands of the Club’s supporters engaged in the chants. It follows that the current case is of a serious entity.

47. Under this premises, this UEFA disciplinary body deems that the adequacy of the sanction finds support in the wording of Article 14 (3) DR, which already foresees a sanction in cases of recidivism as the one in hand. In particular, since this case concerns a second infringement of Article 14(1) DR, the punishment contemplated in this provision is of one match played behind closed doors and a fine of €50,000. This was indeed the final outcome of the appealed decision.

48. Consequently, the Appeals Body is of the opinion that the CEDB neither abused nor exceeded its broad powers of discretion when imposing one match played behind closed doors and a fine of €50,000 in respect of the racist behavior offence, given that the Club has one previous record of racist behavior by its supporters and such recidivism was taken into consideration by the CEDB, applying Article 14(3)(a) DR.

49. Since the Appellant failed to provide any mitigating circumstances in the present case, the Appeals Body has no other option than to dismiss the Appeal lodged by the Appellant.

V. Costs

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

51. The appeals fee is either deducted from the costs of proceedings or reimbursed (in accordance with Article 51 (2) DR).
52. On this occasion, since the Appeal was dismissed, 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.

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

54. On these grounds, the Appeals Body **decides**

1. The appeal lodged by Football Club Zenit is dismissed. Consequently, the UEFA Control, Ethics and Disciplinary Body’s decision of 31 May 2018 is confirmed.

2. The costs of the proceedings, totalling €1’000 (minus the appeal fee), are to be paid by the Appellant.

Chairman

Pedro Tomás
Circumstances of the case
In this case, it was reported that aggressive altercations took place outside the stadium, involving both teams’ supporters. These incidents involved violent confrontations and the throwing of objects (fireworks, flares, bottles, etc.). Said confrontations led to several arrests. Additionally, FC Spartak Moskva’s (the “Appellant”) supporters lit 4-5 fireworks inside the stadium.

The Appellant claimed in its appeal that its supporters were attacked by fans of the home club, Athletic Club, who provoked the fights and the crowd disturbances, and continued to throw stones and bottles at the police after their intervention. The Appellant adds that it was merely exercising its right of self-defence, and that there is no evidence in any of the reports that the Appellant’s supporters would be responsible for the injuries sustained by the police officers or for the death of a police officer during the incidents.

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

Decision
The Appeals Body confirmed that the perpetrators of the reported actions were FC Spartak Moskva’s supporters and that the CEDB’s decision was proportionate. The appeal was therefore rejected in full and the CEDB’s decision confirmed.

Ad-hoc Chairman: Michael Maessen (NED)
Vice-chairman: Levent Biçakci (TUR)
Member: Urs Reinhard (SUI)

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 31 May 2018 (the “Decision”), the official reports, the written submissions of FC Spartak Moskva (the “Appellant” or the “Club”), 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. The UEFA match delegate present at the UEFA Europa League 2017/18 match between Athletic Club against the Appellant on 22 February 2018 (the “match”) reported the following:
The security in the stadium was ok, but aggressive to away fans with the body search.

Also the behavior of the local police was aggressive, standing in line with helmets and guns. But that was outside the stadium. Before the match in the city one police officer died on duty by natural cause. There were some incidents before the game outside the stadium. Spartak fans has been arrested and 5 Athletic fans has been arrested. 9 police officers have been injured on duty.

II. Summary of the proceedings before the Control, Ethics and Disciplinary Body

4. On 1 March 2018, Mr. Ivan Robba, UEFA Ethics and Disciplinary Inspector (the “EDI”), on the basis of Article 31 of the UEFA Disciplinary Regulations (the “DR”) initiated investigations regarding the reported incidents at the match.

5. On 2 May 2018, the EDI provided his report, essentially stating the following:

- It is clear from the video footage and images available that the Appellant’s supporters were involved in aggressive altercations with supporters from Athletic Club and the Basque police outside the stadium, as it was confirmed by the Police Report.

- It was also confirmed in the Police Report that groups of the Appellant’s supporters were involved in several exchanges of throwing of objects with a group of Athletic Club supporters, e.g. fireworks, flares, bottles and rubbish bins.

- By applying Article 8 and Article 16 (2) DR, the Appellant shall be found to have violated the following DR provisions, for which the Appellant shall be held accountable by applying the principle of strict liability:
  - Article 16 (2) (b) DR, since the throwing of objects was confirmed in the Police Report.
  - Article 16 (2) (c) DR, the lighting of fireworks or any other objects, given that it was reported by the UEFA match delegate that in the 47th minute of the match, 4 or 5 pyrotechnics were ignited in the Club’s supporter sector.
  - Article 16 (2) (h) DR, lack of order or discipline observed inside or around the stadium, given the clear evidence for altercations around the vicinity of the stadium involving the Club’s supporters.

- Regarding the adequate and proportionate sanction to be applied, the EDI took into account the following, EDI suggested to the CEDB to impose a fine of €40'000 on the Appellant, as well as to ban the Appellant from selling tickets to its supporters for the next three away-matches, one match of which suspended for a probationary period of two years, as well as an additional fine of €15'000 for the setting off of fireworks.

6. Disciplinary proceedings were opened against the Club on 4 May 2018 and the CEDB convened on 31 May 2018 to decide the case. The Decision with grounds was notified to the Club on 18 June 2018.
7. In the Decision with grounds, the CEDB concluded that the Club has breached Article 16 (2) (b), (c) and (h) of the UEFA Disciplinary Regulations (the “DR”).

8. On this basis, the CEDB decided to:

   a. fine the Appellant € 55’000.; and

   b. ban the Appellant from selling tickets to its supporters for the next three (3) UEFA competition matches which the club will play as the visiting team. The third match in which the Appellant will serve a ban from selling tickets is deferred under a probationary period of two (2) years.

III. Summary of the proceedings before the Appeals Body

9. On 20 June 2018, the Appellant announced its intention to appeal against the Decision.

10. On 22 June 2018, the Appellant filed its grounds for appeal.

11. In its grounds for appeal, the Appellant stated the following:

   − While arriving to the stadium, the Appellant’s supporters were attacked by supporters of Bilbao, who hence provoked the fights with the Appellant’s supporters and which ultimately led to the reported crowd disturbances.

   − Even after the intervention of the Spanish police, the Bilbao supporters continued to throw stones, rocks and bottles at the police.

   − Taking into consideration that many of the Appellant’s supporters came to the stadium with their families and children, they had to protect themselves and their relatives from the aggressive part of the Bilbao supporters. Such right of self-defence is an essential right of any person.

   − The Decision of the CEDB and the report of the EDI do not contain any solid evidence which would confirm that the Appellant’s supporters were in fact responsible for injuries of any police officers and the death of one police officer. Such consequences could also be due to the behavior of Bilbao’s supporters.

   − The Decision errs when it is stated “trouble and disorder caused by the Club’s supporters appear to be a common occurrence when they travel to other countries to watch the Club play. There are many examples in respective local and international media documenting violence in the city centres and around the vicinity of the stadiums caused by the Club’s supporters on days leading up to a football match of the Club. Recent examples include altercations with home fans and police in Seville and
Slovenia for UEFA Champions’ League group stage matches in late 2017.” UEFA at no point sanctioned the Appellant for such an alleged behavior.

- The Appellant has no previous convictions for crowd disturbances, the most serious offense for which the Appellant is charged. Also, there was no evidence provided by the EDI for any of the alleged violent incidents in city centres and the EDI did not name one single incident, neither in Sevilla nor in Maribor.

- Its supporters did not show an “extremely violent and aggressive attitude” since neither in the Decision, nor in the EDI report there is any mention that acts of the Appellant’s supporters would have caused significant harm to the health of any Bilbao supporter.

- In view of the fact that the crowd disturbances were caused by the supporters of Bilbao, taking into account that the Appellant has not previous convictions for crowd disturbances in the past seven years, the Appellant requests the Appeals Body to reduce the sanctions imposed on the Appellant.

12. On 25 June 2018, in accordance with Article 63 (2) DR, the EDI was appointed by the Appeals Body to submit a reply to the appeal.

13. In his reply to the appeal dated 13 July 2018, the EDI stated the following:

- The Appellant is not disputing the occurrence of the incidents. The Appeal relies mainly on the seriousness and culpability of the Appellant in this regard and argues that their supporters were defending themselves from provoked attacks.

- Under the strict liability principle (Article 8 DR), the ‘blame game’ is not a valid argument to make, as it clearly imposes responsibility and liability irrespective of blame. The argument that their supporters were only defending themselves is therefore irrelevant for the purpose of this sanction. The video footage already presented clearly shows altercations between both sets of supporters in equal measure, and not the scenario that the fans were travelling with their families and were only protecting them.

- This is not a case of a group of innocent families being ambushed and attacked, but rather a series of aggressive altercations between two violent groups as proven by the various reports and video footage provided in the EDI Report.

- In relation to the death of the police officer and the injury to a further 9 police officers, the argument that these cannot be considered because there have been no criminal charges against any of the Appellant’s supporters should not stand. Again, evidence already provided illustrates Basque police heavily involved in attempting to control the violent attacks between both sets of supporters.

- It would be absurd to disregard that officers suffered injuries when considering a sanction on the basis that no criminal charges have been brought against the supporters, as the police report includes the injuries of the officers, thus being directly inflicted as a result of these altercations. Whether criminal charges exist or not should not affect the seriousness of the offence.
In relation to violence being a common occurrence with the Appellant’s supporters when they travel away, the Appellant states that no examples had been presented, however this does not mean that they did not occur. There is plenty of footage showing such violence from the Appellant’s fans in Seville around the Sanchez Pizjuan stadium back in November 2017, as well as violent clashes between Spartak Supporters and Maribor supporters in Slovenia back in September 2017.

As to the Appellant’s statement that their supporters’ attitude cannot be described as “extremely violent and aggressive” because there are no confirmations of harm to health of Bilbao supporters, it must be respectfully stated that the footage and various reports already provided are more than sufficient to prove that the attitude was of an extreme violence and aggression. The fact that a police officer died in the midst of these chaotic scenes is testament to the seriousness of the violence. Specific evidence of harm to health should not exculpate nor dilute the altercations that occurred.

The arguments made by the Appellant to attempt to reduce the sanctions are not sufficiently strong to warrant a reduction in any way. UEFA must maintain its firm stance against violence and the CEDB was therefore correct in applying the sanctions that it did. The Appellant’s supporters have travelled to a foreign country and been involved in violent clashes with national police and supporters of Athletic Bilbao. These clashes were extremely aggressive, and consistent with previous incidents involving the Appellant’s supporters in other countries. As such, under the strict liability principle already discussed above, the Club has committed a serious offence, and the punishment must be severe to serve as a punishment and deter the perpetrators from engaging in similar behavior in the future.

IV. Appeals Body Competence and Admissibility of the Appeal

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

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

16. It follows that the Appeals Body has competence to decide on the present appeal and that the appeal is admissible. The Appeals Body may therefore consider its merits and can therefore re-examine the case in full, both factually and legally, in accordance with Article 65 (2) DR.
V. Legal Considerations Of The Appeals Body

A. The legal framework

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

“However, all associations and clubs are liable for the following inappropriate behavior 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.”

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. The Appeals Body also notes that, 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 merits

20. This case is about a large number of supporters of Appellant engaging in highly violent fights with the Basque police and the Athletic Club supporters in the vicinity of the latter stadium and prior the UEFA Europa League match played on 22 February 2018 played between these two teams. The official reports include also other incidents, like the throwing of fireworks inside the stadium by the Appellant’s supporters.

21. On a preliminary basis this Appeals Body notes that the occurrence of the setting off of fireworks, throwing of objects and crowd disturbances have not been disputed by the Appellant.

22. Bearing the above in mind, the Appeals Body deems that the scope of the current appeal proceedings is aimed exclusively at the responsibility and the sanction imposed against FC Spartak Mosva for the above incidents occurred at the vicinity and inside the stadium. In this regard, it is deemed that the following questions need to be evaluated.
– Is FC Spartak Moskva responsible for the incidents perpetrated by its supporters at the occasion of the match?

– Is the sanction imposed by the CEDB disproportionate?

23. Again, this UEFA disciplinary body notes that the more detailed arguments made by the Appellant in support of his written submissions are set out below in as far as they are relevant.

   a. Is FC Spartak Moskva responsible for the incidents perpetrated by its supporters at the occasion of the match?

24. In this regard, the Appeals Body recalls that the Appellant argues that the violent acts committed by its supporters were merely due to self-defence against the continuous attacks performed by the supporters of Athletic Club, given that the latter engaged in attacks on the Appellant’s supporters as well as families with children as soon as they arrived to the stadium.

25. 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).

26. Further, Article 16 (2) DR, establishes that clubs are liable for the following inappropriate behavior on the part of their supporters and may be subject to disciplinary measures “any other lack of order or discipline observed inside or around the stadium”. It follows that the responsibility of a club for the misbehavior of its supporters is not restricted to the inner bounds of the stadium, but extended those misconducts occurred around the stadium at the occasion of a UEFA competition match.

27. It is submitted that 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. Therefore, whenever such attitude and behavior is shown by Clubs, associations and its supporters, severe sanctions need to be imposed.

28. With this being established, after a careful and thorough analysis and evaluation of the video evidence at hand as well as of the arguments provided by both the Appellant and the EDI in the proceedings before UEFA, the Appeals Body rejects the arguments provided by the Appellant and the latter’s interpretation of the events under scrutiny.

29. Appellant’s main assertions to exclude its responsibility pivots around the argument that it was indeed the Athletic Bilbao supporters who were extremely aggressive. Its own supporters merely acted in self-defence from the aggressiveness and violence used by the Athletic Bilbao supporters.

30. In this sense and first of all, the Appeals Body does not dispute that the supporters of Athletic Club themselves acted in a very violent way. However, this issue pertains to separate disciplinary proceedings and isn’t under evaluation at the current proceedings.
31. In any case, despite the behavior showed by the Athletic Club supporters, is the established jurisprudence of UEFA’s disciplinary bodies that previous provocation is never an acceptable justification for violence and other acts of hooliganism. Such circumstance does not exempt a club or association from responsibility. In this regard, the Appeals Body wishes to emphasize that there can never be a justification for violence at a football match in general, and at the occasion of the UEFA Europa League and UEFA Champions League in particular, UEFA’s flagship competitions.

32. Nevertheless, the acts of violence caught on camera clearly do not show mere acts of self-defence but quite on the contrary, a very aggressive and violent behavior of the Appellants supporters who themselves engage in offensive attacks against adverse supporter groups. Labelling such severe acts of hooliganism as self-defence has to be regarded not only as obviously exaggerated but also as very misguided, when looking at these video images which were provided during the CEDB proceedings. As a glimpse of the violent attitude of the Appellant’s behaviors stand the fact that latter face-off with Athletic Club supporters, throw fireworks and engage in aggressive acts of hooliganism.

33. In this context and as to the question whether the Appellant’s supporters showed an “extremely violent and aggressive attitude”, it is also and clearly not decisive whether or not any other supporters have been actually harmed, as inferred by Appellant. The Appellant’s supporters by acting in the way they did created a huge and uncontrollable risk. This is sufficient for a violation of the Article 16 (2) DR.

34. On this basis, the Appeals Body concludes that the CEDB was correct to decide that the Appellant had breached Article 16 (2) (b) (c) and (h) DR.

b. Is the sanction imposed by the CEDB disproportionate?

35. 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.

36. The Appeals Body notes that the Appellant brings forward a number of arguments claimed as mitigating circumstances, and which should warrant for a reduction of the sanction which was imposed by the CEDB. However, this disciplinary body cannot agree with such line of arguments.

37. In this regard, the Appeals Body recalls the Appellant’s argument that it has not been charged for crowd disturbances within the last seven years, which should be regarded as a mitigating circumstance. However, while the existence of a previous record constitutes and aggravating circumstance as it is stipulated in Article 25 (2) DR, the absence of previous convictions does not necessarily constitute a mitigating circumstance, given that a behavior which is in line with the rules and regulations has to be expected from everybody participating in the UEFA competitions.

38. Additionally, even though the Club was in fact not convicted for crowd disturbances in the sense of Article 16 (2) (h) DR, the Appeals Body wishes to stress that it is worth noting the list of numerous previous records of the Appellant as from the season 2016/2017 until today, namely previous convictions for throwing of objects, several times for setting off of fireworks, several times for blocking of stairways and for illicit chants and banners. All the above-mentioned violations relate to
the aggressive behavior by the Appellant’s supporters which pose a direct threat to safety and security for other spectators in and around the stadium.

39. It therefore needs to be noted that the Appellant is a repeated offender having a history of violent and prohibited behavior by its supporters. The CEDB had consequently every right and the obligation to take these violent records into account when determining the sanction in the case at hand.

40. Coming back to the argument that the Appellant’s supporters were allegedly only defending themselves and that their behavior was provoked by previous and continuous attacks form the Athletic Club supporters, the Appeals Body recalls that such line of argumentation has been already rebuked, and even if one would assume that the first blows have been thrown by the supporters of the Spanish Club, the behavior of the Appellant’s supporters exceeded in such an exorbitant way what would have been necessary for self-defence, no mitigating circumstance could derive from such circumstance.

41. It is briefly recalled that such unacceptable behavior also had very serious consequences. Police officers were injured and one policeman even died, admittedly maybe for other circumstances but still, while performing his duty. The participation of the police was made necessary as a consequence of the acts of violence displayed by both supporter groups. Likewise, a huge tumult was created around the stadium with despicable violent scenes which have no place in football, and which made the entire event unsafe for other spectators and innocent bystanders. The fact that there may not have been any criminal convictions against the Appellant’s supporters as a consequence of such hooligan activities is not a valid argument, given that the behavior of the Appellant’s supporters violating the applicable DR has been clearly established.

42. In view of all of the above, turning to the concrete sanctions imposed by the CEDB in its Decision in view of the actual offences committed by the supporters of the Appellant, the Appeals Body comes to the conclusion that the sanctions were in fact adequate and proportionate. In particular, the Appeals Body acknowledged:

- the massiveness of the violence and the acts of hooliganism committed by the Appellants supporters,
- the extreme consequences these actions had, leading to injured police man, a tragic fatality,
- the disorder, chaos and extreme violence around the stadium, tarnishing the image UEFA’s competitions, bringing UEFA in disrepute,
- in combination with the setting off of fireworks and throwing of objects,
- that the Appellant failed to present any mitigating circumstances,
- the previous record of the Appellant.
43. In view of all of the above, the Appeals Body has no other option than to dismiss the Appeal lodged by the Appellant.

VI. Costs

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

45. The appeals fee is either deducted from the costs of proceedings or reimbursed (in accordance with Article 51 (2) DR).

46. On this occasion, since the Appeal was dismissed, 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.

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

48. On these grounds, the Appeals Body

   **decides**

   1. The appeal lodged by FC Spartak Moskva is dismissed. Consequently, the UEFA Control, Ethics and Disciplinary Body’s decision of 31 May 2018 is confirmed.

   2. The costs of the proceedings, totalling €1,000 (minus the appeal fee), are to be paid by the Appellant.

Michael Maessen
Ad-hoc Chairman
Decision of 29 August 2018
FK Crvena Zvezda
(Stairways blocked; Racist behavior)

Circumstances of the case
During the match against SK Sūduva, it was reported by the Delegate that the home fans in the North stand of the stadium were standing throughout the match, blocking the stairways in the upper part of the stands. The Delegate and the FARE observer also reported that at the 83rd-84th minute, FK Crvena Zvezda’s (the “Appellant”) supporters chanted "Ratko Mladić", followed by a song with the lyrics "Mladiću moj, problem je tvoj, što si ti srpski heroj." (Eng: "My Mladić, your problem is that you are a Serbian hero.").

The Appellant did not challenge the sanction for blocking of stairways, only contesting the sanctions for the chants. The club contended that sanctioning it for the chants in favour of Ratko Mladić fail to respect the latter’s presumption of innocence, as the ICTY’s lifetime conviction is currently under appeal and subject to annulment. Moreover, the chants were not directed at anyone and are not otherwise insulting: they were of praise towards an individual. At the very least, the chants did not intend to be discriminatory, and the Appellant has already taken steps to prevent such incidents in the future.

Legal framework
Articles 14(1), (2) and (3), and Article 16(1)(e) of the Disciplinary Regulations; Article 38 of the Safety and Security Regulations.

Decision
The Appeals Body confirmed that chants in support of Ratko Mladić under these circumstances cannot be construed as praising only the individual, but also the values for which he stands as a symbol. Such chants are therefore insulting to all of the victims of the ethnical cleansing of Muslim communities and other crimes against humanities that Mr. Mladić was accused of.

However, in the absence of grounds of the prior decision under which the Appellant had been sanctioned with a match behind closed doors deferred for a probationary period, or to any other mention in said decision as to the offence for which the sanction had been imposed, the Appeals Body decided to exceptionally not enforce the deferred ban and thus to annul the second match behind closed doors imposed by the CEDB.

As a result, the Appeals Body decided to partially uphold the appeal and sanction the Appellant with one match behind closed doors and a €72,000 fine.

Ad-hoc Chairman: Michael Maessen (NED)
Vice-chairman: Levent Biçakci (TUR)
Member: Björn Ahlberg (SWE)
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 “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 24 July 2018 FK Crvena Zvezda (hereinafter the “Appellant” or the “Club”) played a match against FK Sūduva in the UEFA Champions League qualifying (hereinafter, the “Match”).

3. The Match Delegate reported the following incidents:

“The home fans at the North stand (Sever) were standing during the whole match, blocking the stairways in the upper parts of the stand.

In 84 min.: the fans were chanting "Ratko Mladić".

4. After the Match, the FARE Network observer at the Match also issued a report on the following incidents, supported by video evidence (sic):

“22:15: Approximately in the 83rd minute into the game, several thousand Crvena Zvezda supporters in the North stand started chanting "Ratko Mladić". The chant was followed by a song with the lyrics "Mladiću moj, problem je tvoj, što si ti srpski heroj." (Eng: "My Mladić, your problem is, that you are a Serbian hero.").

[...]

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 Mladić promotes ethnic hatred and is discriminatory against Bosnian Muslims.”

5. On 10 August 2018, the CEDB took the following Decision:

“1. To order the FK Crvena Zvezda to play their next (1) UEFA competition match as host club behind closed doors.

2. To enforce the originally suspended disciplinary measure of playing one (1) UEFA competition match as a host club behind closed doors decided by the Appeals Body on 1 February 2018, and,
consequently, to order the FK Crvena Zvezda to play one additional (1) UEFA competition match as host club behind closed doors.

3. To fine FK Crvena Zvezda € 72’000.

4. The above fine must be paid into the bank account indicated below within 90 days of communication of this decision.”

6. The Decision with grounds was notified to the Appellant on 13 August 2018.

7. Any other relevant facts shall be referenced further below, if necessary.

II. Summary of the proceedings before the Appeals Body

8. On 16 August 2018, the Club announced its intention to appeal against the Decision.

9. On 21 August 2018, the Appellant filed its grounds for appeal. In its statements, the Appellant, essentially, argued the following:

- As a general summary of its position, the Appellant considers that the CEDB has incorrectly applied Article 14 of the UEFA Disciplinary Regulations (“DR”) and failed to respect the presumption of innocence of Ratko Mladić, whose name was chanted by its supporters.

- While Mr. Mladić has been convicted to lifetime imprisonment by the International Criminal Tribunal for the former Yugoslavia (ICTY), such sentence is currently under appeal and subject to annulment. Therefore, The CEDB’s conclusions and ruling, which rely on the ICTY first instance ruling that has not become final and binding, violate Mr. Mladić’s presumption of innocence. This, according to the Club, leads to the nullity of the appealed Decision.

- It must be accepted that the chants are not directly insulting to anyone. UEFA accepts that they are chants of praise. There is therefore no direct insult. The CEDB reasoning is that the praise of someone who would have committed crimes against a group of individuals can be considered as insulting to that group. As there is no final judgement of conviction of Ratko Mladić nor direct insult to anyone in the wording of the chants, the offensive nature of the chant is necessarily subjective and would therefore recommend a narrow interpretation of the offensive character of the chant.

- Notwithstanding the fact that the Appellant considers that, at the very least, the chant does not intend to be discriminatory, it has nonetheless already taken steps to seek to prevent it for the future, which demonstrates its good will and determination to respect the regulations. The Appeal Body shall take into account in the case at hand that we are speaking about and dealing with an isolated and territorial restricted incident of a couple of a dozen ultras. Such chant took about one minute and was therefore timely restricted as well.

- Furthermore, the chant was only partially hearable. It was especially not hearable at the grandstand and the official TV transmission as well. Therefore, the Appellant’s representatives
had no possibility for an immediate reaction. However, the character as isolated and territorial and timely restricted incident has to be considered as mitigating factor.

10. On 27 August 2018, the UEFA Ethics and Disciplinary Inspector submitted his reply to the appeal, requesting that it be rejected, and the costs charged accordingly.

11. Any other arguments of the parties shall be addressed further below, insofar as they are relevant.

III. Hearing

12. On 29 August 2018, a hearing was held.

13. The ad-hoc Chairman of the Appeals Body opened the appeal hearing, noted the presence of the Appellant and the UEFA Ethics and Disciplinary Inspector.

14. Afterwards, the ad-hoc Chairman explained the procedure to be followed. He reminded the parties of the composition of the Appeals Body and told them that everything they and the members of 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 30(4) DR states as follows: “The Appeals Body has jurisdiction to hear appeals against decisions by the Control, Ethics and Disciplinary Body […].”

17. The Club lodged its grounds for appeal by the deadline in Article 60(3) DR and in the written form required by the same provision. The appeals fee of €1’000 (as per Article 60(4) DR) was paid on time.

18. It follows that the Appeals Body has competence to decide on the present Appeal and that the Appeal is admissible. The Appeals Body may therefore consider its merits and can therefore re-examine the case in full, both factually and legally (Article 65(2) DR).

V. Legal Considerations of the Appeals Body

A. The legal framework.

19. The UEFA Statutes, rules and regulations, in particular the DR are applicable to these proceedings.

20. In particular, the following provisions are relevant to this case:

- 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.”

- According to Article 14(1) DR, “[a]ny 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.”

- Under Article 14(2) DR, “[i]f one or more of a club’s supporters engage in the behavior described in paragraph 1, the [...] club responsible is punished with a minimum of a partial stadium closure.”

- In accordance with Article 14(3) DR, “[t]he following disciplinary measures apply in the event of recidivism: a) a second offence is punished with one match played behind closed doors and a fine of € 50,000; [...]”

- According to Article 49 of the UEFA Safety and Security Regulations (the “SSR”), “[a]ny breach of these regulations may be penalised by UEFA in accordance with the UEFA Disciplinary Regulations.”

- Article 38 SSR provides that “[t]he 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.”

- Article 45 DR establishes that “[f]acts contained in official UEFA reports are presumed to be accurate. Proof of their inaccuracy may, however, be provided.”

- Article 25(1) DR stipulates that “[r]ecidivism occurs if another offence of a similar nature is committed within: [...] c. two years of the previous offence if that offence was related to order and security at UEFA competition matches; d. three years of the previous offence in all other cases.”

B. In the case in hand

21. From the case file, the Appeals Body finds that this case is about supporters who during a UEFA Europa League match chanted “Ratko Mladić” as well as the following lyrics: “Mladiću moj, problem je tvoj, što si ti srpski heroj.” (Eng: “My Mladić, your problem is that you are a Serbian hero.”).

22. The club contest the entirety of the charges pressed against them. It sustains mainly the following arguments:

1. The decision of the ICTY is not final and the presumption of innocence in favour of Ratko Mladić must prevail.
2. The chants are not discriminatory for the purposes of Article 14 DR.
3. The nature of the alleged offence and the preventive initiatives already taken by the Club justify a reduction of the standard sanction or its suspension.

23. In order to address the aforementioned elements, the following questions need to be examined in the current proceedings:

   a) Are the chants of a racist/discriminatory nature or merely political?
   b) Are there any mitigating factors which would justify a different sanction?

24. The above questions are analysed below:

   a. Are the chants of a racist/discriminatory nature or merely political?

25. The Appeals Body notes that the issue about the nature of the chants is most likely the most relevant question in the current proceedings. Everything goes down to one question: are messages venerating an individual convicted before by the ICTY for genocide of a discriminatory nature towards the ethnic group who has been the victim of these atrocities?

26. The Club's line of arguments states that the context has not been taken fully into consideration since the decision against Ratko Mladić is still not final and he deserves to enjoy the presumption of innocence.

27. As a preliminary remark, the Appeals Body observes that these proceedings have not been opened against Ratko Mladić but against the Appellant for the potential misbehavior of its supporters. It follows that, even though the proceedings against Ratko Mladić may well be ongoing, the situation under examination is if the chants in support of this individual made during the Match by the Appellant’s fans constitute a violation of Article 14 DR.

28. Having considered the evidence on file, the Appeals Body first notes that it has remained undisputed that the Appellant’s supporters chanted the name and a song glorifying Ratko Mladić during the Match. This is further confirmed by the video of the incident provided by the FARE observer. This fact shall therefore be considered proven.

29. Turning to the nature of the referenced chants, in the Appeals Body’s view these are to be considered discriminatory in the sense of Art 14 DR, for the reasons set out below.

30. Firstly, while noting that the ICTY’s conviction of Mr. Mladić is not yet final, the Appeals Body finds that this does not preclude this disciplinary body from evaluating how chants supporting this individual are perceived by a reasonable and objective observer, this being the test that must be passed pursuant to the constant jurisprudence of UEFA’s disciplinary bodies and CAS (see CAS 2013/A/3139, para. 67).

31. The Appeals Body cannot look away from the fact that Mr. Mladić is notoriously known worldwide for his participation in the Balkan wars in the early nineties, and for being accused of heinous crimes such as genocide, war crimes and crimes against humanity, including the massive killing and execution of Bosnian Muslims and Bosnian Croats. Recalling that it is not for this disciplinary body to determine Mr. Mladić’s guilt or not, as he is not the subject of these disciplinary proceedings, it is
telling for this panel that the ICTY, having evaluated all the evidence against him, sentenced him to life imprisonment, having established the following (as also quoted by the CEDB in the Decision):

"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’. [...] Mladić 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. Mladić was found guilty of persecution, extermination, murder, deportation, and the inhumane act of forcible transfer."  

32. In light of the above facts which are notorious, this disciplinary body is comfortably satisfied that an objective and neutral observer would conclude that the chants praising Ratko Mladić are insulting to all of the victims of the ethnical cleansing of Muslim communities and other crimes against humanities that Mr. Mladić was accused of. The Appeals Body further observes that the chants in this case cannot be construed as only praising Mr. Mladić as an individual, but they must rather be understood as supporting the values that Mr. Mladić stands for as a symbol. Such values, in the eyes of this disciplinary body, fall under the scope of Art. 14(1) DR, being both insulting to the human dignity from an ethnic and a religious perspective.

33. The above conclusion, in the Appeals Body’s opinion, neither affects Mr. Mladić’s presumption of innocence, nor is it affected by this individual’s pending appeal against his conviction by the ICTY.

34. Finally, this disciplinary body wishes to highlight that, while the chants performed by the Club’s supporters could, in principle, be considered political in nature and thus constituting a potential violation of Article 16(2)(e) DR, it finds that the particular circumstances surrounding Ratko Mladić and his infamy leave no doubt that the violation falls rather under the more specific provision of Article 14 DR, which is a lex specialis prevailing over Article 16(2)(e) DR.

35. In light of the foregoing, the Appeals Body finds that the chants by the Appellant’s supporters praising Ratko Mladić constitute an infringement of Article 14 DR, and the Club shall be sanctioned accordingly.

b. Are there any mitigating factors which would justify a different sanction?

36. It is the Appeals Body’s constant 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. In the opinion of the Appeals Body, none of this applies here.

37. Considering the offenses committed by the Appellant and confirmed by this Appeals Body, this disciplinary body believes the CEDB 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.

38. The Appeals Body wishes to recall two things: (i) the zero tolerance policy with regard to racist behavior was reinforced by the Resolution adopted at the XXXVII Ordinary UEFA Congress in London on 24 May 2013, and (ii) since the implementation of the 2013 edition of the DR (and as subsequently confirmed again in the next editions of the DR), UEFA’s fight against racist behavior entered a new era. This has resulted in more severe sanctions being imposed in respect of racist behavior.

39. Having concluded that the Appellant violated Article 14(1) DR, the Appeals Body turns to analyse the adequate sanction under that provision. In this sense, looking at the Club’s previous records, the Appeals Body notes that this appears to be the third violation of Article 14 DR by the Appellant during the past three years (Article 25(1)(d) DR).

40. However, the Appeals Body has also noticed that the last case in which the Appellant was prosecuted under Article 14 DR resulted in the partial admission of the appeal on 1 February 2018 and the imposition of one match behind closed doors suspended for a probationary period of two years. Yet that decision, whose grounds were not requested, does not mention the offence for which the Appellant was finally charged by that panel.

41. Although this Appeals Body would in principle be willing to consider that the previous decision was based on Article 14 DR (because the proceedings were based on this provision and no information to the contrary exists), this disciplinary body finds that, in light of the uncertainty caused by the absence of grounds of the prior decision and of any mention as to the violation finally determined by that panel, it shall exceptionally not enforce the suspended sanction of a match behind closed doors imposed in the decision of 1 February 2018.

42. Having found that the precedent of 1 February shall not be considered as such in this particular case, the Appeals Body finds that, under these exceptional circumstances, the violation of Article 14 DR in the case at hand shall be considered the Appellant’s second for the purposes of applying the standard sanctions foreseen in that provision.

43. Because Article 14(3)(a) DR determines that "a second offence is punished with one match played behind closed doors and a fine of €50,000", this disciplinary body finds that this sanction shall be applied for the Club’s violation of Article 14(1) DR.

44. Finally, although it has remained uncontested by the Appellant, the Appeals Body finds that the evidence on file and, in particular, the official reports of the Match, which are presumed accurate pursuant to Article 45 DR, leads to unequivocally conclude that the Appellant has also breached Article 38 SSR due to the blocking of stairways. Focusing on the sanction for this particular violation, considering that the Appellant has been sanctioned six times in the past two years for infractions of this nature (Article 25(1)(c) DR), the Appeals Body finds that the fine of €22'000 imposed by the CEDB for this offence is not disproportionate, and it is therefore confirmed.

45. On the basis of the above, the Appeals Body partially upholds the appeal, amends the Decision and finds that the Appellant shall be sanctioned with one match behind closed doors and a €72'000 fine.
VI. Costs

46. According to Article 51(2) DR “[t]he allocation of the costs of proceedings before the Appeals Body depends on the outcome of those proceedings. [...] [T]he Appeals Body decides at its own discretion how the costs of proceedings 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.”

47. It is considered justified to charge the costs of this case evenly between the Appellant and UEFA.

48. Consequently, the costs of the proceedings are €4'000 to be paid in equal shares by the Appellant and UEFA. Therefore, the Appellant shall pay €2'000 (minus the appeal fee of €1’000 already paid) and UEFA shall pay €2’000.

On these grounds, the Appeals Body

**decides**

1. The appeal lodged by FK Crvena Zvezda is partially accepted. Consequently, the UEFA Control, Ethics and Disciplinary Body’s decision of 10 August 2018 is amended as follows:
   1. **To order FK Crvena Zvezda to play one (1) UEFA competition match as host club behind closed doors for the racist behavior of its supporters.**
   2. **To fine FK Crvena Zvezda € 72’000.**
   3. **The above fine must be paid into the bank account indicated below within 90 days of communication of this decision.**

2. The costs of the proceedings, totalling €4’000, are to be paid in equal shares by the Appellant (minus the appeal fee) and UEFA.

3. The Football Association of Serbia is jointly and severally liable for the payment of the fine and the costs of the proceedings.

Michael Maessen
Ad-hoc Chairman

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VAT Number in Switzerland : CHE-116.317.087
Fiscal number in Switzerland / canton de Vaud: 21 652
Case Law - July to December 2018

Decision of 29 August 2018
Athletic Club

(Setting off of fireworks; Throwing of objects; Crowd disturbances; Insufficient organization)

Circumstances of the case
In this case, it was reported that aggressive altercations took place outside the stadium, involving both teams’ supporters. These incidents involved violent confrontations and the throwing of objects (fireworks, flares, bottles, etc.). Said confrontations, which resulted in several supporters of both teams and police officers being injured, led to several arrests. Additionally, Athletic Club (the “Appellant”) was also found liable for insufficient organisation in light of its failure to implement adequate security measures inside and around the stadium.

The Appellant has argued, in sum, that it cannot be held liable because the public authorities or the police did not perform their duties in a proper manner, only being liable for the conduct of its own security staff. Although the match had not been declared as high risk by the competent authorities, the Appellant introduced extraordinary measures of law and order inside its stadium. Regarding the incidents outside the stadium, none of those arrested was a member of the Appellant nor carried a ticket to the match, and they can therefore not be considered as supporters of the Appellant. The club believes that in light of the circumstances, no disciplinary measure should be imposed or, at the least, the fine should be considerably reduced.

Legal framework
Articles 16(1), 16(2)(b), (c) and (h) of the Disciplinary Regulations.
Article 33(2) of the Safety and Security Regulations.

Decision
The Appeals Body confirmed the strict liability of the Appellant for the behavior of its supporters (identified as such through the “objective onlooker” test), as well as its responsibility for the lack of order and security at the match in question. Under those circumstances, the Appeals Body found the sanctions proportionate and decided to reject the appeal and confirm the CEDB’s decision.

Ad-hoc Chairman: Michael Maessen (NED)
Vice-chairman: Levent Biçakci (TUR)
Member: Björn Ahlberg (SWE)

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 “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 22 February 2018 Athletic Club (hereinafter also referred to as the “Appellant”) played a match against FC Spartak Moskva in the UEFA Europa League Round of 32 (hereinafter, the “Match”).

3. The Match Delegate reported the following incidents:

“The security in the stadium was ok, but aggressive to away fans with the body search. Also the behavior of the local police was aggressive, standing in line with helmets and guns. But that was outside the stadium. Before the match in the city one police officer died on duty by natural cause. There were some incidents before the game outside the stadium. $ Spartak fans has been arrested and 5 Athletic fans has been arrested. 9 police officers has been injured on duty.” (sic)

4. On 1 March 2018, the UEFA Ethics and Disciplinary Inspector (the “EDI”) initiated an investigation of the reported incidents, in accordance with Article 31 of the UEFA Disciplinary Regulations (the “DR”).

5. On 22 March 2018, upon request of the UEFA Disciplinary and Ethics Unit, the Spanish National Commission Against Violence, Racism, Xenophobia and Intolerance in Sport forwarded an official report of the Spanish National Police (the “Police Report”) to the EDI on behalf of the Basque Police.

6. On 2 May 2018, the EDI submitted his report on the referenced incidents (the “EDI Report”), concluding, in sum, that the Appellant had committed violations of Articles 16(1), 16(2)(b), 16(2)(c) and 16(2)(h) DR. As a result, the EDI recommended that Athletic Club be sanctioned with a €40'000 fine and a partial stadium closure for its next home match.

7. On 31 May 2018, the CEDB took the following Decision:

“1. To fine Athletic Club € 40´000.

2. To order the partial closure of the Athletic Club Stadium during the next (1) UEFA competition match in which Athletic Club would play as the host club. The Athletic Club shall inform at least 30 days prior to the match, the sector(s) to be closed, which shall at least comprehend 2’000 seats. [...]”

8. The Decision with grounds was notified to the Appellant on 19 June 2018.

9. Any other relevant facts shall be referenced further below, if necessary.

II. Summary of the proceedings before the Appeals Body

10. On 22 June 2018, the Club announced its intention to appeal against the Decision.

11. On 27 June 2018, the Appellant filed its grounds for appeal. In its statements, the Appellant, essentially, argued the following:

- A distinction should be made between the responsibility for the supporters' actual behavior and organisational liability.
- As per the offence of insufficient organisation, the Appellant states that: “[t]he EDI report precisely bases this offence on the attribution to Athletic Club of legal competences outside the stadium that it does not have.”

- The Appellant believes that it may indeed be held liable for the behavior of its own security staff, but it cannot in any way be held liable only because UEFA considers that the public authorities or the Police did not perform their duties in a due and proper manner.

- Athletic Club recalls that pursuant to Spanish legislation, it is liable as a club for law and order inside the stadium, but it does not have any competences outside given that it involves a public area that falls under the responsibility of the public authorities. According to its national legislation, a private party such as Athletic Club may not intervene outside the stadium and does not even have access to official reports.

- Even though the Match had not been declared a high risk by the Spanish National Commission Against Violence, Racism, Xenophobia and Intolerance in Sport, Athletic Club introduced extraordinary measures of law and order inside its stadium, as acknowledged in its report by Prosegur, the private security company at the Match, and by the UEFA Delegate’s report.

- While the CEDB found that the incidents were to be treated separately, giving rise to three different offences being allegedly committed by the Appellant, these were in fact all part of a single incident and should therefore have been treated as a single violation.

- None of those arrested was a member of Athletic Club, and none carried a ticket to enter the stadium. The persons involved in the incidents can therefore not be considered supporters of the Appellant. In fact, the altercations did not involve solely supporters of the two clubs, as other people from outside the world of football took part in the incidents for ideological reasons. It therefore cannot be maintained that the principle of strict liability should be attributed solely to supporters of Athletic Club, but instead the altercations were more of an ideological nature than between supporters.

- As to the fine proposed by the EDI of €40’000, which was finally applied by the CEDB, the Appellant claims that no explanation is provided for this amount, although noting that two circumstances are mentioned:

  o Incidents outside the stadium that have already been addressed and whose reasoning is reiterated. Mainly, the Appellant believes that its responsibility should be reduced.

  o Non-identification of the supporters of Spartak Moskva that fired pyrotechnics (4 or 5 according to the EDI Report).

- The Appellant concludes that in view of the special circumstances involved, which went beyond a mere clash between supporters to become an ideological confrontation, as well as Athletic Club’s absence of legal competences outside the stadium pursuant to Spanish legislation, no disciplinary measure whatsoever should be imposed, or if so, the fine should be considerably reduced from the amount imposed in the Decision.
12. On 19 July 2018, the EDI submitted his reply to the appeal, requesting that it be rejected and the costs charged accordingly.

13. Any other arguments of the parties shall be addressed further below, insofar as they are relevant.

III. Appeals Body Competence and Admissibility of the Appeal

14. Article 30(4) DR states as follows:

“The Appeals Body has jurisdiction to hear appeals against decisions by the Control, Ethics and Disciplinary Body [...].”

15. The Appellant lodged its grounds for appeal by the deadline in Article 60(3) DR and in the written form required by the same provision. The appeals fee of €1’000 (as per Article 60(4) DR) was paid on time.

16. It follows that the Appeals Body has competence to decide on the present Appeal and that the Appeal is admissible. The Appeals Body may therefore consider its merits and can therefore re-examine the case in full, both factually and legally (Article 65(2) DR).

IV. Legal Considerations of the Appeals Body

A. The legal framework.

17. As per Article 5(a) DR, the UEFA Statutes, rules and regulations, in particular the DR, are applicable to these proceedings.

18. In particular, the following provisions are relevant to this case:

- 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.”

- According to Article 16(1) DR: “[...] lost 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.”

- Pursuant to Article 16(2) DR, “[...] clubs are liable for the following inappropriate behavior 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;

- Article 45 DR establishes that “[f]acts contained in official UEFA reports are presumed to be accurate. Proof of their inaccuracy may, however, be provided.”

- According to Article 6.01(e) of the Regulations of the UEFA Europa League (2017/18 Season) [hereinafter, the “UEL Regulations”], “[o]n entering the competition, participating clubs agree: [⋯] e. to observe the UEFA Safety and Security Regulations for all matches in the competition.”

- As per Article 1 of the UEFA Safety and Security Regulations (the “SSR”), “[t]hese regulations apply whenever expressly referred to by specific regulations governing a competition to be played under the auspices of UEFA” and “[t]hey govern the organisational measures intended to ensure safety and security in and around the stadium before, during and after every match in the competition concerned”.

- Article 33(2) SSR provides that “[f]inal screening and searches must be carried out by security personnel outside the turnstile entrances to ensure that: [...] (b) spectators do not bring any objects/substances into the stadium that are likely to be used in acts of violence, or alcohol or fireworks of any kind.”

- According to Article 49 SSR, “[a]ny breach of these regulations may be penalised by UEFA in accordance with the UEFA Disciplinary Regulations.”

B. In the case in hand

19. From the case file, the Appeals Body finds that this case is about violent incidents which occurred outside the stadium prior to the Match involving, among others, the Appellant’s supporters. Fans from both clubs were arrested, and nine police officers were injured on duty as a result of the incidents. Moreover, the case involves the use of pyrotechnics and the throwing of objects by the Appellant’s supporters within the scope of the crowd disturbances.

20. In sum, the legal issue is raised around four main elements:

a) Were the perpetrators of the violent incidents outside the stadium supporters of the Appellant?

b) If so, is the Appellant responsible for the incidents perpetrated by its supporters at the occasion of the Match?

c) Is the Appellant responsible for the lack of order and security at the Match?
d) Is the sanction imposed by the CEDB disproportionate or are there any mitigating factors which would justify a lower sanction?

21. The above questions are analysed below:

a. Were the perpetrators of the violent incidents outside the stadium supporters of the Appellant?

22. The Appellant raises doubts as to the identification of the perpetrators as its own supporters, mainly due to the fact that none of the persons arrested was a member of Athletic Club or carried a ticket to the Match, and that the altercation allegedly also involved persons from outside the world of football who participated for ideological reasons.

23. However, in the case at hand, this UEFA disciplinary body cannot accept the Appellant’s attempt to perceive the perpetrators of the crowd disturbances as individuals foreign to Athletic Club. On the contrary, the Appeals Body is comfortably satisfied that the incidents under scrutiny were caused by the Appellant’s supporters, for the reasons set out below.

24. This disciplinary body firstly recalls that CAS jurisprudence on the notion of supporters is straightforward. Briefly, the only way to ensure that responsibility is to leave the term “supporters” undefined in the DR, so that clubs know that these regulations apply to, and they are responsible for, any individual whose behavior would lead a reasonable and objective observer to conclude that he or she was a supporter of that club. The behavior of individuals and their location in the stadium and its vicinity are important criteria for determining which team or club they support. (See amongst others CAS 2007/A/1217).

25. It results from the above that the key element to define an individual or group of persons as supporter(s) lies on the conclusion that an objective observer would reach in this respect.

26. It derives from the case file that the Match Delegate’s report, which is presumed accurate pursuant to Article 45 DR, expressly refers to supporters of Athletic Club as having taken part in the incidents and been arrested.

27. Moreover, the Appellant itself has confirmed the participation of its supporters in the altercations outside the stadium, merely asserting that these did “not involve solely supporters of the two clubs”.

28. The Appeals Body is further comforted in its conclusions that the Appellant’s supporters were involved in the referenced crowd disturbances by the fact that both the Police Report and the report from the Appellant’s private security company Prosegur expressly state that the altercations involved supporters from both clubs (i.e. including Athletic Club’s).

29. It can only be concluded, and this disciplinary body confirms, that an objective observer would identify the perpetrators of the crowd disturbances as including, among others, Athletic Club’s supporters who fought with rival fans, threw objects and used pyrotechnics outside the stadium.

b. Is the Appellant responsible for the incidents perpetrated by its supporters at the occasion of the Match?

30. Having determined that the reported incidents involved the Appellant’s supporters, this disciplinary body now turns to the question of whether Athletic Club is to be found responsible for such incidents.
31. The Appeals Body observes that the Appellant does not question the principle of strict liability which, as described in Articles 8 and 16(2) DR, establishes that it shall be held liable for the conduct of its supporters, even if it is not at fault itself. Indeed, this disciplinary body recalls that such a strict liability of the clubs for the misbehavior of their supporters is a well-established CAS jurisprudence (in this regard, for example, see case CAS 2002/A/423 PSV Eindhoven).

32. Further, Article 16(2)(h) DR, establishes that clubs are liable for “any other lack of order or discipline observed inside or around the stadium”. It follows that the responsibility of a club for the misbehavior of its supporters is not restricted to the inner bounds of the stadium but extended to those misconducts occurred around the stadium at the occasion of a UEFA competition match.

33. With this being established, after a careful and thorough analysis and evaluation of the video evidence at hand as well as of the arguments provided by both the Appellant and the EDI in the proceedings before UEFA, the Appeals Body rejects the arguments provided by the Appellant and the latter’s interpretation of the events under scrutiny, and confirms the Appellant’s liability for its supporters’ misconduct, namely for committing violations of Articles 16(2)(b), 16(2)(c) and 16(2)(h) DR.

c. Is the Appellant responsible for the lack of order and security at the Match?

34. As for the responsibility for the organisation of the Match, the Appellant claims that, pursuant to Spanish legislation, it does not have any competences outside the stadium given that it involves a public area that falls under the responsibility of the public authorities. According to its national legislation, a private party such as Athletic Club may not intervene outside the stadium and does not even have access to official reports. Nevertheless, the Appellant states that it undertook extraordinary measures, as acknowledged by Prosegur, the private security company at the Match in its report.

35. This Appeals Body firstly recalls that, contrary to the Appellant’s assertion, pursuant to Article 16(1) DR, “[h]ost clubs […] are responsible for order and security both inside and around the stadium before, during and after matches.” (emphasis added)

36. Furthermore, it results from Articles 1(2) and 8 SSR that the organisational measures set out in those regulations are intended to ensure safety and security both “in and around” the stadium (Article 1(2) SSR) and that the duty of any club hosting a UEFA Europa League match to cooperate with the police and ensure that there is sufficient security personnel at the match applies “within the stadium, in its surrounding environs and along the routes leading to and from the stadium” (Article 8 SSR).

37. Against this background, all clubs hosting a UEFA Europa League match, as was the Appellant in the case at hand, are responsible for order and security also around the stadium. It therefore lied on the Appellant to ensure order at the Match, in accordance with the SSR that establish the conditions under which such responsibility is to be carried out.

38. Moreover, even considering, arguendo, that the Appellant could not have competences outside of its stadium, despite its disciplinary responsibility as Match organiser, this disciplinary body recalls that it is precisely in light of these situations that Articles 6 and 8 SSR establish the duty of match organisers to cooperate with the public authorities and to ensure that there are sufficient security personnel at the match.

39. The inobservance of the above-mentioned provisions results in a disciplinary offence for lack of safety and security measures at the Match.
After careful examination of the incidents under scrutiny, it is obvious to this Appeals Body that Athletic Club did not take the appropriate measures to ensure order and security both inside and outside its stadium. This conclusion arises not only from the Appellant’s failure to contain the incidents outside the stadium, but also from the fact that FC Spartak Moskva supporters managed to introduce a very large number of pyrotechnic devices into the stadium, denoting the inadequate observance of Article 33(2)(b) SSR.

This disciplinary body therefore confirms that the Appellant has also breached Article 16(1) DR and Article 33(2)(b) SSR through its inadequate implementation of the SSR resulting in the insufficient organisation of the Match.

d. **Is the sanction imposed by the CEDB disproportionate or are there any mitigating factors which would justify a lower sanction?**

It is the Appeals Body’s constant practice to consider the CEDB’s power of discretion to have been abused or exceeded if the latter 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.

Notably, the seriousness of the incidents outside the stadium shall be highlighted. Such despicable actions of hooligans are completely unacceptable in UEFA competitions and deserve severe sanctions. This disciplinary body finds that such actions can only be addressed with strong disciplinary measures.

The Appeals Body recalls that UEFA has a strict zero tolerance policy against hooliganism, which is a cancer that must be eradicated from football, as confirmed by CAS on several occasions (see CAS 2007/A/1217, para. 12.9). In this sense, the Appeals Body finds particularly serious the assault on rival supporters outside of the stadium, which resulted in injuries to fans of both clubs as well as to the police forces that were there to dissipate the situation. The Appeals Body also recalls the seriousness of using and throwing pyrotechnic devices and other objects such as stones and bottles amidst a chaotic situation, which further endangered the physical integrity of the persons in the area. In the Appeals Body’s view, only these incidents could already justify the imposition of a harsher sanction.

In this regard, the Appeals Body recalls that while the existence of a previous record constitutes an aggravating circumstance as it is stipulated in Article 25(2) DR, the absence of previous convictions does not necessarily constitute a mitigating circumstance, given that a behavior which is in line with the rules and regulations has to be expected from everybody participating in the UEFA competitions.

It is briefly recalled that such unacceptable violent behavior displayed by the Appellant’s supporters also had very serious consequences. Police officers were injured and one policeman even died, admittedly maybe for other circumstances but still, while performing his duty. The participation of the police was made necessary as a consequence of the acts of violence displayed by both supporter groups. Likewise, a huge tumult was created around the stadium with despicable violent scenes which have no place in football and which made the entire event unsafe for other spectators and innocent bystanders, as proven by the fact that supporters of both clubs were also injured.

The Appellant’s case is further aggravated by the fact that, as host club, it did not implement the adequate measures to ensure order and security inside and around its stadium before and during the Match.
48. The Appeals Body finds that the sanction imposed by the CEDB in the Decision, namely a €40'000 fine and a partial stadium closure, to be appropriate in light of the circumstances of the case and the very serious nature of the offences committed, and it sees no reason to deviate from such disciplinary measures. In particular, and as described in the preceding paragraphs, the Appeals Body concludes that the circumstances put forth by the Appellant, which have been carefully addressed, cannot be considered mitigating in this case, and this disciplinary body finds no reason to reduce the Appellant's responsibility for the incidents at the Match or to otherwise amend the fine.

49. In view of the foregoing, the Appeals Body rejects the appeal and confirms the Decision.

V. Costs

50. According to Article 51(2) DR, "[t]he 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 the costs of proceedings 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."

51. In this case, considering that the appeal is dismissed in its entirety, it is considered justified to charge the costs of this case to the Appellant.

52. Consequently, the costs of the proceedings totalling €1’000 (minus the appeal fee) are to be borne by the Appellant.

On these grounds, the Appeals Body

decides

1. The appeal lodged by Athletic Club is dismissed. Consequently, the UEFA Control, Ethics and Disciplinary Body’s decision of 31 May 2018 is confirmed.

2. The costs of the proceedings, totalling €1’000 (minus the appeal fee), are to be paid by the Appellant.

3. The Royal Spanish Football Federation is jointly and severally liable for the payment of the fine and the costs of the proceedings.

Michael Maessen
Ad-hoc Chairman
Decision of 20 September 2018

Olympique Lyonnais

(Setting off of fireworks; Throwing of objects; Crowd disturbances; Racist behavior; Stairways blocked)

Circumstances of the case

The official reports of the match in question referred to an attack by Olympique Lyonnais (the “Appellant”) ultras against a police car outside the stadium, with injuries being inflicted on two police officers. The Appellant’s ultras were also reported as using a significant number of pyrotechnics during said attack. During the match, a lighter and several paper balls were thrown onto the pitch, and stairways were partially and continuously blocked. Finally, according to the FARE observer at the match, a small group of the Appellant’s supporters displayed a flag containing a Nazi SS Totenkopf skull and performed Nazi salutes at approximately the 20th minute of the match. Several minutes later, the same group of supporters physically launched an attack on a black supporter sitting next to them, after which they again displayed the referenced Nazi flag.

The Appellant has, inter alia, admitted that, with the exception of the alleged racist assault, the reported incidents did occur. However, the Appellant contested its liability for incidents that took place outside the stadium and beyond the perimeter under its control, by persons who could not be qualified as supporters, which therefore could not fall under the scope of Articles 8 and 16 of the Disciplinary Regulations. As for the racist conduct, the Appellant alleged that the SS Totenkopf banner was small in size and brandished only once by a small group of fans, who also performed the Nazi salutes surreptitiously. However, the Appellant rejected the racist nature of the assault on an individual inside its stadium, claiming that the situation arose from a confusion in the seating arrangement and was not racially motivated. Finally, the Appellant stated its belief that the sanction imposed by the CEDB was disproportionate in light of the circumstances of the case.

Legal framework

Article 14(1), (2) and (3), Article 16(2)(b), (c) and (h) of the Disciplinary Regulations.
Article 38 of the Safety and Security Regulations.

Decision

The Appeals Body confirmed the strict liability of the Appellant for the incidents occurred both outside and inside the stadium during the match, including the racist nature of the assault in the stands. The Appeals Body also found that the sanction imposed by the CEDB, namely two matches behind closed doors (with the second deferred for a probationary period of two years) and a €100,000 fine, to be proportionate. The appeal was rejected and the CEDB’s decision confirmed.

Chairman: Pedro Tomás (ESP)
Vice-chairmen: Michael Maessen (NED)
Levent Biçakci (TUR)
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 “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 15 March 2018 Olympique Lyonnais (hereinafter the “Appellant” or “OL”) played a match against PFC CSKA Moskva in the UEFA Europa League (hereinafter, the “Match”).

3. The Match referee reported the following incident:

   “Lighter thrown in minute 53 from Lyon fans from North stand.”

4. The Match delegate reported the following incidents:

   “Some incidents happened before the kick off, behind the North Stand. 2 Policemen were injured one of them went to the hospital the other one to the local Red Cross. Information that I receive from our security Officer. Min 53 throwing of one lighter (North stand) on the pitch on the left side of the visiting goal keeper. Also 3 or 4 paper balls were thrown during the second half on the same place. Min 64 throwing of 3 to 4 paper balls from the south stand also on the left of the local goal keeper. Min 88 once again 3 to 4 paper balls were thrown from the south stand.

   In the south stand the fairways where blocked between Bloc 119, 120, 121, 122, 123. In the north stand the fairways where blocked between Bloc 106, 105, 104, 103, 102, 101. As previously explained OL Ultras attacked 2 police officers outside the stadium entrance to the North Tribune. 3 arrests and enquiries ongoing to identify others involved in the fracas.”

5. The UEFA Security Officer at the Match reported as follows:

   “About 20.25 hours a large number of OL Ultra fans were approaching the North Stand entrances. There was a police car with 2 officers parked on the concourse. As the OL fans approached they suddenly attacked the police car attempting to overturn it. The 2 police officers were taken from the car and assaulted by the OL fans. The police officers retaliated with batons and CS gas but were pushed to the ground and punched and kicked. The were injured and subsequently 1 officer was taken to hospital with cuts and bruises the other officer received medical first aid at the stadium for an injury to his hand, The OL ultras used a significant number of pyrotechnics during the attack and other explosive devices. 3 ultras were later arrested during the match from the North tribune. They are detained by police and will be interrogated to understand how the incident happened. OL will follow up on CCTV enquiries to identify other persons involved.

   It is unfortunate that it was their own fans for whatever reason decided to attack the police at the stadium. However the club dealt with the incidents in a controlled and professional manner and stewards were very brave facing up to hooligan fans who were throwing items including barriers at them. Unfortunately the OL ultra fans decided for whatever reason to attack 2 police officers in a car on the stadium campus. This was a serious incident that lasted over 10 minutes and included 1 officer being hospitalized.”
Many pyrotechnics and other explosive devices were used and police had to use CS gas to restore order. The stadium security team coped very well with his unexpected incident and the stewards were excellent and tried hard to deal with an unprovoked attack on them. 53rd minute referee reported a lighter thrown onto the pitch in front of the north tribune also 3 to 4 paper balls. 64th minute further 3 to 4 paper balls thrown onto to pitch from south tribune. 88th minute 3 to 4 paper balls thrown onto pitch from south tribune.

In the North Tribune lower tier Sectors 101 to 106 were partially blocked. This had been previously discussed and stewards worked tirelessly to keep them clear but fans repeatedly stood in them and had to move continuously. Sectors 119 to 123 in the South Tribune were exactly the same scenario.”

6. The FARE Network observer at the Match also issued a report on the following incidents, providing supporting supported by photo and video evidence:

“Approximately in the 20th minute into the game a small group of Olympique Lyonnais supporters in Sections approximately 17-19 displayed a small flag featuring a Nazi SS Totenkopf skull, waved it and took photographs with it. Individual Olympique Lyonnais supporters in the same section were witnessed performing right-hand Nazi salutes.

Several minutes later, the same group of Olympique Lyonnais supporters in Section 17-19 front rows launched a physical attack on a black supporter next to them in what appears to be a racially motivated attack. Several stewards intervened to stop the attack and later ejected the victim. After the attack, the same group of people were again displaying the flag featuring a Nazi SS Totenkopf skull and taking photographs with it.”

7. On 23 August 2018, the CEDB took the following Decision:

“1. To order Olympique Lyonnais to play their next two (2) UEFA competition matches as host club behind closed doors. The second match as host behind closed doors is deferred for a probationary period of two (2) years.

2. To fine Olympique Lyonnais € 100’000.

3. The above fine must be paid into the bank account indicated below within 90 days of communication of this decision.”

8. The Decision with grounds was notified to the Appellant on 31 August 2018.

9. Any other relevant facts shall be referenced further below, if necessary.

II. Summary of the proceedings before the Appeals Body

10. On 3 September 2018, OL announced its intention to appeal against the Decision.
11. On 10 September 2018, the Appellant filed its grounds for appeal. In its statements, the Appellant, essentially, argued the following:

- With the exception of the alleged racist assault against one of its supporters, OL does not question the incidents that took place on the occasion of the Match. However, the Appellant fully contests being held liable for events that occurred outside of the stadium and beyond the perimeter under its control. It also contests the severity of the sanction imposed in the Decision.

- Concerning the principle of strict liability that was applied to it, OL finds that the alleged disciplinary violations were committed by persons who cannot be qualified as ‘supporters’ and outside of its stadium’s perimeter, and therefore cannot fall under the scope of Arts. 8 and 16 DR.

- The club stresses that the incidents outside of the stadium did not take place in its immediate vicinity, but rather in the public transit zones, near the tramway station (i.e, beyond the area under its control). The Appellant further finds that this area is sufficiently far from the stadium not to be considered as its ‘immediate vicinity’, and that it could not intervene to stop the incidents, pursuant to French law, which leaves this action to the police forces. Because the principle of strict liability can, according to the Appellant, only cover incidents which occurred within the perimeter of its stadium, it can therefore not be held liable for those incidents that took place beyond this scope.

- Nevertheless, OL confirms that it has managed to identify at least seven of the perpetrators of the disturbances with the police outside the stadium, who have been convicted and excluded from life from entering its stadium.

- As for the racist behavior of alleged OL supporters in sectors 17-19, the Appellant draws the attention to the small size of the SS Totenkopf banner that was only brandished once by a small group of fans. Regarding the Nazi salutes, OL also highlights that the perpetrators were a small group who took advantage of the gestures of support by other fans to surreptitiously make these unacceptable gestures.

- However, the Appellant fully rejects the racist nature of the incident with the OL supporter in that same area and draws the attention to the fact that the incident was supposedly not racially motivated, but rather arose from a confusion of the seat that had been assigned to the victim of the attack. The Appellant provides a statement from the victim detailing the attack and explaining how he was asked to move away, and also a statement from a security employee stating his belief that the incident was caused by a confusion with the seating arrangement.

- The Appellant further rejects the discriminatory nature of the incident considering that the victim of the attack was accompanied by a Caucasian supporter who was also targeted by the assailants. In sum, the Appellant believes that these persons were simply at the wrong place, and they were therefore strongly chased away by its ultras in that sector for reasons unrelated to race.
- Regarding the objects thrown by its supporters, the Appellant recalls that it strongly condemns such actions. However, it also recalls that paper balls do not constitute actual projectiles, and that their throwing towards the pitch did not cause any danger that could be considered as an aggravating circumstance, as it did not even interrupt the course of the Match. As for the throwing of a lighter, the Appellant followed its policy of pursuing such incidents and was able to help identify and sanction the person responsible for the action, who has been banned from its stadium until 30 June 2020.

- As for the violation of the safety and security regulations, the Appellant agrees that it is essential that stairways aren’t blocked but finds that it is a normal occurrence that on occasions such blocking occurs, and that its stewards did everything possible to solve the problems.

- Finally, in consideration of the above arguments, the Appellant believes that the sanction imposed by the CEDB is completely disproportionate to the offences that it accepts having committed (i.e., the display of the SS Totenkopf banner, the performance of Nazi salutes, the throwing of objects and blocking of stairways). The Appellant also refers to the impact on such sanction both on the finances and the reputation of the club, as it had no choice but to start the sale of Champions League tickets during the summer, for commercial purposes. If the match behind closed doors were to be applied, the resulting loss would reach EUR 3’000’000, which OL finds disproportionate.

- In light of the foregoing, the Appellant requests that the Decision is annulled and that a more proportionate sanction is imposed, not going beyond a partial closure of its stadium in a sector to be determined, suspended on a probationary period of one year.

12. On 18 September 2018, the UEFA Ethics and Disciplinary Inspector submitted his reply to the appeal, requesting that it be rejected and the costs charged accordingly.

13. Any other arguments of the parties shall be addressed further below, insofar as they are relevant.

III. Hearing

14. On 20 September 2018, a hearing was held.

15. The Chairman of the Appeals Body opened the appeal hearing, noted the presence of the Appellant and the UEFA Ethics and Disciplinary Inspector.

16. 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 members of the Appeals Body said during the hearing would be recorded. No objection was raised.

17. 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

18. 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.”

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

20. 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) DR).

V. Legal Considerations of the Appeals Body

A. The legal framework.

21. The UEFA Statutes, rules and regulations, in particular the UEFA Disciplinary Regulations are applicable to these proceedings.

22. In particular, the following provisions are relevant to this case:

- 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.”

- 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.”

- Under Article 14(2) DR, “if one or more of a club’s supporters engages in the behavior described in Article 14(1) DR, the club is punished with a minimum of a partial stadium closure.”

- In accordance with Article 14(3) DR, “the following disciplinary measures apply in the event of recidivism: a) a second offence is punished with one match played behind closed doors and a fine of € 50,000; (…).”

- According to Article 16(2) DR, “all associations and clubs are liable for the following inappropriate behavior 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;

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

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

- Article 38 SSR which provides that “the match organiser must take measures to ensure that all public passageways, corridors, stairs, doors, gates and emergency exit routes are kept free of any obstructions, which could impede the free flow of spectators.”

- Article 45 DR, establishes that “facts contained in official UEFA reports are presumed to be accurate. Proof of their inaccuracy may, however, be provided.”

- Article 25(1) DR stipulates that “recidivism occurs if another offence of a similar nature is committed within: (...) c. two years of the previous offence if that offence was related to order and security at UEFA competition matches; d. three years of the previous offence in all other cases.”

**B. In the case in hand**

23. From the case file, the Appeals Body finds that, leaving aside the blocking of stairways and the throwing of paper balls in a lighter inside the stadium, this case is about serious incidents of hooliganism perpetrated outside OL’s stadium, as well as incidents of a discriminatory nature that occurred inside the stadium, attributed to the Appellant’s supporters.

24. The Appeals Body observes that the above-cited reports of the Match refer, in sum, to the following incidents:

i) Outside the stadium: the assault of two police officers by OL supporters approaching the North Stand entrance, which caused injuries to the officers that required medical treatment, and the use and throwing of pyrotechnics by the same group of supporters.

ii) Inside the stadium: three racist incidents in the South Stand (Sectors 17-19) involving, respectively, the display of a banner with an SS Totenkopf, the performance of Nazi salutes and the assault of a black spectator by the Appellant’s supporters. Also, the throwing of a lighter and paper balls towards the pitch to the left of the local goalkeeper and the blockage of stairways in sectors 101-106 (North tribune) and 119-123 (South tribune).
25. The Appeals Body notes that on a factual basis, the Appellant accepts that the incidents outside the stadium did take place, yet it believes that it cannot be held responsible for them in light of their occurrence outside of the stadium’s perimeter and, therefore, outside of its control. Also from a factual perspective, the Appellant only contests the discriminatory nature of the attack on its supporter in sectors 17-19.

26. In order to properly assess whether the above incidents constitute disciplinary violations attributable to OL, and in consideration of the Appellant’s arguments in this case, the Appeals Body deems necessary to address the following questions:

   a) Is the Appellant responsible for the incidents that occurred outside the stadium?
   b) Is the club responsible for racism/discrimination in the case at hand?
   c) Is the club responsible for any other offenses?

27. The above questions are analysed below:

   a. Is the Appellant responsible for the incidents that occurred outside the stadium?

28. The Appeals Body notes that the official reports of the Match refer to the assault on the police officers outside the stadium, as well as the use and throwing of pyrotechnic devices by the Appellant’s supporters in the same location.

29. While the Appellant does not deny the occurrence of those incidents, it contests that it could be held responsible for them based on the principle of strict liability, considering that those occurred beyond the perimeter under its control and were committed by persons who were allegedly not its supporters.

30. The Appeals Body therefore finds it necessary to address each of these issues before reaching a conclusion on the incidents.

   i) Can the assaults on the police officers and the use and throwing of pyrotechnics be considered as having occurred ‘around the stadium’ in accordance to Article 16(2)(h) DR?

31. The Appeals Body finds that, when considering the events that occurred outside the stadium, the issue of the specific location of those incidents shall be addressed first and foremost, in order to properly determine whether these fall within the scope of Art. 16(2)(h) DR. In this sense, the Appeals Body finds relevant to define the phrase ‘around the stadium’.

32. For the reasons set out below, the Appeals Body cannot accept the Appellant’s argument that it shall not be held strictly liable for the incidents that were allegedly out of its control and outside the perimeter of the Stadium.

33. The Appeals Body firstly finds that the incidents outside of the stadium were perpetrated by persons heading towards the North Stand, as mentioned in the official reports of the Match. It can therefore only be concluded that such incidents were in close proximity to the stadium itself and in obvious connection to the Match.
Moreover, this disciplinary body wishes to recall that the principle of strict liability applies to all clubs, regardless of their fault or negligence, and it therefore comes into play in cases of supporter misconduct irrespective of whether these can be controlled by the club itself. The chief example of this is the case of away fans, when the visiting club is not responsible for the organisation of the security.

In the case at hand, it is also noteworthy that the incidents took place a mere 15 meters from the access ramps of the stadium allegedly under the Appellant’s control, and that OL’s stewards did attempt to face the hooligans, as reported by the security officer at the Match (”It is unfortunate that it was their own fans for whatever reason decided to attack the police at the stadium. However the club dealt with the incidents in a controlled and professional manner and stewards were very brave facing up to hooligan fans who were throwing items including barriers at them.”). This Appeals Body finds comfort in concluding that the incidents described in the official reports occurred around the stadium (as per Art. 16(2)(h) DR) when observing that even the Appellant’s stewards found it necessary to intervene and try to control the hooligans.

The Appeals Body therefore finds that the assault on the police officers and the use and throwing of pyrotechnics in the case at hand fall within the area ‘around the stadium’ constitute a violation of Art. 16(2)(h) DR.

ii) Were the perpetrators of the incidents outside the stadium OL supporters?

Having determined that the incidents outside the stadium fall within the scope of the DR, the Appeals Body turns to the question of whether all the incidents attributed to OL supporters in the official reports were committed by them.

In its appeal brief, the Appellant argues that the persons involved in the assault of the police officers and the use of pyrotechnics outside of the stadium cannot be considered as its supporters.

This disciplinary body cannot follow such reasoning of the Appellant and finds that the incidents both inside and outside of the stadium were caused by OL supporters, for the reasons set out below.

It is firstly recalled that the official reports of the Match, which are presumed accurate (Art. 45 DR), all state that the incidents mentioned therein were caused by OL supporters. In view of this Appeals Body, the Appellant has not provided any substantial proof that would rebut the presumption of accuracy of said reports, whose content shall therefore be confirmed.

This disciplinary body recalls the constant CAS jurisprudence, which has in turn been followed by UEFA’s disciplinary bodies, which finds that in order to identify which team’s supporters were involved in specific incidents, one must turn to the conclusions that would be reached by a reasonable and objective observer (see CAS 2007/A/1217, para. 11.6, and CAS 2013/A/3139, paras. 66-67).

The Appeals Body finds that in any case, when faced with the incidents in hand and especially the discriminatory incidents inside the stadium, any reasonable and objective observer would also conclude that these were committed by OL supporters, and not by the supporters. This disciplinary body especially notes that, as admitted by the Appellant, some of the persons involved in the incidents outside the stadium were later identified inside the stadium, which further reinforces the conclusion that these were OL supporters, and that the discriminatory incidents took place in the South Stand, where OL’s ultras are seated.
43. The Appeals Body thus finds that the perpetrators of all reported incidents were OL supporters, and that the club shall be held strictly liable for their conduct inside and outside the stadium contained in the Match reports.

b. *Is the club responsible for racism/discrimination in the case at hand?*

44. The Appeals Body recalls that the FARE Network observer at the Match reported three separate incidents, all occurring in sectors 17-19 of the South Stand, concerning discriminatory behavior of OL’s supporters. These were:

i. The display of a banner with an SS Totenkopf,
ii. The performance of Nazi salutes, and
iii. The assault of a black spectator in the same sector.

45. The Appeals Body finds that, based on the evidence provided by FARE, namely the videos and photos supporting its report, a violation of Art. 14 DR has been committed by OL. Indeed, the videos on file clearly show a banner with the SS Totenkopf, a neo-Nazi symbol, being displayed by the spectators in the referenced sectors, as well as several supporters performing Nazi salutes. The Appeals Body is further convinced in its conclusion by the fact that the Appellant has expressly acknowledged the occurrence of these two incidents (banner and salute).

46. Because the Appellant contests the racist nature of the assault on the black spectator in the same stands, the Appeals Body deems it necessary to address the specific question of whether this episode constitutes a violation of Art. 14 DR, in light the Appellant’s objection to the CEDB’s finding on this issue. Nevertheless, the Appeals Body is already comfortably satisfied that OL has violated Art. 14 DR due to the first two discriminatory incidents described above.

47. For the reasons explained hereunder, the Appeals Body concludes that the attack on the black spectator inside the stadium was of a discriminatory nature.

48. In the Appeals Body view the test of whether or not an incident qualifies for sanctions under Article 14 UEFA DR, is, also here, the perception of the reasonable and objective onlooker. It is in that sense objective not subjective. Moreover, and following CAS jurisprudence, the Appeals Body also appreciates that “in the law, context is everything” so to determine whether the attack on a black supporter constitutes a violation of Article 14 DR, all the circumstances must be considered; who is doing what, to whom, when, what, how and against what background (among others, see CAS 2013/A/3324 and 3369).

49. Turning to the specific assault, the Appeals Body cannot follow the Appellant’s reasoning that the victim of the attack was seated at the wrong place. The Appeals Body notes a discrepancy between the written testimonies submitted by OL that discredits the Appellant’s submission: while the security personnel claim that the incident was a case of seat placement, the victim himself does not mention such issue, but rather states that he was punched allegedly for standing instead of sitting in his seat.

50. Considering the specific context in which the assault took place, in the exact same sectors in which neo-Nazi spectators with an SS Totenkopf banner and performing Nazi salutes were present, this
disciplined body is comfortably satisfied that the attack on the black spectator was indeed based on the colour of his skin and therefore of a racist nature.

51. Considering the foregoing, the Appeals Body is comfortably satisfied that the assault on the black spectator constitutes a violation of Art 14 DR, which was also breached by the display of an SS Totenkopf banner and the performance of Nazi salutes by the Appellant’s supporters.

c. Is the Appellant responsible for any other offenses?

52. Having addressed the facts that have been contested by OL, the Appeals Body now turns to those that have been expressly accepted by the Appellant, in order to determine whether or not any disciplinary consequences arise therefrom.

i) The throwing of objects inside the stadium

53. The Appeals Body notes that the Referee, Delegate and Security Officer reports, which are presumed accurate pursuant to Art. 45 DR, all mention the throwing of a lighter by an OL supporter at the 53rd minute of the Match, which fell on the left side of the visiting goalkeeper. The latter two officials have also reported that 3 to 4 paper balls were thrown from the South Stand in the same direction (the left side of the visiting goal) on two occasions (the 64th and 88th minute).

54. The Appellant has not contested these facts as described in the official reports, or otherwise provided any evidence that would disprove their content: on the contrary, OL has confirmed having identified the individual responsible for the throwing of the lighter and sanctioned him accordingly.

55. Under such circumstances, the Appeals Body finds that the accuracy of the official reports shall be confirmed. Moreover, the Appeals Body recalls that based on the principle of strict liability enshrined in Art. 8 DR, the Appellant is to be held liable for the throwing of objects by its supporters.

56. The Appeals Body is therefore comfortably satisfied that the above actions by its supporters constitute a violation of Art. 16(2)(b) DR by OL.

ii) The blocking of stairways

57. The Appeals Body notes that both the Delegate and the Security Officer have both reported that the South Stand fairways (blocks 119 to 123 inclusive) and North Stand fairways (blocks 101 to 106 inclusive) were blocked during the Match. Additional photo evidence of this was also provided.

58. Here again the Appellant does not contest these facts as described in the report, merely stating that its stewards worked tirelessly to keep the stairways clear without success (as mentioned in the Security Officer’s report). It is recalled that pursuant to CAS jurisprudence, the club bears the burden of proving that spectators did not block stairways (CAS 2015/A/3926, para. 88).

59. In the Appeals Body’s view, the Appellant has not met such burden, as its argument is insufficient to rebut the presumption of accuracy of the official reports, which is further confirmed by the photo evidence attached thereto, which clearly show stairs being blocked during the Match.
60. Also, the fact that such situations also occur in other matches has no bearing on the finding in the present case, as no evidence has been submitted by the Appellant that the allegedly similar cases of other clubs would not have resulted in sanctions on those.

61. In this sense, Art. 38 SSR is clear insofar as host clubs must ensure that all passageways, corridors, stairs, doors, gates and emergency exit routes are kept free of any obstructions that could impede the free flow of spectators, which has not been the case. The purpose of this rule has also been confirmed in recent years by the CAS, which has found that: “The focus of this rule is clearly that the stairs must be kept “free of any obstructions” and not only obstructions which could impede the free flow of spectators.”

62. Considering the foregoing, this disciplinary body finds that OL has committed a violation of Art. 38 SSR due to the blockage of stairways by its supporters.

C. Determination of the disciplinary measure

63. 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.

64. Considering the offenses committed by the Appellant and confirmed by this Appeals Body, this disciplinary 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.

65. Notably, the seriousness of the incidents outside the stadium shall be highlighted, considering that two police officers were severely injured and required medical treatment. Such despicable actions of hooligans are completely unacceptable in UEFA competitions and are subject to severe sanctions, especially when the assaults are committed against police official whose presence is to guarantee the safety and security of spectators. Contrary to the Appellant’s statements, this Appeals Body is surprised to see that the Appellant continues arguing that it does not have a serious problem with hooliganism, when the recent past seems to speak for itself. In any event, this disciplinary body finds that cases of hooliganism can only be addressed with strong disciplinary measures with both a punitive and deterrent effect.

66. The Appeals Body recalls that UEFA has a strict zero tolerance policy against hooliganism, which is a cancer that must be eradicated from football, as confirmed by CAS on several occasions (see CAS 2007/A/1217, para. 12.9). In this sense, the Appeals Body finds particularly serious the assault on two police officers outside of the stadium, one of which required hospital attention and the other also needed to be treated locally for injuries, as well as the seriousness of using and throwing pyrotechnic devices amidst a chaotic situation that lasted 10 minutes. In the Appeals Body’s view, only these incidents justify the imposition of a match behind closed doors.

67. As for the racist incidents which occurred inside the stadium, the Appeals Body wishes to underline that within the context of its principle of zero tolerance with regard to the racist behavior, following the implementation of the 2013 edition of the DR (and as subsequently confirmed again in the next
editions of the DR), UEFA’s fight against racist behavior entered a new era. This has resulted in more severe sanctions being imposed in respect of racist behavior.

68. While the Appeals Body is aware that the Appellant does not have any previous records concerning Art. 14 DR, it also notes that the partial stadium closure foreseen for a first offence under Art. 14(2) DR is a minimum sanction which can be increased if the circumstances so justify.

69. In this particular case, the Appeals Body notes that the Appellant’s supporters in the same section have committed three separate instances of discriminatory behavior (i.e., the display of the SS Totenkopf banner, the performance of the Nazi salutes and the attack on the black spectator). In the Appeals Body’s view, this circumstance justifies an increase from the minimum sanction foreseen for a first offence and the imposition of a match behind closed doors.

70. Turning to the throwing of objects, the Appeals Body recalls that such incidents are susceptible of causing harm to other persons in the stadium as well as the disruption of play during a match. The fact that in the case at hand nobody was injured and the Match was not interrupted does not take away from the fact that the violation was committed and shall be punished accordingly.

71. As for the blockage of stairways, the Appeals Body turns to the constant practice of the UEFA disciplinary bodies to punish such offenses, of which the Appellant is well aware as it has already been sanctioned for such incidents in the past.

72. Considering all the concurrent circumstances of the case, and especially the several serious acts of hooliganism and racism, as well as the multiplicity of violations committed as well as the Appellant’s previous records, the Appeals Body finds that strong disciplinary measures are warranted. In this sense, the Appeals Body finds that two matches behind closed doors (with the second one deferred for a probationary period of two years) as well as a €100’000 fine a more than adequate sanction, and therefore confirms the CEDB’s Decision.

73. When reaching this finding, the Appeals Body also highlights the Appellant’s recent previous records concerning crowd disturbances, noting that recidivism is an aggravating factor. Particularly, the Appeals Body notes that the Appellant was sanctioned for serious crowd disturbances in 2017 after a home match against Beşiktaş JK (case 30363, decision of 13 July 2017, that has recently been confirmed by the CAS, insofar as the disciplinary violations are concerned). While the CEDB in the present case decided not to lift the suspension of the prior sanction (i.e., an exclusion from one UEFA competition), the Appeals Body is satisfied that this precedent further confirms the proportionality of the CEDB’s Decision.

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

**VI. Costs**

75. 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 51(2) DR).
76. It is considered justified to charge all of the costs of this case to the Appellant, whose appeal is rejected on all counts.

77. Consequently, the costs of the proceedings are €6’000.

On these grounds, the Appeals Body

decides

1. The appeal lodged by Olympique Lyonnais is dismissed. Consequently, the UEFA Control, Ethics and Disciplinary Body’s decision of 23 August 2018 is confirmed.

2. The costs of the proceedings, totalling € 6,000 (minus the appeal fee), are to be paid by the Appellant.

3. The French Football Federation is jointly and severally liable for the payment of the fine and the costs of the proceedings.

Chairman

Pedro Tomás
Decision of 16 October 2018

FC Spartak Trnava

(Racist behavior)

Circumstances of the case
According to the FARE report of the match, approximately five minutes after the final whistle, approximately one thousand FC Spartak Trnava’s (the “Appellant”) supporters started singing a chant against their rivals SK Slovan Bratislava, which included a discriminatory verse against the Jewish community (“I kicked an SK Slovan fan, I like him much more now. I jumped on his head and he is still warm. I broke all his bones. I cut open his belly. He was just a Slovan fan and a sky-blue Jew.” Sky-blue is a colour of SK Slovan Bratislava”). It was additionally reported by the Delegate that stairways were blocked throughout the whole match in the home fan sector, and by the Referee that five of the Appellant’s players were cautioned during the match.

The Appellant argued in its appeal that the CEDB inaccurately interpreted and applied the Disciplinary Regulations. The Appellant adduced that the word “Jew” is not per se an insult, merely designating the descendants of the Jewish people, and that such designation made of the supporters of its rival club does not have any racist or anti-Semitic connotation. The Appellant also challenged the blind application of the principle of strict liability in cases in which a club took concrete and objective measures to prevent its supporters from misbehaving. The Appellant found it unclear which period was to count for recidivism under the Disciplinary Regulations, and that in any case the sanction imposed is disproportionate in light of the precedents in UEFA’s case law.

Legal framework
Articles 14(1), (2) and (3), Article 15(4) of the Disciplinary Regulations.
Article 38 of the Safety and Security Regulations.

Decision
The Appeals Body decided to reject the appeal and confirm the CEDB’s decision.

Ad-hoc Chairman: Pedro Tomás (ESP)
Vice-chairman: Michael Maessen (NED)
Member: Björn Ahlberg (SWE)

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 “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 20 September 2018 FC Spartak Trnava (hereinafter the “Appellant” or the “Club”) played a match against RSC Anderlecht in the UEFA Europa League group stage (hereinafter, the “Match”).

3. Following the Match, the Referee reported having shown five yellow cards to the Club’s players.

4. The Match Delegate reported the following incidents:

   “Information from the FARE observer that after the match home fans sang a chant with anti-discriminatory note against Jewish community.

   On the home fans sectors (North stand 1-3 sectors) - stairways blocked all match long. Intervention by stewards was unsuccessful.”

5. After the Match, the FARE Network observer at the Match also issued a report on the following incidents, supported by video evidence (sic):

   “[…] 22:50 Approximately 5 minutes after the final whistle, after the stadium announcement that Spartak Trnava made more points in one game of UEFA Europa League than SK Slovan Bratislava (Spartak Trnava’s biggest rival) did last time in 2013/14 season, approximately one thousand Spartak Trnava supporters in sections 01-05 and 29-33 started singing their traditional chant against their rivals SK Slovan Bratislava featuring a discriminatory verse against the Jewish community: "Rozkopal som Slovanistu, hneď mi je lepší. Po hlave som mu poskákal, ešte je teplý. Všetky kosti som mu dolámal. Bruchom som mu nožom rozpáral. Však to bol len Slovakista a belasý žid!"

   Calling rival supporters ‘Jews’ as a means of causing offence is regarded anti-Semitic.”

6. On 2 October 2018, the Control, Ethics and Disciplinary Body (“CEDB”) took the following Decision:

   “1. To order FC Spartak Trnava to play their next (1) UEFA competition match as host club behind closed doors and to fine FC Spartak Trnava € 60’000 for the racist behavior of its supporters.

   2. To fine FC Spartak Trnava € 22’000.

   3. The above fines must be paid into the bank account indicated below within 90 days of communication of this decision.”

7. The Decision with grounds was notified to the Appellant on 2 October 2018.

8. Any other relevant facts shall be referenced further below, if necessary.
II. Summary of the proceedings before the Appeals Body

9. On 5 October 2018, the Club announced its intention to appeal against the Decision.

10. On 10 October 2018, the Appellant filed its grounds for appeal. In its statements, the Appellant, essentially, argued the following:

- The Club believes that the sanction is to be challenged on its merits because both the interpretation and the application of the UEFA Disciplinary Regulations were inaccurate.

  The chant did not breach Article 14 DR

- The word “Jew” is not per se an insult, but merely designates descendants of the ancient Jewish people, and it is important to take the context of the use of the expression when determining whether it is discriminatory. In the context of the chant, it is relevant to note that some of the Club’s fiercest supporters cultivate the long-standing rivalry between the Club and ŠK Slovan Bratislava, which has been founded by a Jewish community. As a consequence, those Club supporters usually designate the ŠK Slovan Bratislava supporters as “Jew”, but without any racist, anti-Semitic or far-right connotation.

- The use of the principle of strict liability to sanction the Appellant is unjustified in this case. The blind application of the principle of strict liability may appear rather unfair in certain cases where the club took concrete and objective measures in order to prevent its supporters to misbehave, as in the current case. Indeed, the clubs are in fact the victims of their own supporters, as they face themselves in the very unfortunate situation of having to deal, without any fault of their own, with problematic supporters on which they cannot have an absolute control.

- It derives from the analysis by the CAS in CAS 2007/A/1217 that the sanction imposed on the club must be (i) necessary, in the sense that there would be no other way of penalising that behavior, and (ii) adequate, in the sense that it must target the supporters with a preventive and deterrent effect. None of these reasons provided by CAS in the mentioned award can be applied to the case at hand.

- It is unclear whether the period to be considered for the recidivism of an offence sanctioned under Article 14 DR is limited to one year as per Article 25(1)(a) DR or three years as per Article 25(1)(d) DR. It appears that the time-limit of “one year of the previous offence if that offence was punished with a suspension of up to two matches” should be applicable in the present case, given the fact that:

  i. The previous offence of the Club has not been punished with more than two matches behind closed doors;

  ii. The present matter is neither a case of "match-fixing or corruption" nor a case of "order and security at UEFA competition matches";
iii. The time-limit to take into account for recidivism of an offence sanctioned under Article 14 DR may not, logically, be longer than the time-limit to take into account for the recidivism of an offence sanctioned under Article 16 DR, the latter being potentially much more serious than the former.

- It follows from the foregoing that Article 25 DR is thus to be interpreted against UEFA ("contra proferentem"), or at least not at the disadvantage of the Appellant: the applicable time-limit for considering if there is a case of recidivism in the present matter is thus one year in accordance with Article 25(1)(a) DR. Consequently, the disciplinary measure foreseen in Article 14(3)(a) DR, was not applicable in the case of the Appellant.

- The sanction is in any case disproportionate. Firstly, the sanction requested is not the only way in which UEFA has any chance of achieving its objectives. Indeed, UEFA has already sanctioned similar or even more serious offense with the sanction of a partial stadium closure and thus recognized itself that it could achieve its objective with more lenient sanctions. Secondly, penalising the Appellant with one match behind closed doors for the behavior of approximatively 5% its supporters will incentivise fans with malicious intent to cause harm to the Club, for example for economic or political motives.

- Finally, the Club submits that it took all the following precautionary measures to avoid this situation and will continue its efforts against any form of discrimination. The efforts of a club to avoid this kind of situation constitute a mitigating circumstance and warrant a more lenient sanction.

11. On 15 October 2018, the UEFA Ethics and Disciplinary Inspector submitted her reply to the appeal, requesting that it be rejected and the costs charged accordingly.

12. Any other arguments of the parties shall be addressed further below, insofar as they are relevant.

III. Appeals Body Competence and Admissibility of the Appeal

13. Article 30(4) DR states as follows: "The Appeals Body has jurisdiction to hear appeals against decisions by the Control, Ethics and Disciplinary Body [...]."

14. The Club lodged its grounds for appeal by the deadline in Article 60(3) DR and in the written form required by the same provision. The appeals fee of €1'000 (as per Article 60(4) DR) was paid on time.

15. It follows that the Appeals Body has competence to decide on the present Appeal and that the Appeal is admissible. The Appeals Body may therefore consider its merits and can therefore re-examine the case in full, both factually and legally (Article 65(2) DR).

IV. Legal Considerations of the Appeals Body

A. The legal framework.
16. The UEFA Statutes, rules and regulations, in particular the DR are applicable to these proceedings (Article 5(a) DR).

17. In particular, the following provisions are relevant to this case:

- 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.”

- According to Article 14(1) DR, “[a]ny 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.”

- Under Article 14(2) DR, “[i]f one or more of a club’s supporters engage in the behavior described in paragraph 1, the [...] club responsible is punished with a minimum of a partial stadium closure.”

- In accordance with Article 14(3) DR, “[t]he following disciplinary measures apply in the event of recidivism: a) a second offence is punished with one match played behind closed doors and a fine of € 50,000; [...]”

- Pursuant to Article 15(4) DR, “[i]f a [...] club team conducts itself improperly (for example, if individual disciplinary sanctions are imposed by the referee on five or more players [...] during a match), disciplinary measures may also be taken against the [...] club concerned.”

- Article 25 DR stipulates that:

  “1 Recidivism occurs if another offence of a similar nature is committed within:

  a. one year of the previous offence if that offence was punished with a suspension of up to two matches;

  b. ten years of the previous offence if that offence was related to match-fixing or corruption;

  c. two years of the previous offence if that offence was related to order and security at UEFA competition matches;

  d. three years of the previous offence in all other cases.

  2 Recidivism counts as an aggravating circumstance.”
- According to Article 49 of the UEFA Safety and Security Regulations (the “SSR”), “[a]ny breach of these regulations may be penalised by UEFA in accordance with the UEFA Disciplinary Regulations.”

- Article 38 SSR provides that “[t]he 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.”

- Article 45 DR, establishes that “[f]acts contained in official UEFA reports are presumed to be accurate. Proof of their inaccuracy may, however, be provided.”

B. In the case in hand

18. The Appeals Body firstly notes that, in light of the fact that the merits of the case are dealt with directly in this decision and well before the Appellant’s next match, the Club’s request for a stay has become moot.

19. This disciplinary body observes that the appeal has only been directed against the CEDB’s findings concerning the discriminatory behavior of its supporters and the disciplinary consequences arising therefrom. Because the Appellant has thus limited the scope of its appeal without contesting the CEDB’s findings on the blocking of stairways and the improper conduct of the team, such offences and the €22’000 fine imposed in paragraph 2 of the Decision are hereby confirmed.

20. Turning to the issue under appeal, this case is about the fact that after the Match, approximately 1’000 of the Club’s supporters were seen by the FARE observer singing a chant against its longstanding rival ŠK Slovan Bratislava, including lyrics perceived as offensive against the Jewish community. More specifically, the Appellant’s supporters chanted the following lyrics (as translated into English by FARE and uncontested by the Appellant):

“I kicked an SK Slovan fan, I like him much more now. I jumped on his head and he is still warm. I broke all his bones. I cut open his belly. He was just a Slovan fan and a sky-blue Jew.”

21. The Appellant not only contests the discriminatory consideration of the word ‘Jew’ used in the aforementioned context, but it also claims that it cannot be held strictly liable for the conduct of only a portion of its supporters without leniency being given in the sanction to comply with UEFA’s objectives.

22. In the Appeals Body’s view, the relevant legal issues of this case concern chiefly the following elements:

   - Are the chants of a racist/discriminatory nature?
   - Is the Appellant to be held strictly liable for the chants performed by its supporters in the absence of fault or negligence?

23. The above questions are analysed below:

   a. Are the chants of a racist/discriminatory nature?
24. The Appeals Body notes that the Appellant contests the discriminatory nature of the chants performed by its supporters, because in its view the use of the term “Jew” does not constitute an insult in the context it was used. The Appellant points to the historical fact that its main longstanding rival ŠK Slovan Bratislava was founded by a Jewish community, and that the use of the word “Jew” was merely used to designate the supporters of that club without any racist, anti-Semitic or far-right connotation.

25. Having considered the evidence on file, the Appeals Body preliminarily observes that it has remained undisputed that the Appellant’s supporters chanted the above-quoted song. This is further confirmed by the video of the incident provided by the FARE observer. This fact shall therefore be considered proven.

26. Turning to the nature of the referenced chants, in the Appeals Body’s view these are to be considered discriminatory in the sense of Art 14 DR, for the reasons set out below.

27. This disciplinary body is firstly of the opinion that only considering the literal content of the lyrics sung by the Club’s supporters, the use of the term “Jew” in the context of an aggressive song that refers to despicable actions against rivals, such as “I jumped on his head”, “I broke all his bones” and “I cut open his belly” is clearly aggressive and intended to insult ŠK Slovan Bratislava on the basis of that team’s Jewish heritage. This in itself is sufficient to find that a violation of Article 14 has been committed by the Appellant.

28. Moreover, the Appeals Body finds that the above conclusion applies irrespective of whether the Appellant’s supporters referred to Jews as a people in general or as a religious group, and it also applies regardless of any historical meaning or the actual definition of the word, because in any case its use in the context of the song constitutes an insult as described Article 14(1) DR.

29. In this sense, this disciplinary body concurs with the finding of CAS in the case of GNK Dinamo Zagreb in which it was specifically recalled that “in the law context is everything [...] so to determine whether words, chants gestures or other behavior constitute racial insults all the circumstances must be considered; who is saying what to (or about) whom, when, what, how and against what background.” (CAS 2013/A/3324, para. 9.14).

30. In light of the foregoing, the Appeals Body concludes that the chants by the Appellant’s supporters referring to rival fans as Jews constitute an infringement of Article 14 DR, and the Club shall be sanctioned accordingly.

b. Is the Appellant to be held strictly liable for the chants performed by its supporters in the absence of fault or negligence?

31. The Appeals Body notes that the Appellant argues that the blind application of the principle of strict liability is rather unfair in certain cases in which the club took concrete and objective measures in order to prevent its supporters from misbehaving. While accepting that the principle of strict liability applies, the Club believes that it should be sanctioned based on its own fault in the matter, and not based on the seriousness of the offence committed by its supporters. In such sense, the Appellant believes that UEFA has in the past recognized that it could achieve its objectives with more lenient sanctions.
32. Although the issue of the determination of the sanction is to be addressed separately below, this Appeals Body believes that the Appellant’s argument concerning the application of strict liability is misconstrued, as it appears to imply that the Appellant’s fault shall be taken into consideration when applying such principle.

33. This disciplinary body rejects the Appellant’s suggestion and recalls that pursuant to Article 8 DR, which enshrines the principle of strict liability that is implemented *inter alia* through Article 14 DR, such principle applies even when the Club can prove the absence of any fault or negligence. The Appeals Body recalls that this has been confirmed not only by its own consistent jurisprudence, but also by the CAS (see, among others, CAS 2007/A/1217, CAS 2013/A/3139).

34. In any event, the Appeals Body notes that the chants were, according to the Appellant, provoked by a speaker who has as a result been banned by the Club from its stadium. In the Appeals Body’s view, this individual could even be considered as an official of the Club pursuant to Article 3(1)(b) DR, which would in turn result in the Appellant bearing at least a certain degree of fault in the incidents at the Match. Nevertheless, in light of strict liability applying without any fault, as explained above, this disciplinary body finds that it is not necessary to further assess this particular point in this context.

35. The Appeals Body therefore confirms that the Appellant is strictly liable for the discriminatory behavior of its supporters at the Match, even if it could be considered not to bear any fault for such conduct.

C. Determination of the appropriate disciplinary measures

36. It is the Appeals Body’s constant 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. In the opinion of the Appeals Body, none of this applies here.

37. Considering the offenses committed by the Appellant and confirmed by this Appeals Body, this disciplinary body is of the opinion that the CEDB 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.

38. Prior to assessing the specific circumstances of the Appellant’s case, the Appeals Body wishes to recall two things: (i) the zero tolerance policy with regard to racist behavior was reinforced by the Resolution unanimously adopted at the XXXVII Ordinary UEFA Congress in London on 24 May 2013, and (ii) since the implementation of the 2013 edition of the DR (and as subsequently confirmed again in the next editions of the DR), UEFA’s fight against racist behavior entered a new era. This has resulted in more severe sanctions being imposed in respect of racist behavior.

39. In particular, having concluded that the Appellant violated Article 14(1) DR, the Appeals Body turns to analyse the adequate sanction under that provision. In this sense, looking at the Club’s previous records, the Appeals Body notes that this is the second violation of Article 14 DR by the Appellant during the past three years (Article 25(1)(d) DR).
While the Appeals Body has considered the Club’s argument that it should not be labelled as a recidivist in light of Article 25(1)(a) DR, this disciplinary body finds that the referenced provision relates to “suspensions”, which are sanctions that only apply to individuals pursuant to Article 6(2) DR. The Appeals Body finds that the last sanction imposed on the Appellant for racism (two matches behind closed doors) does not constitute a “suspension” in the sense of Article 25(1)(a) DR, but rather it falls within the category of “all other cases” as per Article 25(1)(d) DR. This is further confirmed by the fact that the referenced provision clearly provides for a ‘rising scale’ of the time lapse for recidivism to be considered, meaning that the more serious the offence, the longer the period to consider for recidivism to occur. In the case of racism, considering the seriousness of the offence, it is reasonable to find that recidivism shall be considered at least over the last three years as per Article 25(1)(d) DR.

Although not directly raised by the Appellant, the Appeals Body also observes that the last sanction imposed on the Club for racist behavior, which is considered in this case as its ‘first’ violation in the last three years, consisted *inter alia* in two matches behind closed doors. The reason for this sanction was that at the time, the Club was being disciplined for its third violation of Article 14 DR in the previous three years. However, in the present matter, this case is the Appellant’s second discriminatory offence in the last three years. As a result of this circumstance, this disciplinary body discusses whether the sanction foreseen for a second offence of Article 14 DR is applicable in cases in which the previous offence was not sanctioned with a partial stadium closure under Article 14(2) DR. On this point, the Appeals Body unanimously concludes affirmatively, and it is comfortably satisfied that the Club’s violation is to be considered as its second offence within the last three years and shall therefore be sanctioned as such regardless of the disciplinary measure imposed for its first offence.

In light of the foregoing conclusions, the Appeals Body finds that the Appellant is to be considered a recidivist in this case and sanctioned in accordance with Article 14(3)(a) DR, which determines that “a second offence is punished with one match played behind closed doors and a fine of €50,000”. Moreover, noting that the CEDB chose to increase the amount of the fine by €10’000 (i.e., to a total of €60’000) for the discriminatory conduct, based on the large amount of the Appellant’s supporters involved in this particularly serious incident, this disciplinary body finds that the CEDB has not exceeded or abused its power of discretion when adopting its Decision.

Finally, although the Appeals Body commends the Club’s efforts since its last sanction to prevent incidents of racism and discrimination from occurring at its matches, this disciplinary body finds that, with due consideration to UEFA’s zero-tolerance policy against racism and discrimination, the mitigating circumstances shall be truly exceptional in order to justify a deviation from the sanctions established in Article 14 DR. Considering the specific details of the Appellant’s case, the Appeals Body believes that this requirement has not been met.

In particular, this disciplinary body highlights that the discriminatory chants were performed by approximately 1’000 of the Club’s supporters, which by no means can be considered unsubstantial. Such a massive display of hateful behavior, which was provoked by a speaker of the Club, cannot be tolerated in UEFA competition matches, and is not mitigated by the Appellant’s prior actions.
45. On the basis of the above, the Appeals Body has no other option than to reject the appeal and confirm the Decision in its entirety.

V. Costs

46. According to Article 51(2) DR “[t]he allocation of the costs of proceedings before the Appeals Body depends on the outcome of those proceedings. […] [T]he Appeals Body decides at its own discretion how the costs of proceedings 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.”

47. It is considered justified to charge the costs of this case to the Appellant.

48. Consequently, the costs of the proceedings are €1’000 (minus the appeal fee of €1’000 already paid).

On these grounds, the Appeals Body

**decides**

1. The appeal lodged by FC Spartak Trnava is rejected. Consequently, the UEFA Control, Ethics and Disciplinary Body’s decision of 2 October 2018 is confirmed.

2. The costs of the proceedings, totaling €1’000 (minus the appeal fee), are to be paid by the Appellant.

3. The Slovak Football Association is jointly and severally liable for the payment of the fines and the costs of the proceedings.

Chairman

Pedro Tomás
Decision of 7 November 2018

Górnik Zabrze SSA

(Setting off of fireworks; Throwing of objects)

Circumstances of the case

After kick-off, Górnik Zabrze SSA (the “Appellant”) supporters lit approximately 75 flares in sectors C01 to C04. Those flares burned for approximately 2 to 3 minutes, and the smoke did not have any impact on the match. In the 39th minute, a half-filled plastic bottle of water and a lighter were thrown by the Appellant’s supporters towards players of the opponent who were celebrating a goal.

The Appellant admitted the existence of the reported incidents, but stressed that the CEDB had failed to consider several mitigating circumstances, inter alia: that the incidents did not cause any delay in the match or harm any supporters, players or other participants, no damage was caused to the stadium, the fireworks were not thrown on the pitch and the other objects were thrown as a result of the provocative behavior of the opponent players celebrating their team’s goal. The Appellant adds that the fine of €70,000 imposed by the CEDB is excessive, because applying the standard sanction foreseen for a first offence in Annexe A of the Disciplinary Regulations, the fine for fireworks should have been €37,500, and a global €40,000 fine would have been appropriate.

Legal framework

Articles 16(2)(b) and (c) of the Disciplinary Regulations.

Decision

The Appeals Body confirmed the Appellant’s strict liability for the conduct of its supporters, but found that in light of Annexe A of the Disciplinary Regulations, considering that the fine foreseen for a first offence for fireworks is €37,500, then the additional €32,500 fine imposed for throwing of objects was excessive in the case at hand.

The Appeals Body decided to partially uphold the appeal and amend the sanction, imposing a total fine of €50,000.

Ad-hoc Chairman: Pedro Tomás (ESP)
Vice-chairman: Michael Maessen (NED)
Member: Thomas Hollerer (AUS)

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”), 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 26 July 2018, Górnik Zabrze SSA (hereinafter also referred to as the “Appellant”) played a match against AS Trenčín in the 2018/19 UEFA Europa League Second Qualifying Round (hereinafter, the “Match”).

3. The UEFA Match Delegate reported inter alia the following incidents involving the Appellant’s supporters (sic):

   “A total of approximately 75 Flares (Bengal lights) were lit by the hometeam suppporters (see heading -use of pyrotechnics of the hometeam- for a more detailed description).

   [...] In minute 39 directly after AS Trencin scored the 0-1 a half filled plastic bottle of water and a cigarette lighter was thrown from the sectors where the more fanatic supporters of Gornik were sitting (sector C02 or C03) at the players of Trencin who were celebrating the goal.

   [...] Because of the use of Pyrotechnics (see description below) the crowd behavior was unsatisfactorily. However the crowd was supportive (lots of singing and cheering their team forward).

   [...] Right after kick of an estimated number of 75 hand held Flares were lit in sectors C01 to C04, the sectors where the more fanatic hometeam supporters were sitting. The flares burned for approximately 2 to 3 minutes. The smoke coming from the flares did not have any impact on the game as it went directly up in the sky and didn drift onto the field of play. [..]”

4. On 23 August 2018, the CEDB took the following decision (hereinafter, the “Decision”):

   “1. To fine Górnik Zabrze SSA € 70’000. [..]”

5. The Decision with grounds was notified to the Appellant on 7 September 2018.

6. Any other relevant facts shall be referenced further below, if necessary.

II. Summary of the proceedings before the Appeals Body

7. On 10 September 2018, the Appellant announced its intention to appeal against the Decision.

8. On 17 September 2018, the Appellant filed its grounds for appeal. In its statements, the Appellant, essentially, argued the following:
- The Appellant first admits that pyrotechnics were used by its fans during the Match, and that such use constitutes a serious disciplinary violation.

- However, the Appellant stresses that it undertook many activities and efforts to fight such actions in the stadium, such as having numerous meetings with ultras groups regarding setting of fireworks during which the Appellant was promised that pyrotechnics would not be used during its next matches, in which it would strengthen control of the fans and the body searching for pyrotechnics.

- The CEDB failed to consider several mitigating circumstances, namely:
  
  a) setting off of fireworks did not cause any delay in the game,
  b) setting off of fireworks did not cause any harm to fans, players and other participants,
  c) setting off of fireworks did not cause any damage to the stadium,
  d) fireworks have not been thrown to the pitch,
  e) nobody’s physical integrity was endangered.
  f) the Club has no history of previous disciplinary offences during UEFA competitions.

- The Appellant also admits that objects were thrown during the game as reported by the Delegate. However, it finds that the CEDB also failed to consider the mitigating circumstances to this offence, notably:
  
  a) The throwing of objects did not harm any player.
  b) The objects were thrown as a consequence of provocative behavior of the players of AS Trenčín, who celebrated a scored goal in front of the most fanatic Górnik Zabrze supporters.

- The Appellant finds the fine of €70’000 excessive, considering that according to Annex A DR the fine for setting off fireworks is of €500 per firework, totalling €37’500.

- Additionally, the fine is disproportionate to the fines in other cases decided by UEFA’s disciplinary bodies. The appropriate fine considering the totality of the circumstances is, in the Appellant’s view, €40’000.

9. Any other arguments of the Appellant shall be addressed further below, insofar as they are relevant.

III. Appeals Body Competence and Admissibility of the Appeal

10. Article 30(4) DR states as follows:
“The Appeals Body has jurisdiction to hear appeals against decisions by the Control, Ethics and Disciplinary Body [...].”

11. The Appellant lodged its grounds for appeal by the deadline in Article 60(3) DR and in the written form required by the same provision. The appeals fee of €1’000 (as per Article 60(4) DR) 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 re-examine the case in full, both factually and legally (Article 65(2) DR).

IV. Legal Considerations of the Appeals Body

A. The legal framework.

13. As per Article 5(a) DR, the UEFA Statutes, rules and regulations, in particular the DR, are applicable to these proceedings.

14. In particular, the following provisions are relevant to this case:

- 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.”

- According to Article 16(2) DR:

  “However, all [...] clubs are liable for the following inappropriate behavior 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; [...]”

- Article 45 DR establishes that “[f]acts contained in official UEFA reports are presumed to be accurate. Proof of their inaccuracy may, however, be provided.”

B. In the case in hand

15. From the case file, the Appeals Body finds that this case is about the massive use of pyrotechnics by the Appellant’s most fanatic supporters, which remained lit for 2-3 minutes, and the throwing of objects (a half-filled water bottle and a lighter) by the same ultras towards the rival players while these were celebrating a goal.
16. In light of the Appellant’s admission of the offences committed by its supporters, the Appeals Body finds that the focus of the case lies on the proportionality of the €70,000 fine imposed in the Decision.

17. In this sense, as reflected in its decisions which are published on the UEFA website in accordance with Article 52(5) DR, it is the Appeals Body’s constant practice to consider the CEDB’s power of discretion to have been abused or exceeded if the latter 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.

18. The Appeals Body recalls that pursuant to Article 23(1) DR, “[t]he 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.”

19. First, turning to the nature of the offences committed as described in the Delegate Report and admitted by the Appellant, the Appeals Body reminds that the use of pyrotechnics is forbidden in light of the danger that such artefacts suppose for the physical integrity of spectators and other persons present inside stadiums. This prohibition becomes even more relevant when the use of such devices occurs massively and in a concentrated area such as the sectors in which a club’s ultras are located, and when their use extends for a long period of time, such as in this case, in which the artefacts were lit for 2-3 minutes.

20. As for the throwing of objects, this is also forbidden by the regulations for the same reason: their impact could cause harm to any person hit by projectiles, especially when these are hard objects (such as a half-filled water bottle or a lighter in this case). In the case at hand, the Appeals Body also notes that those objects were thrown intentionally with the aim of hitting the opponent’s players while these were celebrating a goal.

21. The above constitute quite serious offences which, in principle, shall be sanctioned with commensurate disciplinary measures.

22. In the case at hand, the Appeals Body notes that the fine imposed in the Decision was determined by the CEDB on the basis of “the seriousness and multiplicity of the offences committed as well as the extremely high number of fireworks being set off by the clubs supporters, this in the light of Article 6(5) DR and Annexe A(I).”

23. The Appeals Body observes that Annex A(I) DR, also relied on by the CEDB, provides useful guidelines for the calculation of fines in certain cases of first or second offences. Turning specifically to the lighting of fireworks, said Annexe establishes that for a first infringement, the fine may be set at €500 per firework used. Extrapolating this to the case at hand, in which the Appellant’s supporters lit approximately 75 pyrotechnic devices during the Match, the Appeals Body finds that the fine to be imposed for this offence shall be €37,500. This amount, in the Appeals Body’s view, is adequate in light of the seriousness of the offence committed, the large amount of pyrotechnics used by the Appellant’s supporters and the duration of such use.
24. As for the throwing of objects, the Appeals Body notes that Annex A DR does not contain any disciplinary measures for such offence, therefore leaving it to the relevant disciplinary body to determine the relevant sanction in accordance with the principles established in Article 23(1) DR.

25. Following the above reasoning, the Appeals Body finds that, having already considered Annexe A DR when deciding to fine the Appellant with €37'500, an additional fine of €32'500 for the throwing of objects by the Appellant’s supporters (for a total fine of €70'000, as imposed in the Decision) is excessive in the case at hand.

26. Considering the specific circumstances of the case, the Appeals Body finds a fine of €12'500 for throwing of objects to be adequate, resulting in a total fine of €50'000 on the Appellant.

27. In light of the foregoing, the Appeals Body decides to partially uphold the appeal and amend the sanction imposed on the Appellant to a €50'000 fine.

V. Costs

28. According to Article 51(2) DR, “[t]he allocation of the costs of proceedings before the Appeals Body depends on the outcome of those proceedings. [...] [T]he Appeals Body decides at its own discretion how the costs of proceedings 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.”

29. In this case, considering that the appeal is only partially upheld, it is considered justified to charge the costs of this case to the Appellant.

30. Consequently, the costs of the proceedings totalling €1’000 (minus the appeal fee) are to be borne by the Appellant.

On these grounds, the Appeals Body

decides

1. The appeal lodged by Górnik Zabrze SSA is partially upheld.

2. Consequently, paragraph 1 the UEFA Control, Ethics and Disciplinary Body’s decision of 23 August 2018 is amended as follows:

   “1. To fine Górnik Zabrze SSA €50’000.”

3. The remainder of the UEFA Control, Ethics and Disciplinary Body’s decision of 23 August 2018 is confirmed.

4. The costs of the proceedings, totaling €1’000 (minus the appeal fee), are to be borne by the Appellant.
5. The Polish Football Association is jointly and severally liable for the payment of the fine and the costs of the proceedings.

Chairman

Pedro Tomás
Decision of 7 November 2018

Legia Warszawa SA

(Improper conduct of player; Direct red card – spitting at referee)

Circumstances of the case
According to the Referee, after the final whistle, Legia Warszawa SA (the “Appellant”) player Michal Kucharczyk (the “Player”) went towards the Referee and spat on his left boot twice, being shown a red card as a result of said incident.

The Appellant argued in its appeal that the Player’s behavior did not fall within the scope of the general term “assault”, as the Player did not intentionally spit on the Referee’s boot. The Referee’s report did not mention the Player’s intention to spit, only that he spat on the boot. The Player’s action was due to the fact that was tired and was a physiological reaction to his great physical effort during the match. The fact that the Player spat twice further confirmed this explanation, as the repeated spitting is much more consistent with an involuntary physiological reaction than with any intention to insult. The Appellant also stated that the sanction should be reduced based on the principle of proportionality, considering the Player’s level of fault, the gravity of the offence, the mitigating and aggravating factors and the impact of the sanction on the Player.

Legal framework
Article 15(1)(d) of the Disciplinary Regulations.

Decision
The Appeals Body concluded that the Player had intentionally spat at the Referee, and that such action constituted an insult to a match official pursuant to Article 15(1)(d) DR but not an assault in this specific case, as the Player’s intention was clearly not to harm the Referee or otherwise endanger his well-being. The Appeals Body also found that the act of spitting in itself is extremely offensive and justifies an increase from the minimum three-match suspension for insulting a match official. Because the action was carried out twice and against the highest authority on the pitch, the increase to a five-match suspension was considered proportionate to the seriousness of the offence committed.

As a result, the Appeals Body rejected the appeal and confirmed the CEDB’s Decision.

Ad-hoc Chairman: Pedro Tomás (ESP)
Vice-chairman: Michael Maessen (NED)
Member: Thomas Hollerer (AUS)

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”), 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 16 August 2018, Legia Warszawa SA (hereinafter also referred to as the “Appellant”) played a match against F91 Dudelange in the 2018/19 UEFA Europa League Third Qualifying Round (hereinafter, the “Match”).

3. The Match Referee reported the following incidents:

   “After the final whistle of the game number 18 Michal Kucharczyk [the “Player”] from away team came to the referee and spat on his left boot twice. For this reason the player was showed a direct red card.” (sic)

4. On 27 September 2018, the CEDB took the following decision (hereinafter, the “Decision”):

   “1. To suspend the Legia Warszawa SA player Kucharczyk Michal for five (5) UEFA competition matches for which he would be otherwise eligible.

   […]”

5. The Decision with grounds was notified to the Appellant on 3 October 2018.

6. Any other relevant facts shall be referenced further below, if necessary.

II. Summary of the proceedings before the Appeals Body

7. On 5 October 2018, the Appellant announced its intention to appeal against the Decision.

8. On 15 October 2018, the Appellant filed its grounds for appeal. In its statements, the Appellant, essentially, argued the following:

   - The Player’s behavior does not fall within the scope of the general term “assault”. The Club maintains that the Player did not spit intentionally on the Referee’s boot and - subsequently- the physical or psychological well-being of the Referee could not have been harmed or threatened.

   - The Decision states that, according to the CEDB’s jurisprudence, the offence “assault” is committed whether intentionally or recklessly. Even if this could be the case, recklessness and negligence are not the same. Recklessness involves an element of intention, and in such cases, the person knows that an act has a chance of producing a certain effect, but disregards that
possibility and commits the act anyway, which was not the case in the incident under scrutiny in the present proceedings.

- Moreover, the Referee Report does not state that the Player had intentionally spat on the Referee’s boots. It simply states that there had been a spat on the Referee’s boots. Therefore, even if the Referee Report was presumed to be correct in accordance with Article 45 of the DR, it is not sufficient to convict the Player of an insult or an assault, absent any other evidence of intention.

- The Player had no intention whatsoever to do it and he never considered that his action, i.e. spitting on the ground, could have had that result. The Player was simply tired, and the action was a standard physiological reaction of a player after great physical effort. The Player is terribly sorry if the Referee had the impression that he was trying to offend him or disrespect him. That was not the intention at all. The fact that he spat twice further reinforces this explanation. When a player is repeatedly spitting, this is much more consistent with a physiological reaction rather than with any intention to insult.

- The Swiss Criminal Code defines “assault” as: “[a]ny person who willfully causes injury to the person or the health of another in any other way is liable on complaint to a custodial sentence not exceeding three years or to a monetary penalty”. However, and on the contrary, the Player’s behavior was unintentional, and it therefore does not fall within the scope of the general term “assault”.

- In this context, UEFA failed to explain how and why spitting on the Referee's boots should be considered as an "assault".

- In circumstances where a given behavior is fully covered by a certain provision, such as spitting, which falls squarely under an "insult", it is not legally sound to seek to sanction it under a separate provision (i.e. an "assault"), which would have to be deemed as less specific and whose application to this specific case is certainly at least much less evident (such as CAS 2014/A/3665, 3666 & 3667).

- If the Referee had merely been an observer of an incident on the pitch between two other parties, he would have had a much more objective assessment. However, in this situation, he may have adopted a defensive attitude, as his decision to end the Match was being generally - but respectfully - disputed by the players on the pitch.

- The Referee did not indicate in his Report that the Player would have said any rash words to him or gesticulated in any manner, or that any other kind of misbehavior had taken place. It is not credible that a player who would have spat intentionally on a referee would not have concurrently displayed any of the other types of behavior. Indeed, an intentional spat on a referee would reflect an absence of emotional control, which would certainly be accompanied by other aggressive attitudes, but this was not the case.

- In line with the principle of proportionality, it is therefore submitted that the Appeals Body should take into account:
(i) the gravity of the offence;
(ii) the level of fault of the Player;
(iii) mitigating and aggravating factors in the case at hand; and
(iv) the concrete impact of the sanction upon the Player.

9. Any other arguments of the Appellant shall be addressed further below, insofar as they are relevant.

III. Appeals Body Competence and Admissibility of the Appeal

10. Article 30(4) DR states as follows:

“The Appeals Body has jurisdiction to hear appeals against decisions by the Control, Ethics and Disciplinary Body [...]”

11. The Appellant lodged its grounds for appeal by the deadline in Article 60(3) DR and in the written form required by the same provision. The appeals fee of €1’000 (as per Article 60(4) DR) 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 re-examine the case in full, both factually and legally (Article 65(2) DR).

IV. Legal Considerations of the Appeals Body

A. The legal framework.

13. As per Article 5(a) DR, the UEFA Statutes, rules and regulations, in particular the DR, are applicable to these proceedings.

14. In particular, the following provisions are relevant to this case:

- According to Article 15(1) DR, “[t]he following suspensions apply for competition matches:
  
  [...] 

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

  e. suspension for three competition matches or a specified period for assaulting another player or another person present at the match;
g. suspension for five competition matches or a specified period for serious assault;

h. suspension for fifteen competition matches or a specified period for assaulting a match official.

- According to Article 45 DR: "[f]acts contained in official UEFA reports are presumed to be accurate. Proof of their inaccuracy may, however, be provided."

- According to Article 23(3) DR, "[d]isciplinary measures can be reduced or increased by the competent disciplinary body on the basis of the circumstances of the specific case [...]".

B. In the case in hand

15. From the case file, the Appeals Body finds that this case is about an incident which occurred after the final whistle, at a moment in which several players were protesting the Referee’s decisions and in which one of these was reported by the Referee as having spat twice on the latter’s boot.

16. In sum, the legal issues revolve around three main elements:

   a) Did the Player intentionally spit at the Referee?

   b) What is the legal qualification of the Player’s action pursuant to the DR?

   c) Was the sanction disproportionate?

17. The above questions are analysed below:

   a. *Did the Player intentionally spit at the Referee?*

18. In order to properly determine whether or not the Player intentionally spat at the Referee, the Appeals Body first notes that this incident was described in great detail in the Referee Report, which clearly indicates that the Referee saw the Player come to him and spit twice on his left boot.

19. The Appeals Body recalls that in accordance with Article 45 DR cited above in the applicable legal framework, the content of the Referee Report shall be considered accurate unless proof of its inaccuracy is otherwise provided.

20. In the Appeals Body’s view, the Appellant has not provided any evidence that would disprove the content of the above report. The Appeals Body notes that the Appellant admits that the Player spat
in the direction of the Referee, but it argues that such incident was due to a physiological reaction of the Player after the effort of playing the Match, without any intention to spit at the official or hit him with his saliva.

21. The above reasoning cannot be followed, especially in light of the circumstances surrounding the incident. In this sense, the Appeals Body observes that the incident occurred immediately after the final whistle, at which time the Appellant’s players (including the Player) and head coach surrounded the Referee to angrily protest his decision not to add an additional minute of play at the end of the Match. It is within this context that, according to the Referee, the Player approached him and spat twice on his boot.

22. Recalling that, as per the award CAS 2013/A/3324 & 3369 GNK Dinamo v. UEFA, at paragraph 9.14: ‘[...] in the law, context is everything’ so [...] all the circumstances must be considered; who is saying what to (or about) whom, when, what, how and against what background”, the Appeals Body is comfortably satisfied that the Player purposely spat at the Referee twice.

23. The Appeals Body further highlights that, as mentioned in CAS 2015/A/3975 at paragraph 83, it makes no difference for the above finding whether or not the saliva actually hit the intended target (in this case, the Referee). However, it is telling that in the case at hand the Player twice hit the Referee’s left boot, a fact that in the Appeals Body’s view confirms the intentionality of the action. It is further noted that the Referee was a first-hand witness of the incident, and he was able to better appreciate not only the spitting but also the intentionality of such gesture.

b. What is the legal qualification of the Player’s action pursuant to the DR?

24. Having concluded that the Player deliberately spat at the Referee twice, the Appeals Body turns to the question of how this action is to be qualified under the applicable legal framework.

25. The Appeals Body firstly notes that in the Decision, the CEDB labelled the Player’s action as falling under both Article 15(1)(d) DR (“insulting any match official”) and Article 15(1)(e) DR (“assaulting another player or another person present at the match”), the latter following from the constant jurisprudence of UEFA’s disciplinary bodies.

26. The Appellant argues that the CEDB has failed to explain how spitting on the Referee’s boots would constitute an assault. Additionally, the Appellant states that because the Player did not commit any additional offensive gesture in addition to the spitting, the latter action was clearly not intended to be an insult, but this rather confirms its abovementioned position that it was a physiological reaction to the effort of playing a football match.

27. Turning to the consideration of the Player’s action as an assault, the Appeals Body bears in mind that, pursuant to the jurisprudence of UEFA’s disciplinary bodies, such term “covers any deliberate act that endangers the physical well-being of an individual, including spitting and striking. As a rule, such acts do not need to cause pain in order to be sanctioned.” (Appeals Body decision of 2 June 2014). However, bearing in mind the circumstances of this case, the Appeals Body finds that the Player’s action of spitting at the Referee’s boot twice cannot be considered as an act of assault, especially considering
that the Player’s intention was clearly not to harm the official, nor did it endanger the well-being of the target.

28. The Appeals Body therefore finds that the Player’s spitting at the Referee in this case did not constitute an act of assault as established in the DR and defined in UEFA’s jurisprudence.

29. Notwithstanding the above conclusion, the Appeals Body wishes to highlight that, even if it has considered the incident as an assault (quod non), Article 15(1)(e) DR would not be applicable, as this provision only refers to an assault against players or other persons present at the Match, but it does not apply to assaults against match officials, which are covered by Article 15(1)(h) DR. The fact that assaults against match officials (such as the Referee) are governed by this last provision, which is a lex specialis meant to protect the integrity of those officials, also excludes the possible application of Article 15(1)(g) DR (“serious assault”).

30. Therefore, had it been concluded that the Player’s action constituted an assault on the Referee, the Player would have been subjected to a sanction of fifteen competition matches or a specified period. However, as concluded above, the Appeals Body finds that in the particular circumstances of the case, the Player did not commit an act of assault against the Referee.

31. However, the Appeals Body finds that the act of spitting not only constitutes an insult falling under Article 15(1)(d) DR, but that such action is in fact one of the most insulting gestures possible on the field of play, as will be described further below.

32. The Appeals Body therefore concludes that the Player has committed a violation of Article 15(1)(d) DR by spitting at the Referee after the Match.

   c. Was the sanction disproportionate?

33. It is the Appeals Body’s constant practice, as reflected in its decisions which are published on the UEFA website in accordance with Article 52(5) DR, to consider the CEDB’s power of discretion to have been abused or exceeded if the latter 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.

34. The Appeals Body recalls that pursuant to Article 23(1) 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.”

35. The Appeals Body also takes note of the Appellant’s submission that the principle of proportionality should be considered in the Player’s case, as well as four specific elements thereto: (i) the gravity of the offence, (ii) the Player’s level of fault, (iii) the mitigating and aggravating factors and (iv) the impact of the sanction on the Player, shall also be considered.
36. In this particular case, the Appeals Body observes that the Player has committed what can only be described as a very serious offence. As found above, within the framework of insults against persons, spitting is one of the most (if not the most) offensive actions, which in some jurisdictions has also been included as a separate offence subject to more serious sanctions than other types of insults (verbal, hand gestures, etc.). In this sense, this panel fully endorses the finding of the Appeals Body panel in the decision of 2 June 2014 that “(...) spitting at an opponent shows a serious lack of respect for others. Indeed, to spit at someone is, in itself, an expression of utmost contempt. Consequently, the act of spitting [...] signifies a total lack of respect and a disregard for human dignity.”

37. There is also no doubt that the Player is at fault for intentionally spitting at the Referee after the Match, especially when he was rudely expressing disdain over the decisions taken by the latter.

38. The Appeals Body finds no mitigating circumstances that would otherwise justify a lesser sanction. While the Player has some experience in UEFA club competitions without any previous disciplinary records, in the Appeals Body’s view such experience is not sufficient to be considered as mitigating in the case at hand.

39. However, the Appeals Body notes that there are several aggravating factors that gain special weight in this case:

- The act of spitting is especially offensive and justifies an increase from the minimum three-match suspension foreseen in Article 15(1)(d) DR.

- The targeted person was not only a match official, who is especially protected under the DR by the more severe sanctions foreseen for offences committed against these individuals, but the target in this case was actually the Referee of the Match. The Appeals Body finds that the Referee, who is the maximum authority on the pitch, is to be treated with the utmost respect at all times, and that any offence committed against him shall be considered as an especially serious aggravating circumstance.

- The Player intentionally spat twice at the Referee. Contrary to the Appellant’s suggestion that this would be due to a physiological reaction to the Player’s effort, the Appeals Body is of the view that the reiteration of the very insulting gesture of spitting further proves the intentionality of the act in question.

40. In view of the foregoing, the Appeals Body concludes that the five-match suspension imposed by the CEDB is proportionate to the seriousness of the offence committed, and the appeal shall therefore be rejected, and the Decision confirmed.

V. Costs

41. According to Article 51(2) DR, “[t]he allocation of the costs of proceedings before the Appeals Body depends on the outcome of those proceedings. [...] [T]he Appeals Body decides at its own discretion how the costs of proceedings 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.”
42. In this case, considering that the appeal is dismissed in its entirety, it is considered justified to charge the costs of this case to the Appellant.

43. Consequently, the costs of the proceedings totalling €1’000 (minus the appeal fee) are to be borne by the Appellant.

On these grounds, the Appeals Body

**decides**

1. The appeal lodged by Legia Warszawa SA is rejected. Consequently, the UEFA Control, Ethics and Disciplinary Body’s decision of 27 September 2018 is confirmed.

2. The costs of the proceedings, totalling €1’000 (minus the appeal fee), are to be paid by the Appellant.

3. The Polish Football Association is jointly and severally liable for the payment of the fine and the costs of the proceedings.

Chairman

Pedro Tomás
decision of 5 december 2018
fc københavn

(throwing of objects; blocking of stairways)

circumstances of the case
according to the delegate’s report, the stairways in sectors b2 and b4 were blocked by fc copenhagen (the “appellant”) fans throughout the match. also, when the goals were scored, the appellant’s fans threw cups towards the pitch.

the appellant did not challenge the sanction for throwing of objects, but rather questioned the fine imposed by the cedeb for the blocking of stairways. the appellant had placed video cameras to record section b of its stadium during matches, and it believes that the videos provided show that the stairs were not blocked at any time during the match, and that no offence was therefore committed.

legal framework
articles 16(1) and 16(2)(b) of the disciplinary regulations.
article 38 of the safety and security regulations.

decision
after reviewing the video footage provided by the appellant, the appeals body concluded that the appellant had not sufficiently disproved the presumption of accuracy of the official match reports. the appeals body therefore confirmed the cedeb’s decision, rejecting the appeal.

ad-hoc chairman: michael maessen (ned)
vice-chairman: levent biçakci (tur)
member: björn ahlberg (swe)

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 “cedeb”), 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 20 september 2018, fc københavn (hereinafter also referred to as the “appellant”) played a match against football club zenit in the 2018/19 uefa europa league group stage (hereinafter, the “match”).

3. the uefa match delegate reported inter alia the following incidents involving the appellant’s supporters (sic):

...
Stewards were pro-active on the stairways, but.. The stairways were blocked by Copenhagen fans in sector B2 and B4 during the match.

When the home team scored the 1-1 (min. 63) a Copenhagen fan celebrate it by throwing a plastic cup in the penalty area. No one was targed or hit. The second ad. referee removed immediately the cup.

[...]

After the game, the Referee informed me of the following:

When Zenit scored the 0-1 in min +43', two plastic cups were throwing by Copenhagen fans on the corner area, beside the Ass. Ref.2.

He did not know exactly the sector, but it was 100% coming from Copenhagen fans.

Nobody was hit.”

4. In an Additional Report filed by e-mail on 20 September 2018, the Match Delegate completed his original report by providing photo evidence of the above-referenced blocking of stairways.

5. On 18 October 2018, the CEDB took the following decision (hereinafter, the “Decision”):

“1. To fine FC København € 18’000 for Stairways blocked.
2. To fine FC København € 5’000 for Throwing of objects.
3. The above fines for a total of € 23’000 must be paid into the bank account indicated below within 90 days of communication of this decision.”

6. The Decision with grounds was notified to the Appellant on 30 October 2018.

7. Any other relevant facts shall be referenced further below, if necessary.

II. Summary of the proceedings before the Appeals Body

8. On 31 October 2018, the Appellant announced its intention to appeal against the Decision.

9. On 5 November 2018, the Appellant filed its grounds for appeal. In its statements, the Appellant, essentially, argued the following:
- The Appellant firstly contests the CEDB’s finding that it did not submit any statements in the first-instance proceedings. The Appellant provides a copy of its e-mail of 26 September 2018 in which it contested the Delegate’s report concerning the blocking of stairways and provided the links to two videos of the Match. The Appellant also encloses the acknowledgement of receipt of said e-mail by the UEFA disciplinary services.

- As for the main issue at stake in its appeal, the Appellant submits that in light of previous incidents concerning blocked stairways at its matches, the Appellant has placed video cameras to record section B of its stadium during matches. The videos of the Match clearly show that there is traffic on the stairs, due to people going back and forth during the Match, but that the stairs are not blocked at any time, so no offence has been committed.

- The Appellant therefore requests the annulment of the €18’000 fine imposed for blocking of stairways.

10. Any other arguments of the Appellant shall be addressed further below, insofar as they are relevant.

III. Appeals Body Competence and Admissibility of the Appeal

11. Article 30(4) DR states as follows:

“The Appeals Body has jurisdiction to hear appeals against decisions by the Control, Ethics and Disciplinary Body [...].”

12. The Appellant lodged its grounds for appeal by the deadline in Article 60(3) DR and in the written form required by the same provision. The appeals fee of €1’000 (as per Article 60(4) DR) was paid on time.

13. It follows that the Appeals Body has competence to decide on the present Appeal and that the Appeal is admissible. The Appeals Body may therefore consider its merits and can re-examine the case in full, both factually and legally (Article 65(2) DR).

IV. Legal Considerations of the Appeals Body

A. The legal framework.

14. As per Article 5(a) DR, the UEFA Statutes, rules and regulations, in particular the DR, are applicable to these proceedings.

15. In particular, the following provisions are relevant to this case:
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.”

According to Article 16(1) DR: “[host 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.”

Pursuant to Article 16(2) DR, “[...] clubs are liable for the following inappropriate behavior 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;

[...].”

Article 45 DR establishes that “[facts contained in official UEFA reports are presumed to be accurate. Proof of their inaccuracy may, however, be provided.”

According to Article 6.01(e) of the Regulations of the UEFA Europa League (2017/18 Season) [hereinafter, the “UEL Regulations”], “[on entering the competition, participating clubs agree: [...] e. to observe the UEFA Safety and Security Regulations for all matches in the competition.”

As per Article 1 of the UEFA Safety and Security Regulations (the “SSR”), “[these regulations apply whenever expressly referred to by specific regulations governing a competition to be played under the auspices of UEFA” and “[they govern the organisational measures intended to ensure safety and security in and around the stadium before, during and after every match in the competition concerned”.

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.”

According to Article 49 SSR, “[any breach of these regulations may be penalised by UEFA in accordance with the UEFA Disciplinary Regulations.”

B. In the case in hand
16. From the case file, the Appeals Body first observes that the Appellant has only directed its appeal against the €18,000 fine imposed in the Decision for blocking of stairways, without challenging the €5,000 fine for throwing of objects. By limiting the scope of its appeal to the former offence, the Appellant has accepted the latter one and its relevant fine, which is thus confirmed. These appeal proceedings are therefore limited to the question of whether or not the Appellant has committed a disciplinary violation due to the blocking of stairways during the Match.

17. The Appeals Body also notes that the Appellant has raised a procedural issue concerning the receipt of its written statements to the CEDB.

18. The issues to be analysed in this case are therefore:

   a) Does the CEDB’s failure to consider the Appellant’s submissions in the first instance proceedings justify its annulment?

   b) Has the Appellant managed to disprove the presumption of accuracy of the Match Delegate’s report?

   c) Is the sanction imposed by the CEDB appropriate?

19. The Appeals Body shall consider each of these issues below.

   a. Does the CEDB’s failure to consider the Appellant’s submissions in the first instance proceedings justify its annulment?

20. Prior to addressing the Appellant’s submissions on the merits of the case, the Appeals Body first considers the Appellant’s procedural claim concerning the CEDB’s failure to take into account its submissions in the first instance proceedings.

21. The Appeals Body recalls that pursuant to Article 65(2) DR, “the Appeals Body has the full power to review the facts and the law”. According to the constant jurisprudence of the Appeals Body and the Court of Arbitration for Sport (CAS), this de novo power of review cures any alleged breach of a party’s rights in the previous instance.

22. Against this background, the Appeals Body notes that the Appellant has had the opportunity to present its arguments and evidence in the current appeal proceedings, including the videos already on file, which have been duly considered in this case.

23. In light of the foregoing, the Appellant’s procedural complaint is insufficient to annul the Decision, and the Appeals Body hereby exercises its power to fully review the facts and the law of the case.

   b. Has the Appellant managed to disprove the presumption of accuracy of the Match Delegate’s report?
24. Turning to the substance of the case, the Appellant contests the content of the Delegate Report and Additional Report, insofar as they refer to the blocking of stairways by the Appellant’s supporters. To substantiate its argument, the Appellant provides videos of the Match in which, according to the Appellant, the stairways are not blocked, and the traffic in the stairs throughout the Match is due to spectators going back and forth.

25. After having carefully reviewed the videos submitted by the Appellant, the Appeals Body finds that, more than disproving the content of the official reports, this evidence confirms the Delegate’s Report concerning the blocking of stairways by the Appellant’s supporters.

26. Indeed, the Appeals Body observes that while in Appendixes B, C and D the Appellant focuses on the stairways in the lower part of the stand in question, the videos submitted by the Appellant show supporters blocking stairways on both the upper and lower levels. Moreover, although at some points of the Match there appears to be a ‘normal’ flow of spectators in some of the lower stairways, the Appeals Body finds that at many other times such movement is only due to the stewards’ unsuccessful efforts to clear the stairways that were constantly being occupied by spectators.

27. Also, with the benefit of the video evidence filed by the Appellant in these proceedings, and which the CEDB did not have the opportunity to evaluate, the Appeals Body also observes that in some of the stairways of the upper level, the blocking occurred throughout most of the Match without any attempt being made to clear them by the stewards.

28. The Appeals Body is therefore comfortably satisfied that the Appellant has breached Article 38 SSR and shall be sanctioned accordingly.

c. Is the sanction imposed by the CEDB appropriate?

29. The Appellant has not made any submissions relating to the adequacy of the €18'000 fine imposed in the Decision for blocking of stairways, as it has based its appeal solely on the alleged absence of an offence. Nevertheless, the Appeals Body find it appropriate to contemplate whether said fine is adequate under the circumstances of the case.

30. As reflected in its decisions which are published on the UEFA website in accordance with Article 52(5) DR, it is the Appeals Body’s constant practice to consider the CEDB’s power of discretion to have been abused or exceeded if the latter 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.

31. The Appeals Body notes that the Appellant has already been sanctioned four times in the past two years for blocking of stairways, thus making it a recidivist in the sense of Article 25(1)(c) DR. It is recalled that Article 25(2) DR stipulates that “[r]ecidivism counts as an aggravating circumstance.”

32. Moreover, as per Article 6(5) DR, Annex A(II) DR establishes the standard disciplinary measures that may be taken into consideration when determining the sanction applicable to a particular case. The Appeals Body observes that for offences involving the blocking of public passageways, such as in the
case at hand, Annexe A(II) DR foresees a €12'000 fine for a second offence. Therefore, because this is the Appellant's fifth offence involving the blocking of stairways in the last two years and considering the CEDB's practice to add the sum of €2'000 per previous offence after the second infringement, the Appeals Body finds the €18'000 fine imposed in the Decision to be appropriate and shall be confirmed.

33. In light of the foregoing, the Appeals Body rejects the appeal and confirms the Decision.

V. Costs

34. According to Article 51(2) DR, "[t]he allocation of the costs of proceedings before the Appeals Body depends on the outcome of those proceedings. [...] [T]he Appeals Body decides at its own discretion how the costs of proceedings 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."

35. In this case, considering that the appeal is dismissed in its entirety, it is considered justified to charge the costs of this case to the Appellant.

36. Consequently, the costs of the proceedings totalling €1’000 (minus the appeal fee) are to be borne by the Appellant.

On these grounds, the Appeals Body

**decides**

1. The appeal lodged by F.C. København is rejected. Consequently, the UEFA Control, Ethics and Disciplinary Body’s decision of 18 October 2018 is confirmed.

2. The costs of the proceedings, totaling €1’000 (minus the appeal fee), are to be paid by the Appellant.

3. The Danish Football Association is jointly and severally liable for the payment of the fine and the costs of the proceedings.

Michael Maessen
Ad-hoc Chairman
Decision of 5 December 2018
Chelsea FC
(Complaint)

Circumstances of the case
Following the match played in Barcelona, Chelsea FC (the “Appellant”) lodged a complaint against FC Barcelona, due to, in sum, the sustained and consistent use of excessive force and brutality towards the Appellant’s supporters by stewards and Police, resulting in a number of serious injuries, the serious health and safety concerns over access to and egress from the stadium, and the failure to implement the agreed crowd safety measures. After reviewing the complaint and FC Barcelona’s comments, the Ethics and Disciplinary Inspector (“EDI”) decided not to open disciplinary proceedings. The Appellant appealed said decision before the CEDB, who found that the opening of proceedings was not warranted and closed the case. This last decision was subsequently appealed before the Appeals Body.

Legal framework
Articles 55(3) and 60(1) of the Disciplinary Regulations

Decision
After evaluating the admissibility of the appeal pursuant to Article 60(1) DR, the Appeals Body determined that the Appellant was not directly affected by the appealed decision, and therefore declared the appeal inadmissible.

Ad-hoc Chairman: Michael Maessen (NED)
Vice-chairman: Levent Biçakci (TUR)
Member: Björn Ahlberg (SWE)

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”), 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 14 March 2018, Chelsea FC (hereinafter also referred to as the “Appellant”) played a match against FC Barcelona in the 2017/18 UEFA Champions League Round of 16 (hereinafter, the “Match”).

   A. The Official Reports of the Match

3. The UEFA Match Delegate reported inter alia the following incidents involving the Appellant’s supporters (sic):

   ...
“Based on the information from UEFA Security Officer, he was approached by the Chelsea security staff with information about some incidents which happened prior the kick-off outside the stadium. Namely: 1. Confrontation between Chelsea fans on one side and Spanish police and private security on the other side which started 15 before kick-off when large number of away fans demolished the barriers and got into confrontation with police and private security which used batons to stop them. 2. Group of Chelsea supporters accompanied by police got in contact with FCB fans on the way from subway to the stadium, FCB fans attacked them by throwing golf balls. 3. Moreover, information about overcrowded sector for visiting team fans. All these facts are based on the indirect information from Chelsea security people and more detailed description will follow in my additional report. […]”

4. On 15 March 2018, the Match Delegate submitted an additional report (the “Additional Report”) stating, inter alia, the following (sic):

“3 incidents have been reported during half time break by visiting team (Chelsea FC) security staff, namely [the Appellant’s Head of Security] and Michael Moody, Crowd Control Advisor. They approached UEFA Security Officer Ulrich Grzella, who informed me about everything after the match in delegate’s room:

1. At 20:15 hrs (30 min prior kick-off), large group of Chelsea fans (about 700-800) approached the Gate 21 and under the pressure the barriers collapsed and tables for body search were turned up. In order to stop crowd, police and private security intervened using batons.

In opinion of Chelsea security representatives, excessive power has been used, one Chelsea supporter was injured (area of kidney), but refused first aid and went to the stadium to watch the match.

2. Another group of visiting team fans (cca 200), accompanied by Spanish police on their way from Metro station, came to contact with home supporters (FCB) who started to throw golf balls to them. Nobody was injured.

3. In conclusion, they also reported that visiting team sectors (521-536) in tribunes Lateral and Gol Sud were over crowded.

In the end, 2 Chelsea security reps added that Chelsea FC will work on more detailed report which will be consequently sent to UEFA.

Ulrich, UEFA SO added to this that he was checking the area around Gate 21 (dedicated only to visiting team supporters) for about one hour and he was positively surprised by an excellent
organisation of arrival of Chelsea fans from organisational point of view as well as acting of police and private security. During his presence, he did not spot any negative actions or incidents.

After the match, we contacted Spanish police and FCB security officers. Because they were busy with escorting Chelsea fans after the match, they arrived about 30 min after the match to delegate's room. Namely: Lluis Venteo - Match Commander from Spanish Police, Jordi Sin – Head of FCB Security and Cristian Garcia – his deputy. From UEFA side DEL, SO and VD were present. We asked them to explain what was said by Chelsea reps from their point of view, they had the same opinion about all what happened:

To point 1.:

FCB emphasised already during security meeting on MD-1 the fact that it’s very important for Chelsea fans to arrive early enough to the stadium as we expected aprox. 4800 fans to come. Reality was that the group of about 1800 away team fans arrived to the Gate 21 at 20:30 hrs, i.e. 15 min prior the kick-off. Moreover, Jordi was advised by [the Appellant’s Head of Security] that there will be a significant number of Chelsea fans without tickets who would intend to get to the stadium. This group put a pressure on stewards, many of them drunk, they basically did not respect anything, destroyed all barriers on the way even in the first perimeter (visual check of tickets). Also 10 travelling Chelsea stewards tried to calm them down, but without any affect. Therefore, police and security needed to act in order to get them on line.

To point 2.:

The group of about 200 fans did not respect the organisational instructions of FCB and they left the metro in the wrong station (Les Corts) instead of Placa del Centre (one stop before). By this way, they would miss the bridge leading to Gate 21 (segregated area for visiting team fans) and would arrive among the FCB fans. Spanish police had to escort them back to the Gate 21. But it was impossible to avoid contact with FCB fans completely. So, it happened that Barcelona fans used this opportunity and threw golf balls to them.

To point 3.:

Total capacity of visiting team sector is 4986 seats and we expected around 4800 Chelsea fans. Confirmed number after the match was 3953, but these were only fans who went through turnstiles. Because of extraordinary situation described in point 1, stewards opened side gate near Gate 21 to release the pressure. Through this gate with only visual check of tickets went cca 500 Chelsea fans which were not included in the system. It means, in total around 4500 fans were present physically in the visiting team sector. So, the sector could not be over crowded.

In conclusion: I think, my report will be more or less identical with report of Ulrich as he was the one who forwarded me all information from Chelsea security persons and during the meeting with Spanish side we both were present.
To point 1, I can add only that what I saw on the video (the Sun), the power (batons) used by Spanyards was a bit too much and I was surprised that private security was using them and not police.

To point 2, I have nothing to add as I did not witness it and I did not see any visual material.

To point 3, From my pictures, I made during the match, the visiting sector isn’t clearly visible, so it makes no sense to send them to you, but I can objectively say that in spite of being rather ful, I could spot personally number of empty seats especially in section 536 (in the centre of tribune Lateral). It was mainly in the first half, because in the second half many fans left from the stadium, so in the end it looked half empty. It means, the sector for Chelsea fans was not over crowded, indeed."

5. In his Pre-Match Phase (MD-1 to Kick-Off) Report, the UEFA Security Officer (hereinafter, the “UEFA SO”) also reported the above-mentioned incidents as told to him by [the Appellant’s Head of Security] and Mr. Michael Moody (the Football Association’s Security Delegate).

B. The Appellant’s Complaint

6. On 13 April 2018, the Appellant filed a complaint (hereinafter, the “Complaint”), asking UEFA to carry out a full and prompt investigation into:

   “1. Sustained and consistent use of excessive force and brutality towards Chelsea supporters by stewards and Police, resulting in a number of serious injuries;

2. Serious health and safety concerns over access to and egress from the stadium; and

3. Failure to implement agreed crowd safety measures. [...]”

7. In its Complaint, the Appellant raised, in sum, the following five issues on the basis of the witness statement of [the Appellant’s Head of Security] and a report filed by Mr. Moody:

   (i) Prior to the Match, Chelsea FC supporters were attacked by FC Barcelona supporters armed with golf balls, fireworks, broken bricks and snooker balls, resulting in serious injuries being sustained by its fans.

   (ii) The crowd control measures implemented by FC Barcelona on the approach to the stadium were inadequate and failed when put under minimal pressure. The crowd control barriers were not properly secured, and security cordons collapsed and were overwhelmed, leading to overcrowding further up the road. The reaction of the stewards and police to this was to indiscriminately attack supporters with batons, leading to a widespread panic and confusion.
(iii) The stewards and police used excessive and unwarranted force against the Appellant’s supporters entering the stadium at gate 21 before the Match. The Appellant finds it disturbing that, according to witness accounts, some stewards were covering their faces with scarves. It is not, in the Appellant’s experience, usual for stewards in charge of crowd control to be armed.

(iv) At the end of the Match, FC Barcelona failed to implement the holdback that had been agreed by the clubs. Instead, the Appellant’s supporters were released immediately and, in some cases, were forcefully and actively ejected from the seating area.

(v) As the supporters were descending the walkways to ground level of the stadium, they were charged by stewards armed with batons and subjected to further violent assaults, causing the Appellant’s supporters to overwhelm and crowd the dangerous access bridge.

8. Prior to deciding on whether or not disciplinary proceedings should be opened against FC Barcelona based on the Appellant’s complaint and as per Article 55(2) of the UEFA Disciplinary Regulations (“DR”), the Ethics and Disciplinary Inspector (“EDI”) asked FC Barcelona to comment on the Complaint.

9. On 4 May 2018, FC Barcelona filed its statement to the EDI, stating, inter alia, the following:

- FC Barcelona disagrees with the account of events as presented in the Complaint and its enclosed witness statement, finding them misleading and incorrect. The club is very disappointed with the content of the witness statement and the misuse of video evidence in support of the Appellant’s allegations.

- During the pre-Match visit held on 25 January 2018, FC Barcelona passed on all the relevant information concerning the security at the Match to Chelsea FC. After this visit, the clubs’ security departments exchanged further information, including a document titled “Visiting Supporters Information” which was sent by FC Barcelona’s security officer Christian Ramos to [the Appellant’s Head of Security]. This document explains in detail how all visiting supporters of the Appellant should have arrived from the north side of the stadium to Gate 21, through a route that is recommended and applied to all away fans visiting the Camp Nou in UEFA Champions League matches.

- In order to guarantee the segregation of fans, the access road for away supporters, Carrer de la Maternitat, is closed on the south side. Therefore, Gate 21 cannot be accessed by any other route than the one recommended for away supporters. The Appellant’s failure to sufficiently inform its supporters of the access road to be used led to several incidents.

- It was only at 18:30 that [the Appellant’s Head of Security] informed his counterpart, Mr. Ramos, that a large group of Chelsea FC supporters had travelled to Barcelona without a ticket and would arrive in large numbers at the access gate close to kick-off time, creating tumult and causing an avalanche that would enable them to enter the stadium. The late arrival of Chelsea FC hooligans without tickets and seeking to access the stadium by trying to overrun security checkpoints was what triggered the incidents.
- Chelsea FC fans are perceived as one of the most problematic groups to deal with, as can be recalled from past incidents in Paris as well as the violent incidents in the Barcelona city centre on the day of the Match.

- Regarding the alleged violent attack on Chelsea FC fans by FC Barcelona supporters, such alleged incidents took place in the dead-end side of the street, in which the Appellant’s supporters should never have been had they followed FC Barcelona’s access recommendations. Moreover, according to a confidential police report that was sent directly by the Catalan Police to UEFA, it was Chelsea FC fans who began throwing golf balls at the local supporters, causing a counter-reaction from the latter. The Appellant’s supporters who had tried to gain access to the stadium from the wrong side of the Carrer de la Maternitat were escorted by the police to the correct side of the street.

- No conclusive evidence of the alleged excessive use of force by the stewards has been submitted by Chelsea FC. In fact, in the video evidence submitted by the Appellant shows that the actions taken by the police were not disproportionate, but rather quite the contrary. In one of these videos, one can see the stewards and private security running away from Chelsea FC fans whilst the policemen hold batons and try to control the crowd as a result of the tumult caused by the Appellant’s fans trying to access the stadium.

- As for the incident during the exit of the Appellant’s supporters, this was caused by these fans trying to leave in the wrong direction, which forced the stewards to push them back towards the exit. As also explained by Mr. Moody in his report, Chelsea FC supporters were also throwing coins on the exit ramp.

- The Appellant has not provided any evidence of the stewards covering their faces with scarves or balaclavas, and such statement is therefore uncorroborated and denied.

- Chelsea FC confuses the stewards with private security personnel, the latter being allowed to wear batons as per Spanish Law 5/2014 on Private Security.

- As for the Appellant’s safety concerns regarding the temporary bridge, FC Barcelona submits a technical report from a civil engineer which confirms that said bridge complied with all required safety and quality ISO standards.

- Finally, FC Barcelona questions the truthfulness and accuracy of most of the anonymous witness testimony submitted by Chelsea FC, as they are not supported by any convincing evidence. Moreover, such testimonials submitted by e-mail and upon an explicit request and plea for information cause a risk of relying on hearsay evidence and violate the principle of due process and FC Barcelona’s right of defence.

10. On 16 May 2018, the EDI issued the following reasoned decision (the “EDI Decision”), which was notified to the parties on 18 May 2018:

“In accordance with Article 55 (2) of the UEFA DR, the Ethics and Disciplinary Inspectors decides not to open disciplinary proceedings against FC Barcelona.” (sic)
C. The appeal proceedings before the CEDB

11. On 23 May 2018, the Appellant announced its intention to appeal the EDI Decision before the CEDB in accordance with Article 55(3) DR. For this purpose, Chelsea FC requested that the deadline to file the grounds of its appeal be set upon reception of the evidence considered by the EDI when rendering the EDI Decision, including the submissions and exhibits of FC Barcelona in the referenced investigation.

12. On 14 June 2018, within the extended deadline conferred to it, the Appellant filed its grounds for appeal, requesting, in sum, that the CEDB holds a hearing to establish the facts and takes steps so that the incidents seen at the Match are not repeated. With its appeal, Chelsea FC submitted a second witness statement from [the Appellant’s Head of Security] and additional video evidence thereto.

13. On 2 July 2018, the EDI filed his reply to the appeal.


15. On 19 July 2018, the CEDB took the following decision (hereinafter, the “CEDB Decision”):

“To close the disciplinary proceedings opened against FC Barcelona.”

16. The Decision with grounds was notified to the Appellant on 7 August 2018.

17. Any other relevant facts regarding the CEDB proceedings shall be referenced further below, if necessary.

II. Summary of the proceedings before the Appeals Body

18. On 10 August 2018, the Appellant announced its intention to appeal against the CEDB Decision and requested, *inter alia*, that the deadline to file the grounds of its appeal be set for 20 August 2018.

19. On 20 August 2018, within the extended deadline that had been granted, the Appellant filed its grounds for appeal. In its statements, the Appellant, essentially, reiterated its arguments made in the Complaint and its subsequent appeal to the CEDB. The Appellant addressed issues raised by the CEDB, the EDI and FC Barcelona in the previous instance and accepted not to appeal against the issue concerning the temporary bridge. In sum, the Appellant requests that charges are brought against FC Barcelona pursuant to Articles 16(1) and 16(2) DR.

20. On 29 August 2018, the EDI filed his reply to the appeal, maintaining his position from the previous instance and reasserting the conclusions in the EDI Decision.
21. On 7 September 2018, FC Barcelona filed its reply to the appeal, referring to its submissions in the previous proceedings and limiting itself to addressing Chelsea FC’s lack of standing to appeal the CEDB Decision, based on the Appellant not being directly affected by said decision.

22. On 5 December 2018, a hearing was held.

23. The ad-hoc Chairman of the Appeals Body opened the appeal hearing and noted the presence of the Appellant, the EDI and FC Barcelona.

24. Afterwards, the ad-hoc Chairman explained the procedure to be followed. He reminded the parties of the composition of the Appeals Body and told them that everything they and the members of the Appeals Body said during the hearing would be recorded. No objection was raised.

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

26. While the Appeals Body has carefully considered all the parties' written submissions and oral pleadings, any other arguments not referenced in the above summary shall be addressed further below, insofar as they are relevant.

III. Appeals Body Competence and Admissibility of the Appeal

A. Competence

27. Article 30(4) DR states as follows:

“The Appeals Body has jurisdiction to hear appeals against decisions by the Control, Ethics and Disciplinary Body [...].“

28. The Appellant lodged its grounds for appeal by the deadline in Article 60(3) DR and in the written form required by the same provision. The appeals fee of €1’000 (as per Article 60(4) DR) was paid on time.

29. It follows that the Appeals Body has competence to decide on the present Appeal. The Appeals Body may therefore consider its merits and can re-examine the case in full, both factually and legally (Article 65(2) DR).

B. Admissibility

30. The Appeals Body begins its assessment on the merits of the case by addressing the admissibility of Chelsea FC’s appeal against the CEDB Decision.
31. The Appeals Body notes that FC Barcelona has objected to the admissibility of the appeal, chiefly arguing that the Appellant is not directly affected by the CEDB Decision and therefore lacks standing to appeal.

32. At the hearing, Chelsea FC contested said objection, asserting that it had indeed been directly affected by the CEDB’s failure to open disciplinary proceedings against FC Barcelona, in sum, because:
   - Both this case and the separate disciplinary proceedings opened against the Appellant are two sides of the same coin: the view that has been taken of the facts in this case is the very same view of the facts that resulted in the opening of disciplinary proceedings against Chelsea FC.
   - The reason that the EDI and CEDB decided not to open proceedings against FC Barcelona is that the former took the view that the latter’s stewards had been somehow provoked by the Appellant’s fans. Such view of the facts permeates the whole dispute, including the disciplinary proceedings against Chelsea FC, as such findings are damaging to the Appellant and its supporters.

33. After careful evaluation of the parties’ arguments and the documents on file, the Appeals Body finds Chelsea FC’s appeal inadmissible, for the reasons set out below.

34. The Appeals Body firstly notes that pursuant to Article 60(1) DR, “[t]he parties directly affected by a decision [...] have the right to appeal.”

35. According to the jurisprudence of CAS, the concept of the ‘club directly affected by the decision’ should be interpreted restrictively; moreover, “[w]hen a third party, who is himself not the addressee of the measure taken by an association, is directly affected and therefore has a right of appeal, is a question of the facts of the individual case.” (CAS 2008/A/1583, para. 9.6.1)

36. As for the distinction between a party ‘directly affected’ by a decision and one that is ‘indirectly affected’, CAS has also found that “[w]here the third party is affected because he is a competitor of the addressee of the measure/decision taken by the association, –unless otherwise provided by the association’s rules and regulations– the third party does not have a right of appeal. Effects that ensue only from competition are only indirect consequences of the association’s decision/measure. If, however, the association disposes in its measure/decision not only of the rights of the addressee, but also of those of the third party, the latter is directly affected with the consequence that the third party then also has a right of appeal.” (CAS 2008/A/1583, para. 9.6.1)

37. CAS has more recently considered this issue in case CAS 2015/A/4343, concluding that:

“112. The Panel recalls that standing to appeal UEFA decisions is granted not only to (i) the addressee of a measure, but also to (ii) third parties that are directly affected. This is consistent with the general principle that parties, who are sufficiently affected by a decision, and who have a tangible interest of a financial or sporting nature at stake may bring a claim, even if they are not addressees of the measure being challenged.

[...]
114. The Panel notes that the burden of proof to demonstrate a legal interest worthy of protection falls on Trabzonspor - the party asserting standing. In addition, the notion directly affected as applied to third parties who are not the addressees of a measure must be interpreted in a restrictive manner.

115. As regards the differentiation of directly affected parties from indirectly affected parties, the CAS jurisprudence displays a “common thread”, which has been succinctly put as follows:

"Where the third party is affected because he is a competitor of the addressee of the measure/decision taken by the association, - unless otherwise provided by the association’s rules and regulations - the third party does not have a right of appeal. Effects that ensue only from competition are only indirect consequences of the association’s decision/measure. If, however, the association disposes in its measure/decision not only of the rights of the addressee, but also of those of the third party, the latter is directly affected with the consequence that the third party then also has a right of appeal. “19

116. In a nutshell, the correct approach when dealing with standing is to deem competitors indirectly affected - and thus exclude them from standing - when the measure does not have tangible and immediate direct consequences for them. [..]

38. The Appeals Body notes that the above-mentioned jurisprudence has also been endorsed by this disciplinary body, most recently in its decision of 5 June 2018, which found, inter alia:

“35. However, with regard to the Decision of the CEDB, the parties’ right to appeal is specified in Art. 60 (1) DR which knots such right to the question whether or not a party is directly affected by a decision.

36. The Appeals Body notes that the ratio legis behind legal provisions such as Article 60 (1) DR is, on the one hand, in a positive sense, to ensure a party’s right to be heard and to give the opportunity to a second instance court to revise the first instance’s court decision and reasoning, while it is on the other hand an instrument to eliminate popular action of third parties who are not affected by the relevant decision.

37. With this being established, this disciplinary body concludes that, to put it simple, the question hence is whether or not the Appellant is directly affected by the decision of the CEDB to reject the appeal of the Appellant against the decision of the EDI to not open disciplinary proceedings against SL Benfica.

[..]

41. Likewise, the Appeals Body recalls that it has to be regarded as CAS established jurisprudence that “a party is directly affected by a decision either if (i) it is the addressee of a disciplinary measure or (ii) if it is otherwise directly affected, whereas the latter alternative according to CAS has to be interpreted in a restrictive manner”.

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42. In view of the above, the Appeals Body first notes that the Appellant is obviously and undisputedly not the addressee of any disciplinary measure, given that the legal request made by the latter in its original complaint as well as in the proceedings before the CEDB was to force the opening of disciplinary proceedings against its domestic competitor SL Benfica.

43 Hence, as it was established by CAS, the Appellant needed to be “otherwise directly affected”, whereas such alternative has to be interpreted in a restrictive manner. However, in this sense, CAS in its jurisprudence has also found that the mere status of a competitor who might compete in the same competition does not give a third party to the right to appeal, given that the consequences of any disciplinary decision which might or might not be taken against a competitor are only of an indirect nature. In view of that, bearing in mind the requirement of CAS to interpret the term “directly affected” restrictively, mere indirect consequences deriving from a disciplinary decision would not be sufficient to give a party the right to appeal.

[...]

46. Finally, this Appeals Body further wishes to stress that it is established jurisprudence of UEFA’s disciplinary bodies that the mere fact that a club lodged a complaint before UEFA in accordance with Art. 55 DR does not transform the complaining party in a party directly affected by a potential decision of the relevant UEFA disciplinary body (cf. proceedings against Trabzonspor, as confirmed by CAS in CAS 2015/A/434).

39. Bearing the foregoing in mind and turning to the case at hand, the Appeals Body finds that Chelsea FC is not a party directly affected by the CEDB Decision under appeal (nor by the EDI Decision). In particular, the Appeals Body finds that:

- The reason that Chelsea FC was an addressee of the referenced decisions was because it was the Appellant who had filed the Complaint and subsequently appealed the EDI Decision before the CEDB. However, this in itself does not, per se, confer standing to Chelsea FC to appeal the CEDB Decision pursuant to Article 60(1) DR, as also confirmed in the aforementioned CAS jurisprudence.

- The focus of the CEDB Decision was solely on whether or not disciplinary proceedings should be opened against FC Barcelona for alleged breaches of Articles 16(1) and 16(2) DR. Having carefully evaluated the CEDB Decision, the Appeals Body finds that the only party directly affected by the ruling to not open such disciplinary proceedings is FC Barcelona. This conclusion is further reinforced by the fact that, had the CEDB ruled differently and decided to open such proceedings, Chelsea FC would not have been a party thereto, and only FC Barcelona would have been a party to such disciplinary proceedings (aside from, if applicable, the EDI representing UEFA pursuant to Article 31(2) DR). Chelsea FC is therefore not a party affected by the CEDB Decision, nor would it have been affected if a different ruling had been issued by the CEDB.

- In the same manner, and although irrelevant for the purposes of evaluating whether or not Chelsea FC is directly affected by the CEDB Decision, the potential outcome of this appeal if it were considered admissible (quod non) and the Appellant’s arguments accepted would
only affect FC Barcelona, against whom disciplinary proceedings would be opened. Such hypothetical outcome would never directly affect Chelsea FC.

- The existence of separate disciplinary proceedings against Chelsea FC concerning similar facts does not in itself make the Appellant directly affected by the CEDB Decision not to open proceedings against FC Barcelona. The findings in the CEDB Decision have no bearing on the separate disciplinary proceedings opened against the Appellant, nor has such an alleged consequence been proven. As mentioned above, and as confirmed by the Appellant in its appeal, the object of the CEDB proceedings was to determine whether or not disciplinary proceedings should be opened against FC Barcelona for the alleged incidents before and after the Match.

- The fact that the CEDB concluded that such incidents did not warrant the opening of proceedings against FC Barcelona could not (and did not) have any consequences in the disciplinary proceedings against Chelsea FC for the alleged misbehavior of its own supporters. Although the CEDB qualified the conduct of FC Barcelona’s stewards as a reaction to the collapsing of the barriers near Gate 21 by Chelsea FC fans, this circumstance does not constitute either a prejudgement or even an opinion as to the latter’s behavior and therefore did not (and does not) have any consequence in the proceedings against Chelsea FC. In any event, this does not make Chelsea FC directly affected by the CEDB Decision either.

40. For the foregoing reasons, the Appeals Body concludes that Chelsea FC lacks standing to appeal the CEDB Decision pursuant to Article 60(1) DR, and the appeal shall therefore be declared inadmissible.

41. The above conclusion renders any further discussion on the merits of the appeal moot.

IV. Costs

42. According to Article 51(2) DR, “[t]he allocation of the costs of proceedings before the Appeals Body depends on the outcome of those proceedings. […] [T]he Appeals Body decides at its own discretion how the costs of proceedings 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.”

43. In this case, considering that the appeal is declared inadmissible and the CEDB Decision is confirmed in its entirety, it is considered justified to charge the costs of this case to the Appellant.

44. Consequently, the costs of the proceedings totalling €5’000 (minus the appeal fee already paid by Chelsea FC) are to be borne by the Appellant.
On these grounds, the Appeals Body

decides

1. The appeal lodged by Chelsea FC is declared inadmissible. Consequently, the UEFA Control, Ethics and Disciplinary Body’s decision of 19 July 2018 is confirmed.
2. The costs of the proceedings, totalling €5'000 (minus the appeal fee), are to be paid by the Appellant.
3. The Football Association is jointly and severally liable for the payment of the fine and the costs of the proceedings.

Michael Maessen
Ad-hoc Chairman
Decision of 5 December 2018
Chelsea FC
(Crowd disturbances)

Circumstances of the case
Following the match played in Barcelona, Chelsea FC (the “Appellant”) lodged a complaint against FC Barcelona, due to, in sum, the sustained and consistent use of excessive force and brutality towards the Appellant’s supporters by stewards and Police, resulting in a number of serious injuries, the serious health and safety concerns over access to and egress from the stadium, and the failure to implement the agreed crowd safety measures. After reviewing the complaint, FC Barcelona’s submissions and the evidence provided by both clubs, the Ethics and Disciplinary Inspector (“EDI”) requested that disciplinary proceedings be opened against the Appellant due to the alleged crowd disturbances caused by its supporters prior to the match. As a result, the Appellant was fined €10,000 by the CEDB.

In its appeal, the Appellant recalled that the focus of the proceedings were the events which took place at Gate 21 of the stadium, yet the Security Officer’s report on those incidents was based on the evidence of others. The Appellant also claimed, in sum, that it was put in a position in which it was punished due to the serious failings in the organisation of the Match, whilst no blame is apportioned to FC Barcelona as the event organiser.

Legal framework
Article 16(2)(h) of the Disciplinary Regulations.

Decision
Having examined the statements submitted by both clubs, as well as the video footage provided by Chelsea FC and the testimonies of officials who witnessed the incidents first-hand, the Appeals Body found that the incidents at Gate 21 were a result of having a large crowd arrived through a narrow street towards the gate very shortly before kick-off, which in turn led to the reaction of the security personnel and police. Under the circumstances of the case at hand, the Appeals Body found that the conduct of the Appellant’s supporters in this particular case did not constitute any inappropriate behavior that would violate Article 16(2)(h) DR. The Appeals Body therefore decided to uphold the appeal and annul the CEDB’s Decision.

Ad-hoc Chairman: Michael Maessen (NED)
Vice-chairman: Levent Biçakci (TUR)
Member: Björn Ahlberg (SWE)

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”), 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 14 March 2018, Chelsea FC (hereinafter also referred to as the “Appellant”) played a match against FC Barcelona in the 2017/18 UEFA Champions League Round of 16 (hereinafter, the “Match”).

A. The Official Reports of the Match

3. The UEFA Match Delegate reported inter alia the following incidents involving the Appellant’s supporters (sic):

“Based on the information from UEFA Security Officer, he was approached by the Chelsea security staff with information about some incidents which happened prior the kick-off outside the stadium. Namely: 1. Confrontation between Chelsea fans on one side and Spanish police and private security on the other side which started 15 before kick-off when large number of away fans demolished the barriers and got into confrontation with police and private security which used batons to stop them. 2. Group of Chelsea supporters accompanied by police got in contact with FCB fans on the way from subway to the stadium, FCB fans attacked them by throwing golf balls. 3. Moreover, information about overcrowded sector for visiting team fans. All these facts are based on the indirect information from Chelsea security people and more detailed description will follow in my additional report. [...]”

4. On 15 March 2018, the Match Delegate submitted an additional report (the “Additional Report”) stating, inter alia, the following (sic):

“3 incidents have been reported during half time break by visiting team (Chelsea FC) security staff, namely [the Appellant’s Head of Security] and Michael Moody, Crowd Control Advisor. They approached UEFA Security Officer Ulrich Grzella, who informed me about everything after the match in delegate’s room:

1. At 20:15 hrs (30 min prior kick-off), large group of Chelsea fans (about 700-800) approached the Gate 21 and under the pressure the barriers collapsed and tables for body search were turned up. In order to stop crowd, police and private security intervened using batons.

In opinion of Chelsea security representatives, excessive power has been used, one Chelsea supporter was injured (area of kidney), but refused first aid and went to the stadium to watch the match.”
2. Another group of visiting team fans (cca 200), accompanied by Spanish police on their way from Metro station, came to contact with home supporters (FCB) who started to throw golf balls to them. Nobody was injured.

3. In conclusion, they also reported that visiting team sectors (521-536) in tribunes Lateral and Gol Sud were over crowded.

In the end, 2 Chelsea security reps added that Chelsea FC will work on more detailed report which will be consequently sent to UEFA.

Ulrich, UEFA SO added to this that he was checking the area around Gate 21 (dedicated only to visiting team supporters) for about one hour and he was positively surprised by an excellent organisation of arrival of Chelsea fans from organisational point of view as well as acting of police and private security. During his presence, he did not spot any negative actions or incidents.

After the match, we contacted Spanish police and FCB security officers. Because they were busy with escorting Chelsea fans after the match, they arrived about 30 min after the match to delegate’s room. Namely: Lluis Venteo - Match Commander from Spanish Police, Jordi Sin – Head of FCB Security and Cristian Garcia – his deputy. From UEFA side DEL, SO and VD were present. We asked them to explain what was said by Chelsea reps from their point of view, they had the same opinion about all what happened:

To point 1.:

FCB empahsised already during security meeting on MD-1 the fact that it’s very important for Chelsea fans to arrive early enough to the stadium as we expected aprox. 4800 fans to come. Reality was that the group of about 1800 away team fans arrived to the Gate 21 at 20:30 hrs, i.e. 15 min prior the kick-off. Moreover, Jordi was advised by [the Appellant’s Head of Security] that there will be a significant number of Chelsea fans without tickets who would intend to get to the stadium. This group put a pressure on stewards, many of them drunk, they basically did not respect anything, destroyed all barriers on the way even in the first perimeter (visual check of tickets). Also 10 travelling Chelsea stewards tried to calm them down, but without any affect. Therefore, police and security needed to act in order to get them on line.

To point 2.:

The group of about 200 fans did not respect the organisational instructions of FCB and they left the metro in the wrong station (Les Corts) instead of Placa del Centre (one stop before). By this way, they would miss the bridge leading to Gate 21 (segregated area for visiting team fans) and would arrive among the FCB fans. Spanish police had to escort them back to the Gate 21. But it
was impossible to avoid contact with FCB fans completely. So, it happened that Barcelona fans used this opportunity and threw golf balls to them.

To point 3.:  
Total capacity of visiting team sector is 4986 seats and we expected around 4800 Chelsea fans. Confirmed number after the match was 3953, but these were only fans who went through turnstiles. Because of extraordinary situation described in point 1, stewards opened side gate near Gate 21 to release the pressure. Through this gate with only visual check of tickets went cca 500 Chelsea fans which were not included in the system. It means, in total around 4500 fans were present physically in the visiting team sector. So, the sector could not be over crowded.

In conclusion: I think, my report will be more or less identical with report of Ulrich as he was the one who forwarded me all information from Chelsea security persons and during the meeting with Spanish side we both were present.

To point 1, I can add only that what I saw on the video (the Sun), the power (batons) used by Spanyards was a bit too much and I was surprised that private security was using them and not police.

To point 2, I have nothing to add as I did not witness it and I did not see any visual material.

To point 3, From my pictures, I made during the match, the visiting sector isn’t clearly visible, so it makes no sense to send them to you, but I can objectively say that in spite of being rather full, I could spot personally number of empty seats especially in section 536 (in the centre of tribune Lateral). It was mainly in the first half, because in the second half many fans left from the stadium, so in the end it looked half empty. It means, the sector for Chelsea fans was not over crowded, indeed.”

5. In his Pre-Match Phase (MD-1 to Kick-Off) Report, the UEFA Security Officer (hereinafter, the “UEFA SO”) also reported the above-mentioned incidents as told to him by [the Appellant’s Head of Security] and Mr. Michael Moody (the Football Association’s Security Delegate).

B. The Appellant’s Complaint

6. On 13 April 2018, the Appellant filed a complaint (hereinafter, the “Complaint”), asking UEFA to carry out a full and prompt investigation into:

“1. Sustained and consistent use of excessive force and brutality towards Chelsea supporters by stewards and Police, resulting in a number of serious injuries;
2. *Serious health and safety concerns over access to and egress from the stadium; and*

3. *Failure to implement agreed crowd safety measures.*

7. In its Complaint, the Appellant raised, in sum, the following five issues on the basis of the witness statement of [the Appellant’s Head of Security] and a report filed by Mr. Moody:

   (vi) Prior to the Match, Chelsea FC supporters were attacked by FC Barcelona supporters armed with golf balls, fireworks, broken bricks and snooker balls, resulting in serious injuries being sustained by its fans.

   (vii) The crowd control measures implemented by FC Barcelona on the approach to the stadium were inadequate and failed when put under minimal pressure. The crowd control barriers were not properly secured, and security cordons collapsed and were overwhelmed, leading to overcrowding further up the road. The reaction of the stewards and police to this was to indiscriminately attack supporters with batons, leading to a widespread panic and confusion.

   (viii) The stewards and police used excessive and unwarranted force against the Appellant’s supporters entering the stadium at gate 21 before the Match. The Appellant finds it disturbing that, according to witness accounts, some stewards were covering their faces with scarves. It is not, in the Appellant’s experience, usual for stewards in charge of crowd control to be armed.

   (ix) At the end of the Match, FC Barcelona failed to implement the holdback that had been agreed by the clubs. Instead, the Appellant’s supporters were released immediately and, in some cases, were forcefully and actively ejected from the seating area.

   (x) As the supporters were descending the walkways to ground level of the stadium, they were charged by stewards armed with batons and subjected to further violent assaults, causing the Appellant’s supporters to overwhelm and crowd the dangerous access bridge.

8. Prior to deciding on whether or not disciplinary proceedings should be opened against FC Barcelona based on the Appellant’s complaint and as per Article 55(2) of the UEFA Disciplinary Regulations (“DR”), the Ethics and Disciplinary Inspector (“EDI”) asked FC Barcelona to comment on the Complaint.

9. On 4 May 2018, FC Barcelona filed its statement to the EDI, stating, *inter alia*, the following:

   - FC Barcelona disagrees with the account of events as presented in the Complaint and its enclosed witness statement, finding them misleading and incorrect. The club is very disappointed with the content of the witness statement and the misuse of video evidence in support of the Appellant’s allegations.
During the pre-Match visit held on 25 January 2018, FC Barcelona passed on all the relevant information concerning the security at the Match to Chelsea FC. After this visit, the clubs’ security departments exchanged further information, including a document titled “Visiting Supporters Information” which was sent by FC Barcelona’s security officer Christian Ramos to [the Appellant’s Head of Security]. This document explains in detail how all visiting supporters of the Appellant should have arrived from the north side of the stadium to Gate 21, through a route that is recommended and applied to all away fans visiting the Camp Nou in UEFA Champions League matches.

In order to guarantee the segregation of fans, the access road for away supporters, Carrer de la Maternitat, is closed on the south side. Therefore, Gate 21 cannot be accessed by any other route than the one recommended for away supporters. The Appellant’s failure to sufficiently inform its supporters of the access road to be used led to several incidents.

It was only at 18:30 that [the Appellant’s Head of Security] informed his counterpart, Mr. Ramos, that a large group of Chelsea FC supporters had travelled to Barcelona without a ticket and would arrive in large numbers at the access gate close to kick-off time, creating tumult and causing an avalanche that would enable them to enter the stadium. The late arrival of Chelsea FC hooligans without tickets and seeking to access the stadium by trying to overrun security checkpoints was what triggered the incidents.

Chelsea FC fans are perceived as one of the most problematic groups to deal with, as can be recalled from past incidents in Paris as well as the violent incidents in the Barcelona city center on the day of the Match.

Regarding the alleged violent attack on Chelsea FC fans by FC Barcelona supporters, such alleged incidents took place in the dead-end side of the street, in which the Appellant’s supporters should never have been had they followed FC Barcelona’s access recommendations. Moreover, according to a confidential police report that was sent directly by the Catalan Police to UEFA, it was Chelsea FC fans who began throwing golf balls at the local supporters, causing a counter-reaction from the latter. The Appellant’s supporters who had tried to gain access to the stadium from the wrong side of the Carrer de la Maternitat were escorted by the police to the correct side of the street.

No conclusive evidence of the alleged excessive use of force by the stewards has been submitted by Chelsea FC. In fact, the video evidence submitted by the Appellant shows that the actions taken by the police were not disproportionate, but rather quite the contrary. In one of these videos, one can see the stewards and private security running away from Chelsea FC fans whilst the policemen hold batons and try to control the crowd as a result of the tumult caused by the Appellant’s fans trying to access the stadium.

As for the incident during the exit of the Appellant’s supporters, this was caused by these fans trying to leave in the wrong direction, which forced the stewards to push them back towards the exit. As also explained by Mr. Moody in his report, Chelsea FC supporters were also throwing coins on the exit ramp.
The Appellant has not provided any evidence of the stewards covering their faces with scarves or balaclavas, and such statement is therefore uncorroborated and denied.

Chelsea FC mistakes the stewards with private security personnel, the latter being allowed to wear batons as per Spanish Law 5/2014 on Private Security.

As for the Appellant’s safety concerns regarding the temporary bridge, FC Barcelona submits a technical report from a civil engineer which confirms that said bridge complied with all required safety and quality ISO standards.

Finally, FC Barcelona questions the truthfulness and accuracy of most of the anonymous witness testimony submitted by Chelsea FC, as they are not supported by any convincing evidence. Moreover, such testimonials submitted by e-mail and upon an explicit request and plea for information cause a risk of relying on hearsay evidence and violate the principle of due process and FC Barcelona’s right of defence.

C. The EDI Report and CEDB Proceedings

10. On 16 May 2018, the EDI filed a report (the “EDI Report”) requesting the opening of disciplinary proceedings against Chelsea FC for an alleged violation of Article 16(2)(h) DR.

11. The EDI’s request was, in sum, based on the following:

(i) The information received by FC Barcelona that a group of the Appellant’s fans had travelled to the city without a ticket, with the intention of arriving in large numbers at the access gate towards kick-off time, creating a tumult and provoking an avalanche which would enable them to enter the stadium without a ticket.

(ii) The video evidence showing how, shortly before the Match, the crowd of Chelsea FC supporters started to push or be pushed forward, overcrowding the access ways. Video footage also showed how the Appellant’s supporters tried to break through the barriers made of metal fences and to intensify pressure on the security in order to gain access into the stadium, some of the hooligans have been drunk and violent by trying to combat the security staff. The use of batons by the security staff was a reaction to such pressure.

(iii) The abovementioned tumult caused an improper safety risk for other spectators and triggered a reaction of the security staff which affected also “innocent” fans.

(iv) It speaks for itself that FC Barcelona is a club which hosts massively attended fixtures on a regular basis with no complaints whatsoever from away fans. Therefore, it is highly improbable that such incidents would occur, unprovoked or for no reason.

12. Based on the foregoing, the EDI requested that the Appellant be fined €15’000.
13. On 19 July 2018, the Control, Ethics and Disciplinary Body (“CEDB”) issued the following decision (the “Decision”):

“1. To fine Chelsea FC € 10’000. […]”

14. The Decision with grounds was notified to the Appellant on 8 August 2018.

15. Any other relevant facts shall be referenced further below, if necessary.

II. Summary of the proceedings before the Appeals Body

16. On 10 August 2018, the Appellant announced its intention to appeal against the Decision and requested, *inter alia*, that the deadline to file the grounds of its appeal be set for 20 August 2018.

17. On 20 August 2018, within the extended deadline, the Appellant filed its grounds for appeal. In its statements, the Appellant, essentially, argued the following:

- Chelsea FC did not provide any submissions in relation to this matter and, to the extent documents are not specifically referenced in the Decision, it is not clear which documents the CEDB was provided with. It therefore asks that the documents filed in the different UEFA proceedings as of its Complaint be considered part of these appeal proceedings.

- The EDI recommended the opening of proceedings against Chelsea FC and decided not to open proceedings against FC Barcelona. The Appellant finds itself in a position where it is being punished as a result of the serious failings in the organisation of the Match, whilst no blame is apportioned to FC Barcelona as the event organiser.

- The focus of these proceedings as per the Decision are the events at Gate 21 of the stadium. However, the UEFA SO was not himself at said gate at the time the incidents took place. His report is based on the evidence of others.

- The Appellant categorically denies the CEDB’s finding that many of its supporters, allegedly drunk, started to push each other, creating a tumult and a potentially very dangerous situation. The arrival of fans as kick-off nears should be anticipated as part of any sensible and considered match planning. The fundamental cause of the issues was the failure of the crowd control measures above, in relation to which Chelsea FC supporters were the victims rather than the cause.
As for the alleged information from [the Appellant’s Head of Security] to FC Barcelona concerning Chelsea FC supporters without tickets arriving shortly before kick-off to cause a tumult and gain entry to the stadium, it is categorically denied by [the Appellant’s Head of Security] that such a conversation took place. Chelsea FC’s evidence in relation to this issue, the direct evidence from [the Appellant’s Head of Security] himself, is set out in detail in its submissions.

The Appellant notes that Article 16(2) DR is a strict liability offence. However, the same principle has not been applied to the actions of FC Barcelona, its supporters and agents. In applying the strict liability principle to Chelsea FC, but not to FC Barcelona, the CEDB has acted unfairly and capriciously.

Notwithstanding the above, the Appellant acknowledges that, if FC Barcelona is found to have breached Article 16 DR then, applying the strict liability principles consistently and fairly, UEFA may make such a finding against Chelsea FC supporters. However, in the event that FC Barcelona is found not to have breached Article 16 DR, Chelsea FC must not be found in breach arising from the same facts (as was the case before the CEDB). It would be wholly unfair, and entirely inconsistent, for strict liability to be applied to Chelsea FC, but not to FC Barcelona.

On 5 December 2018, a hearing was held.

The ad-hoc Chairman of the Appeals Body opened the appeal hearing and noted the presence of the Appellant and the EDI.

Afterwards, the ad-hoc Chairman explained the procedure to be followed. He reminded the parties of the composition of the Appeals Body and told them that everything they and the members of the Appeals Body said during the hearing would be recorded. No objection was raised.

In light of the oral testimony provided by [the Appellant’s Head of Security] and Mr. Moody in the previous hearing held on the same day, the ad-hoc Chairman asked the parties whether, for reasons of procedural economy and to avoid unnecessary repetitions, they would agree that said testimony be included as evidence in the current proceedings. The parties agreed to said proposal.

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

While the Appeals Body has carefully considered all the parties’ written submissions and oral pleadings, any other arguments not referenced in the above summary shall be addressed further below, insofar as they are relevant.

III. Appeals Body Competence and Admissibility of the Appeal

Article 30(4) DR states as follows:
“The Appeals Body has jurisdiction to hear appeals against decisions by the Control, Ethics and Disciplinary Body [...].”

25. The Appellant lodged its grounds for appeal by the deadline in Article 60(3) DR and in the written form required by the same provision. The appeals fee of €1’000 (as per Article 60(4) DR) was paid on time.

26. 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 (Article 65(2) DR).

IV. Legal Considerations of the Appeals Body

A. The legal framework.

27. As per Article 5(a) DR, the UEFA Statutes, rules and regulations, in particular the DR, are applicable to these proceedings.

28. In particular, the following provisions are relevant to this case:

- 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.”

- Pursuant to Article 16(2) DR, “[...] clubs are liable for the following inappropriate behavior 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:

  
  [...]  
  h. any other lack of order or discipline observed inside or around the stadium.”

- Article 45 DR establishes that “[f]acts contained in official UEFA reports are presumed to be accurate. Proof of their inaccuracy may, however, be provided.”

B. In the case in hand

29. From the case file, the Appeals Body finds that this case is about crowd disturbances near Gate 21 of the home stadium, allegedly caused by Chelsea FC supporters massively arriving minutes before kick-off, which provoked a violent reaction from FC Barcelona’s security personnel.
30. Bearing the above in mind, the relevant issues to consider by this Appeals Body are:

   a) Can the Appeals Body in this case reach a determination concerning the behavior of FC Barcelona’s supporters and security personnel?

   b) Did the Appellant violate Article 16(2)(h) DR due to the crowd disturbances at Gate 21?

   c) Are there any mitigating circumstances or is the sanction imposed by the CEDB otherwise disproportionate?

31. The above issues are considered in the following paragraphs.

   a) Can the Appeals Body in this case reach a determination concerning the behavior of FC Barcelona’s supporters and security personnel?

32. The Appeals Body firstly notes that the Appellant has made several submissions concerning the alleged failures by FC Barcelona as the Match organiser, and regarding the alleged misconduct of FC Barcelona’s supporters before the Match. In particular, the Appellant argues that it shall only be subject to sanction for the alleged crowd disturbances by its supporters if FC Barcelona is also found liable pursuant to Article 16 DR.

33. However, because FC Barcelona is not a party to these proceedings, and any alleged misconduct by that club’s supporters or security personnel is subject to separate proceedings, this Appeals Body panel finds that it is precluded from reaching any conclusion concerning FC Barcelona’s liability for the events under scrutiny.

34. The Appeals Body shall therefore, in the present proceedings, refrain from making any determination as to FC Barcelona’s responsibility (or lack thereof) in the incidents at the Match.

   b) Did the Appellant violate Article 16(2)(h) DR due to the crowd disturbances at Gate 21?

35. Turning to the incidents that took place at Gate 21 of the stadium, it is recalled that this is the access gate for away supporters at FC Barcelona’s stadium.

36. The Appeals Body observes that the official reports of the Match, although presumed accurate pursuant to Article 45 DR, can be questioned as to the events which occurred at Gate 21 prior to kick-off, as these were not directly witnessed by those Match officials but rather by third parties, Mr. Moody and [the Appellant’s Head of Security], who provided information to the former on the incidents.

37. Having had the opportunity to examine Mr. Moody and [the Appellant’s Head of Security] in person during the hearing, as had been requested by the Appellant, the Appeals Body finds their testimony credible regarding the incidents involving the massive entrance of Chelsea FC’s supporters shortly before the Match, as will be explained in more detail further below. Notably, the Appeals Body is
satisfied with the explanations given by these witnesses as to their location prior to the Match and the events which they were able to see at that moment concerning the Appellant’s supporters.

38. Considering the foregoing and that, in this particular case, the referenced witnesses were able to provide this Appeals Body with their first-hand account of the incidents and to clarify the explanations that they had given to the UEFA SO and Delegate on the behavior of Chelsea FC’s supporters, the Appeals Body finds that the Appellant has sufficiently disproven the accuracy of the official Match reports.

39. From the evidence on file, the Appeals Body finds that it is undisputed that a large number of Chelsea FC supporters arrived at the stadium shortly before kick-off. However, the Appeals Body does not find evidence that these supporters did not have tickets or otherwise intentionally caused the tumult outside the entrance.

40. Having carefully examined the statements submitted by both clubs, as well as the video footage provided by Chelsea FC and the testimonies of Mr. Moody and [the Appellant’s Head of Security], the Appeals Body finds that the incidents at Gate 21 were a result of having a large crowd arrive through a narrow street towards the gate very shortly before kick-off. Such overcrowding led to the reaction from the FC Barcelona security personnel and the police, who were seemingly overwhelmed by the number of persons attempting to enter the stadium simultaneously through the same gate.

41. The above was confirmed on several occasions by both witnesses, particularly Mr. Moody, who stated that the problem was due to having too many persons in a small space, causing them to move forward and some to fall over. This led to the overwhelming of the access controls by the masses, which in turn led to the reaction of the security personnel.

42. In this sense, the Appeals Body finds that Chelsea FC cannot be blamed for the large number of its supporters arriving to the stadium so shortly before the Match, even if it had been recommended to them that they arrive earlier. Also, the overcrowding at Gate 21 and the access road Carrer de la Maternitat appears to have caused visible tension between the supporters attempting to enter the stadium in time for the kick-off and the security personnel attempting to control the large crowd. However, the pressure exerted on the barriers by the Appellant’s supporters in that situation is not, in the Appeals Body’s view, intentional, but it is rather the consequence of the large number of persons pushing the crowd forward in order to enter the stadium in time for kick-off.

43. Under the above-described circumstances, the Appeals Body finds that the conduct of the Appellant’s supporters in this particular case did not constitute any inappropriate behavior that would violate Article 16(2)(h) DR.

44. In light of the foregoing, the appeal filed by Chelsea FC shall therefore be upheld.

45. The above finding renders unnecessary any evaluation of the mitigating circumstances or proportionality of the sanction imposed in the Decision, which is hereby annulled.
V. Costs

46. According to Article 51(2) DR, “[t]he allocation of the costs of proceedings before the Appeals Body depends on the outcome of those proceedings. [...] [T]he Appeals Body decides at its own discretion how the costs of proceedings 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.”

47. In this case, bearing in mind that the appeal is upheld, it is considered justified to charge the costs of this case to UEFA and to reimburse the appeal fee to the Appellant.

48. Consequently, the costs of the proceedings totalling €3’000 are to be borne by UEFA. The €1’000 appeal fee shall be reimbursed to the Appellant.

On these grounds, the Appeals Body decides

1. The appeal lodged by Chelsea FC is upheld.
2. Consequently, the UEFA Control, Ethics and Disciplinary Body’s decision of 19 July 2018 is annulled.
3. The costs of the proceedings, totalling €3’000 are to be paid by UEFA. The €1’000 appeal fee shall be reimbursed to the Appellant.

Michael Maessen
Ad-hoc Chairman
Decision of 19 September 2018

FC Rubin Kazan LLC
(settlement agreement)

Circumstances of the case
On 13 July 2018, the CFCB Chief Investigator referred the case of FC Rubin Kazan LLC (the “Club”) to the CFCB Adjudicatory Chamber for allegedly failing to comply with the terms of a Settlement Agreement that it entered into with the acting CFCB Chief Investigator on 8 May 2014.

Under the Settlement Agreement, the Club had to, inter alia: (i) be break-even compliant at the latest in the monitoring period 2017/18; i.e. the aggregate break-even result for the reporting periods 2015, 2016 and 2017 must be a surplus or a deficit within the acceptable deviation outlined in Article 63 of the UEFA Club Licensing and Financial Fair Play Regulations – Edition 2012 (the “CL&FFP Regulations”); and (ii) report a maximum break-even deficit of €30,000,000 for the reporting period ending in 2015 and €0 for the reporting period ending in 2016.

The CFCB Chief Investigator considered that the Club had failed to fulfil the break-even requirement set out in Articles 58 to 64 and 68 CL&FFP Regulations as a result of having an aggregate break-even deficit for the monitoring period 2013/14 which exceeded the relevant acceptable deviation by €66,000,000.

In the referral decision, the CFCB Chief Investigator suggested, together with other pecuniary sanctions, that an exclusion from one UEFA club competition for which the Club would otherwise qualify in the future should be imposed, starting from season 2018/19.

Decision
The CFCB Adjudicatory Chamber decided that the Club had failed to comply with the terms of the Settlement Agreement and shall therefore be excluded from participating in the next UEFA club competition for which it would otherwise qualify in the next two (2) seasons (i.e. the 2019/20 and 2020/21 seasons), that the Settlement Agreement shall cease to have affect and that the Club shall pay €3,000 towards the costs of the proceedings.

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. Unless otherwise stated, all references in this Decision to the Procedural rules governing the UEFA Club Financial Control Body (the “Procedural Rules”) and the UEFA Club Licensing and Financial Fair Play Regulations (the “CL&FFP Regulations”) shall be to the 2015 editions of such documents.

2. On 13 July 2018, the Chief Investigator of the UEFA Club Financial Control Body (the “CFCB”) referred the case of FC Rubin Kazan LLC (“FC Rubin Kazan” or the “Club”) to the CFCB Adjudicatory Chamber.

3. In the present Decision, the CFCB Adjudicatory Chamber examines whether FC Rubin Kazan has failed to comply with the terms of a settlement agreement that it entered into with the acting CFCB Chief Investigator on 8 May 2014 (the “Settlement Agreement”) in accordance with Articles 14(1)(b) and 15 of the 2014 edition of the Procedural Rules.

PART II – Reference by the CFCB Chief Investigator

4. The Settlement Agreement was concluded after the acting CFCB Chief Investigator determined that FC Rubin Kazan had breached the edition 2012 of the CL&FFP Regulations.

5. Specifically, the acting CFCB Chief Investigator considered that the Club had failed to fulfil the break-even requirement set out in Articles 58 to 64 and 68 of the UEFA CL&FFP because it had an aggregate break-even deficit for the monitoring period 2013/14 which exceeded the relevant acceptable deviation by EUR 66Mio.

6. The CFCB Chairman did not request that the decision of the acting CFCB Chief Investigator to conclude the Settlement Agreement be reviewed by the CFCB Adjudicatory Chamber under Article 16(1) of the 2014 edition of the Procedural Rules.

7. No directly affected parties requested that the decision of the acting CFCB Chief Investigator to conclude the Settlement Agreement be reviewed by the CFCB Adjudicatory Chamber under Article 16(2) of the 2014 edition of the Procedural Rules.

8. Accordingly, the Settlement Agreement became final and binding.

9. Clause 1.2 of the Settlement Agreement states the following:

“The objective of this Agreement is to achieve that Rubin is Break-even compliant in the meaning of the UEFA CLFFPR at the latest in the monitoring period 2017/18; i.e. the aggregate Break-even result for the reporting periods 2015, 2016 and 2017 must be a surplus or a deficit within the acceptable deviation in accordance with Art. 63 UEFA CLFFPR.”

10. Under the Settlement Agreement, FC Rubin Kazan had to, inter alia:

i. be break-even compliant in the meaning of the edition 2012 of the CL&FFP Regulations at the latest in the monitoring period 2017/18; i.e. the aggregate Break-even result for the
reporting periods 2015, 2016 and 2017 must be a surplus or a deficit within the acceptable deviation in accordance with Article 63 (Article 1.2 of the Settlement Agreement); and

ii. report a maximum break-even deficit of EUR 30Mio for the reporting period ending in 2015 and EUR 0Mio for the reporting period ending in 2016 (Articles 3.1 and 3.2 of the Settlement Agreement).

11. In addition, according to Article 4.2 (Financial Contribution and Withholding of Prize Money), “Rubin agrees that an additional amount of EUR 3 million shall be temporarily withheld. If the Operational and Financial Measures set out in 3.1 and 3.2 are fulfilled it shall be paid to Rubin; if they are not fulfilled the full amount shall become payable by Rubin Kazan to UEFA and the amount shall be retained.”

12. Further, as per Article 6.1 of the Settlement Agreement, FC Rubin Kazan remained subject to the monitoring requirements as set out in Articles 53 to 68 of the CL&FFP Regulations throughout the Settlement Regime and had to comply with the operational and financial measures under the Settlement Agreement even if it did not qualify for the UEFA club competitions.

13. FC Rubin Kazan did not qualify for entry into the 2014/15 UEFA club competitions.

14. In June 2015, FC Rubin Kazan was admitted to the 2015/16 UEFA Europa League as it met all admission criteria listed in the Regulations of the UEFA Europa League 2015/16 Season.


17. On 15 March 2016, FC Rubin Kazan submitted to the UEFA Administration (via the Football Union of Russia - FUR) the break-even information for the reporting period ending in 2015 (BE2015.09 package) in accordance with Article 54 (2) (d) of the CL&FFP Regulations. According to the declared break-even information, FC Rubin Kazan indicated a break-even deficit of EUR 4Mio for the reporting period ending in 2015 (T-2).

18. On 14 June 2016, following the assessment of the operational measures set for the reporting period ending in 2015 (T-2), the CFCB Investigatory Chamber determined that the donations from the main donator, i.e. Non-commercial Organization “Fund for Promotion of Physical Culture and Sport” (“NKO Fund”), for a total amount of EUR 28Mio had to be reported as donations from related parties, and thus fully excluded from the break-even calculation. Consequently, FC Rubin Kazan’s break-even information for the reporting period ending in 2015 was adjusted accordingly (i.e. break-even deficit for the reporting period ending in 2015 amounted to EUR 32 Mio).

19. The CFCB Investigatory Chamber considered that FC Rubin Kazan was in line with the break-even target of EUR 30Mio for the reporting period ending in 2015 as set in the Settlement Agreement. When assessing FC Rubin Kazan’s break-even position, the CFCB Investigatory Chamber considered the applicable mitigating factors defined in Annex XI of the UEFA CL&FFP, more specifically the factor “Operating in a structurally inefficient market” (hereinafter: “Mitigating factor - Inefficient market”).
20. FC Rubin Kazan did not qualify for entry into the 2016/17 UEFA club competitions.

21. On 15 March 2017, FC Rubin Kazan submitted to the UEFA Administration (via the FUR) its break-even information for the reporting period ending in 2016 (BE2016.09 package) in accordance with Article 54 (2) (d) of the CL&FFP Regulations. Contrary to the decision of the CFCB Investigatory Chamber taken on 14 June 2016 with regard to the related party implications, FC Rubin Kazan did not disclose, for the reporting period ending in 2016, any more donations from NKO Fund as donations from a related party due to the change intervened in the club’s structure in late 2015.

22. On 23 May 2017, following the assessment of the operational measures set for the reporting period ending in 2016 (T-1), the UEFA Administration informed FC Rubin Kazan that the CFCB Investigatory Chamber concluded that the assessment could be finalised only upon the submission of an independent third party assessor report on the fair (market) value of sponsorship income from the three entities within TAIF Group considered as related parties, i.e.: TAIF, Kazanorgsintez and Nizhnekamskneftekhim (“TAIF Group”). The total revenue from these entities amounted to EUR 44Mio in the reporting period ending in 2016.

23. Furthermore, the CFCB Investigatory Chamber was of the opinion that comprehensive assessment procedures with regard to donations received from NKO Fund and the joint stock company Tatenergo (“Tatenergo”) for the reporting period ending in 2016 (amounting to EUR 14Mio) would be continued during the 2017/18 season in order to verify whether FC Rubin Kazan and these donors should be considered as related parties.

24. FC Rubin Kazan did not qualify for entry into the 2017/18 UEFA club competitions.

25. On 16 June 2017, the UEFA Administration informed FC Rubin Kazan that it remained under continuous monitoring in accordance with Article 54 (2) (a) of the CL&FFP Regulations and was required to submit the information for the reporting period ending in 2017, more specifically the club information and the break-even information.

26. On 18 August 2017, the UEFA Administration reminded FC Rubin Kazan that in accordance with the Article 6 of the Settlement Agreement, in addition to its break-even information, FC Rubin Kazan was further requested to submit a progress report concerning the fulfilment of the obligations pursuant to this Agreement.


28. On 29 August 2017, FC Rubin Kazan provided the Sponsorship Evaluation report issued by Nielsen Sports for the reporting period ending in 2016 (the “Nielsen Report 2016”). According to the Nielsen Report 2016, the maximum fair value for TAIF Group sponsorship was equivalent to EUR 26Mio. Based on the Nielsen Report 2016, FC Rubin Kazan was requested to amend its break-even calculation for the reporting period ending in 2016 (T-1) and reflect the sponsorship revenue at a fair value in its next submission of the break-even information (BE-2017.09 package).
29. On 31 August 2017, the CFCB Investigatory Chamber met to assess the financial documentation submitted by FC Rubin Kazan, more particularly its August progress report and the preliminary figures for the reporting period ending in 2017 (T). The CFCB Investigatory Chamber noted that:

i. FC Rubin Kazan adjusted the related party sponsorship revenue from TAIF Group for the reporting period ending in 2016 (T-1); and

ii. FC Rubin Kazan did not submit further evidence with regard to its relationship with NKO Fund as well as with Tatenergo, i.e. the two entities which provided significant donations in the reporting periods ending in 2016 (T-1) and 2017 (T).

Thus, taking into account the December statutory closing date of FC Rubin Kazan, it was decided to assess the reporting periods ending in 2016 (T-1) and 2017 (T) in detail once the final break-even information for the reporting period ending in 2017 (T) would be submitted in March 2018 on the basis of audited annual financial statements.

30. On 10 January 2018, the UEFA Administration reminded FC Rubin Kazan that in accordance with the Article 6 of the Settlement Agreement, in addition to its break-even information, FC Rubin Kazan was further requested to submit a progress report concerning the fulfilment of the obligations pursuant to the Settlement Agreement.

31. On 6 February 2018, FC Rubin Kazan submitted to the UEFA Administration a February progress report. This report inter alia highlighted that FC Rubin Kazan engaged Nielsen Sports to provide a second valuation of its related party sponsorship agreements for the reporting period ending in 2017.

32. On 7 March 2018, FC Rubin Kazan provided the second Sponsorship Evaluation report issued by Nielsen Sports for the reporting period ending in 2017 (the “Nielsen Report 2017”). According to this Nielsen Report 2017, the maximum fair value for TAIF Group sponsorship was equivalent to EUR 33Mio.

33. On 28 March 2018, the UEFA Administration forwarded to FC Rubin Kazan a separate report issued by Nielsen Sports. This report included a standardized discounting of “maximum fair value” to reflect the return on sponsorship investment as per standard market practices. According to Nielsen, the discounted amount would represent the fair value. Discount rates were derived by Nielsen on the basis of an analysis of European football clubs’ sponsorships between unrelated parties, comparing maximum fair values to actual sponsorship fees. Following this analysis, maximum fair values are to be discounted between 40% (on the basis of non-top 5 league clubs) and 66% (average on the basis of all European clubs).

34. On 11 April 2018, FC Rubin Kazan submitted to the UEFA Administration (via the FUR) its break-even information for the reporting periods ending in 2016 and 2017 (BE2017.09 package) in accordance with Article 54 (2) (d) of the UEFA CL&FFP. On the basis of the Nielsen Reports 2016 and 2017, FC Rubin Kazan reflected the sponsorship income from TAIF Group at its fair value. According to this submission, FC Rubin Kazan declared break-even deficits of EUR 19Mio for the reporting period ending in 2016 (T-1) and EUR 20Mio for the reporting period ending in 2017 (T).
35. On 19 April 2018, the CFCB Investigatory Chamber met to assess the financial documentation submitted by FC Rubin Kazan which included the three reporting periods ending in 2015, 2016 and 2017. Following the review of FC Rubin Kazan’s submission for the reporting periods ending in 2016 (T-1) and 2017 (T), the CFCB Investigatory Chamber noted that:

i) TAIF Group entities were declared as related parties, and thus, FC Rubin Kazan adjusted the sponsorship revenue received from these entities in order to reflect their fair (market) value according to the Nielsen Sports methodology with a 40% discount compared to maximum fair value. Specifically, for the reporting period ending in 2016 (T-1) FC Rubin Kazan reported EUR 15Mio of relevant sponsorship revenue at fair value while the contractual value amounted to EUR 44Mio. For the reporting period ending in 2017 (T) the fair value of the sponsorship income amounted to EUR 20Mio while the contractual value was equal to EUR 70Mio; and

ii) NKO Fund and Tatenergo, which provided donations to FC Rubin Kazan, were declared by the latter as non-related parties. Thus, the donations amounting to EUR 14Mio in the reporting period 2016 and EUR 20Mio in the reporting period 2017 were included in the break-even calculation in full as relevant income.

36. As FC Rubin Kazan did not present any satisfactory evidence proving that these entities, i.e. NKO Fund and Tatenergo, were not related to it as per the CL&FFP Regulations in the relevant reporting periods, the CFCB Investigatory Chamber decided to engage independent auditors to confirm the completeness, validity and accuracy of FC Rubin Kazan’s submission.

37. On 26 April 2018, the FUR informed the UEFA Administration that the football activities of FC Rubin Kazan were transferred from the legal entity “Municipal Autonomous Institution FC Rubin Kazan” to a new legal entity, i.e. “Football Club Rubin Kazan Limited Liability Company” (the “Club”). The change of membership with the FUR was approved by the FUR Executive Committee on 16 March 2018. The Club has taken over all rights and obligations of FC Rubin Kazan, including the obligations under the Settlement Agreement.

38. On 27 April 2018, the Club was notified that the CFCB Investigatory Chamber requested a compliance audit to be performed at the Club’s premises. Deloitte LLP (hereinafter: independent “Compliance Auditors”) was asked to perform the compliance assessment of the Club. The audit focused on the following key items:

i) Review of the annual financial statements and reporting perimeter for the reporting period ending in 2017; and

ii) Validation of the Club’s disclosed donations received from NKO Fund and Tatenergo in the reporting periods ending in 2016 and 2017 and assessment of the relationship with the Club in line with the CL&FFP Regulations.

39. On 31 May 2018, the Compliance Auditors issued their draft compliance report which was forwarded to the Club for comments and observations.
40. On 6 June 2018, further to the submission of observations by the Club, the Compliance Auditors issued their final compliance report (hereinafter: “the Compliance Report”), which included the following key conclusions:

i) It was identified that the Club had incorrectly accounted for its player registration disposals within its financial statements for 2017, and hence the Club’s break-even submission was incorrect. The net impact of the identified variances is an overstatement of the break-even result by EUR 15Mio (hereinafter: finding 1 of the Compliance Report);

ii) It was further identified that the income of EUR 3Mio related to the disposal of property received by the Club from the Kazan City Municipality cannot be considered as relevant income for break-even purposes (hereinafter: finding 2 of the Compliance Report); and

iii) The Compliance Auditors further concluded that NKO Fund and Tatenergo were related to the Club based on the related parties definition included in the CL&FFP Regulations. As a result, the transactions (in particular, donations) with NKO Fund and Tatenergo should be adjusted in order to reflect their fair value. Thus, according to the Compliance Auditors, the break-even result should be decreased in the reporting periods ending in 2016 and 2017 by EUR 18Mio and EUR 23Mio accordingly (hereinafter: findings 3-5 of the Compliance Report).

41. On the same day, the Club acknowledged findings 1 and 2 of the Compliance Report and amended its break-even calculation accordingly. Thus, the restated break-even deficit for the reporting period ending in 2017 (T) amounted to EUR 37Mio. The break-even deficit for the reporting period ending in 2016 (T-1) remained unchanged compared to previous submission of the Club (EUR 19Mio).

42. With regard to the finding as to the fair value of transactions with the entities NKO Fund and Tatenergo (findings 3-5 of the Compliance Report), the Club did not amend its break-even calculation. However, it presented the following arguments in its letter addressed to the CFCB Investigatory Chamber:

i) Funds donated by NKO Fund and Tatenergo were used by the Club for its operational activities. However, some advertising services provided in favour of a third-party entity, “Ak Bars” Bank, were informally included as part of the donations from NKO Fund. It should be noted that no corresponding reports or any documentation were provided by the Club to justify the commercial nature of the transactions between the Club and the donators NKO Fund and Tatenergo; and

ii) As a mitigating factor, the Club further stated that it had not been receiving the donations from the second half of the reporting period ending in 2017 and, thus, revenues of the Club had been deriving mainly from the sponsorship deals.

43. Based on the final break-even information it submitted, the Club declared an aggregate break-even deficit of EUR 88 Mio for the reporting periods ending in 2015 (T-2), 2016 (T-1) and 2017 (T). The break-even information for the monitoring period assessed in 2017/18 was submitted by the Club as follows:
44. On 7 June 2018, the CFCB Investigatory Chamber met to assess the financial documentation related to the Club as well as the Compliance Report and to decide on the Club’s case.

45. The CFCB Investigatory Chamber considered the arguments presented in the Compliance Report with regard to the related party implications (findings 3-5 of the Compliance Report) and concluded that the break-even calculation of the Club should be further adjusted to reflect the fair value of all related party transactions. In particular, the Club’s submission should be adjusted in order to reflect the following findings identified by the Compliance Auditors:

   i) Donations from NKO Fund and Tatenergo should be excluded from the break-even calculation. For the reporting period ending in 2017 (T), this results in an amount of EUR 20Mio being excluded from the break-even result. For the reporting period ending in 2016 (T-1), this results in an amount of EUR 14Mio being excluded from the break-even result (finding 3 of the Compliance Report);

   ii) It was identified that the Club received an interest free loan from NKO Fund. If the Club recognized interest at the Russian Central Bank rate, an adjustment of EUR 3Mio should be made to the Club’s relevant expenses for the period T (2017). Further adjustment of EUR 3Mio should be made to the Club’s relevant expenses for the period T-1 (2016) (finding 4 of the Compliance Report); and

   iii) It was identified that EUR 0.3Mio relates to an accounts payable write-off in relation to NKO Fund. This related party transaction is considered a debt waiver with a related party and, therefore, this amount should be deducted from relevant income for the reporting period ending in 2017 (T) (finding 5 of the Compliance Report).

46. Following the adjustments made by the CFCB Investigatory Chamber, the revised aggregate break-even deficit for the reporting periods ending in 2015 (T-2), 2016 (T-1) and 2017 (T) amounted to EUR 128Mio. The break-even result calculated by the CFCB Investigatory Chamber for the monitoring period assessed in 2017/18 is as follows:

<table>
<thead>
<tr>
<th>€’000 per Club’s declaration</th>
<th>T (FY2017)</th>
<th>T-1 (FY2016)</th>
<th>T-2 (FY2015)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Declared Relevant Income</td>
<td>70,301</td>
<td>72,482</td>
<td>32,054</td>
</tr>
<tr>
<td>(Declared Relevant Expenses)</td>
<td>(107,473)</td>
<td>(91,360)</td>
<td>(63,567)</td>
</tr>
<tr>
<td>Declared break-even result</td>
<td>(37,172)</td>
<td>(18,878)</td>
<td>(31,513)</td>
</tr>
<tr>
<td><strong>Aggregated break-even result in 2017/18</strong></td>
<td><strong>(87,563)</strong></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Furthermore, when assessing the Club’s break-even result for the monitoring period 2017/18, the CFCB Investigatory Chamber applied the relevant mitigating factors, more particularly the Mitigating factor “Inefficient market” as defined in Annex XI (g) of the UEFA CL&FFP. The inefficiency of a football market (i.e. defined as the territory of a UEFA member association) is determined by the UEFA Administration on a yearly basis by means of a comparative analysis of the top division clubs’ total gate receipts and broadcasting rights revenues relative to the population of the territory of the UEFA member association concerned. For the monitoring period 2017/18 the mitigating factor was calculated for each of the reporting periods and amounted to EUR 52Mio in total.

After taking into account the mitigating factor stated above, the aggregate break-even deficit for the reporting periods ending in 2015 (T-2), 2016 (T-1) and 2017 (T) considered by the CFCB Investigatory Chamber amounted to EUR 76Mio, which corresponds to an aggregate break-even deficit of EUR 46Mio in excess of the acceptable deviation (EUR 30Mio). Thus, the final break-even information considered by the CFCB Investigatory Chamber for the monitoring period assessed in 2017/18 is calculated as follows:

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Break-even result (after CFCB IC adjustments)</td>
<td>(60,229)</td>
<td>(36,404)</td>
<td>(31,513)</td>
</tr>
<tr>
<td>Mitigating factor - Inefficient market (equivalent to EUR 52 Mio over 3 years)</td>
<td>20,257</td>
<td>17,291</td>
<td>14,645</td>
</tr>
<tr>
<td>Considered break-even result</td>
<td>(39,972)</td>
<td>(19,113)</td>
<td>(16,868)</td>
</tr>
<tr>
<td>Aggregated break-even result in 2017/18 considered by the Investigatory Chamber</td>
<td>(75,953)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Acceptable deviation</td>
<td>30’000</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Break-even breach considered by the Investigatory Chamber</td>
<td>(45,953)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Based on the above findings and gathered evidence, the CFCB Chief Investigator decided, after having consulted with the other members of the CFCB Investigatory Chamber, that FC Rubin Kazan has not complied with the terms of the Settlement Agreement, and decided to refer the case to the
In the referral decision, the CFCB Chief Investigator stated that:

i) FC Rubin Kazan has failed to comply with the operational and financial measures as stated in Article 3.2 of the Settlement Agreement as a result of having the break-even deficit of EUR 19Mio for the reporting period ending in 2016 (T-1) (after having considered the Mitigating factor – Inefficient Market) that exceeds the defined break-even target of EUR 0Mio for the reporting period ending in 2016;

ii) FC Rubin Kazan has failed to be break-even compliant in the meaning of the UEFA CL&FFP in the monitoring period 2017/18 as defined in Article 1.2 of the Settlement Agreement as a result of having an aggregate break-even deficit of EUR 76Mio for the reporting periods ending in 2017 (T), 2016 (T-1) and 2015 (T-2) (after having considered the Mitigating factor – Inefficient Market) that exceeds the maximum acceptable deviation in the amount of EUR 46Mio.

The CFCB Chief Investigator further considered that the monitoring documentation clearly indicated that FC Rubin Kazan, during the period of the Settlement Agreement, did not implement a consistent strategy to comply with Financial Fair Play and, in particular, failed to properly manage its expenses during the whole duration of the settlement regime. The transfer costs and employee benefit expenses significantly increased due to player acquisitions taking place in the reporting period ending in 2016.

On the other hand, the CFCB Chief Investigator highlighted that a number of actions were initiated by the Club in order to 1) reduce costs and limit transfer spending and 2) increase revenues by developing sponsorship and advertising services. However, these initiatives were implemented only at a later stage (mainly in the reporting period 2017 and at the beginning of 2018) and, as a result, did not generate sufficient financial impact for the Club to comply with the Settlement agreement.

In the referral decision, the CFCB Chief Investigator suggested that an exclusion from one UEFA club competition for which Rubin Kazan will qualify in the future should be imposed on the Club, starting from season 2018/19.

The Chief Investigator further indicated that the financial contribution of EUR 3’000’000, which has been temporarily withheld by UEFA, should be retained as already foreseen in Article 4.2 of the Settlement Agreement considering the Club failed to comply with the operational measures as stated in Article 3.2 of the Settlement Agreement.

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

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.
56. On 26 July 2018, the CFCB Chairman informed Rubin Kazan of the opening of the judgment stage in accordance with Article 19(3) of the Procedural Rules.

57. The Club made its written submission within the deadline (the “Observations”).

58. The Club did not request for a hearing.

59. The members of the CFCB Adjudicatory Chamber convened on 19 September 2019 to consider Rubin Kazan’s case.

PART IV – Applicable Rules and Regulations

60. 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.”

61. Article 58 of the CL&FFP Regulations states that:

“1. Relevant income and relevant expenses are defined in Annex X.

2. Relevant income and expenses must be calculated and reconciled by the licensee to the audited annual financial statements and/or underlying accounting records and to the projected break-even information if applicable.

3. Relevant income and expenses from related parties must be adjusted to reflect the fair value of any such transactions.”

62. Article 59 of the CL&FFP Regulations provides that:

“A monitoring period is the period over which a licensee is assessed for the purpose of the break-even requirement. As a rule it covers three reporting periods:

a) the reporting period ending in the calendar year that the UEFA club competitions commence (hereinafter: reporting period T), and

b) the reporting period ending in the calendar year before commencement of the UEFA club competitions (hereinafter: reporting period T-1), and

c) the preceding reporting period (hereinafter: reporting period T-2).

As an example, the monitoring period assessed in the licence season 2015/16 covers the reporting periods ending in 2015 (reporting period T), 2014 (reporting period T-1) and 2013 (reporting period T-2).”

63. Under Article 60 of the CL&FFP Regulations:

“1 The difference between relevant income and relevant expenses is the break-even result, which must be calculated in accordance with Annex X for each reporting period.

2 If a licensee’s relevant expenses are less than relevant income for a reporting period, then the club has a break-even surplus. If a club’s relevant expenses are greater than relevant income for a reporting period, then the club has a breakeven deficit.

3 If a licensee’s financial statements are denominated in a currency other than euros, then the break-even result must be converted into euros at the average exchange rate of the reporting period.

4 The aggregate break-even result is the sum of the break-even results of each reporting period covered by the monitoring period (i.e. reporting periods T, T-1 and T-2).
5 If the aggregate break-even result is positive (equal to zero or above) then the licensee has an aggregate break-even surplus for the monitoring period. If the aggregate break-even result is negative (below zero) then the licensee has an aggregate break-even deficit for the monitoring period.

6 In case of an aggregate break-even deficit for the monitoring period, the licensee may demonstrate that the aggregate deficit is reduced by a surplus (if any) resulting from the sum of the break-even results from the two reporting periods prior to T-2 (i.e. reporting periods T-3 and T-4).”

64. Article 61 of the CL&FFP Regulations states that:

“1 The acceptable deviation is the maximum aggregate break-even deficit possible for a club to be deemed in compliance with the break-even requirement as defined in Article 63.

2 The acceptable deviation is EUR 5 million. However, it can exceed this level up to EUR 30 million if such excess is entirely covered by contributions from equity participants and/or related parties. A lower amount may be decided in due course by the UEFA Executive Committee.

3 Contributions from equity participants and/or related parties (as specified in Annex X E) are taken into consideration when determining the acceptable deviation if they have occurred and been recognised:
   a) in the audited financial statements for one of the reporting periods T, T-1 or T-2; or
   b) in the accounting records up until the deadline for submission of the breakeven information for the reporting period T.

The onus is on the licensee to demonstrate the substance of the transaction, which must have been completed in all respects and without any condition attached. An intention or commitment from owners to make a contribution is not sufficient for such a contribution to be taken into consideration.

4 If contributions from equity participants and/or related parties occurring until the deadline for submission of the break-even information for the reporting period T are recognised in a club’s reporting period T+1 and have been taken into consideration to determine the acceptable deviation in respect of the monitoring period (T-2, T-1 and T) assessed in the licence season commencing in that same calendar year, then for later monitoring periods the contributions will be considered as having been recognised in reporting period T.

5 For a monitoring period containing a reporting period of greater than or less than 12 months, the acceptable deviation will be adjusted up or down according to the length of the monitoring period.”
65. Pursuant to Article 62 of the CL&FFP Regulations:

“1 By the deadline and in the form communicated by the UEFA administration, the licensee must prepare and submit:

a) the break-even information for the reporting period T-1;

b) the break-even information for the reporting period T-2, if not already previously submitted;

c) the break-even information for the reporting period T, if it has breached any of the indicators defined in paragraph 3 below.

2 The break-even information must:

a) concern the same reporting perimeter as that for club licensing as defined in Article 46bis;

b) be approved by management, as evidenced by way of a brief statement confirming the completeness and accuracy of the information, and signature on behalf of the executive body of the licensee.

3 If a licensee exhibits any of the conditions described by indicators 1 to 3, it is considered in breach of the indicator:

i) Indicator 1: Going concern

The auditor's report in respect of the annual financial statements (i.e. reporting period T-1) and/or interim financial statements (if applicable) submitted in accordance with Articles 47 and 48 includes an emphasis of matter or a qualified opinion/conclusion in respect of going concern.

ii) Indicator 2: Negative equity

The annual financial statements (i.e. reporting period T-1) submitted in accordance with Article 47 disclose a net liabilities position that has deteriorated relative to the comparative figure contained in the previous year's annual financial statements (i.e. reporting period T-2), or the interim financial statements submitted in accordance with Article 48 disclose a net liabilities position that has deteriorated relative to the comparative figure at the preceding statutory closing date (i.e. reporting period T-1).

iii) Indicator 3: Break-even result

The licensee reports a break-even deficit as defined in Article 60 for either or both of the reporting periods T-1 and T-2.

4 In addition, the UEFA Club Financial Control Body reserves the right to ask the licensee to prepare and submit the break-even information for the reporting period T and additional information at any time, in particular if the annual financial statements reflect that:
a) employee benefits expenses exceed 70% of total revenue; or

b) net debt exceeds 100% of total revenue.”

66. Article 63 of the CL&FFP Regulations provides that:

“1 The break-even requirement is fulfilled if no indicator (as defined in Article 62(3)) is breached and the licensee has a break-even surplus for reporting periods T-2 and T-1.

2 The break-even requirement is fulfilled, even if an indicator (as defined in Article 62(3)) is breached, if:

a) the licensee has an aggregate break-even surplus for reporting periods T-2, T-1 and T, or

b) the licensee has an aggregate break-even deficit for reporting periods T-2, T-1 and T which is within the acceptable deviation (as defined in Article 61) having also taken into account the surplus (if any) in the reporting periods T-3 and T-4 (as defined in Article 60(6)).

3 The break-even requirement is not fulfilled if the licensee has an aggregate break-even deficit for reporting periods T-2, T-1 and T exceeding the acceptable deviation (as defined in Article 61) having also taken into account the surplus (if any) in the reporting periods T-3 and T-4 (as defined in Article 60(6)).”

67. Article 68 of the CL&FFP Regulations states the following:

“If one of the monitoring requirements is not fulfilled, then the UEFA Club Financial Control Body makes a decision, including the possibility to conclude a settlement agreement with the licensee, taking into consideration other factors as defined in Annex XI, and takes the appropriate measure(s) without delay in accordance with the procedure defined in the Procedural rules governing the UEFA Club Financial Control Body.”

68. Annex X (F) of the CL&FFP Regulations provides that (emphasis added):

Related party, related party transactions and fair value of related party transactions

1. A related party is a person or entity that is related to the entity that is preparing its financial statements (the ‘reporting entity’). In considering each possible related party relationship, attention is directed to the substance of the relationship and not merely the legal form.

2. A person or a close member of that person’s family (i.e. those family members who may be expected to influence, or be influenced by, that person in his dealings with the entity, including that person’s children and spouse or domestic partner, children of that person’s spouse or domestic partner, and dependants of that person or that person’s spouse or domestic partner) is related to a reporting entity if that person:

a. has control or joint control over the reporting entity;

b. has significant influence over the reporting entity; or
c. is a member of the key management personnel of the reporting entity or of a parent of the reporting entity.

3. An entity is related to a reporting entity if any of the following conditions apply:
   a. The entity and the reporting entity are members of the same group (which means that each parent, subsidiary and fellow subsidiary is related to the others);
   b. The entity and the reporting entity are controlled, jointly controlled, or significantly influenced by the same government or by the same party;
   c. One entity has significant influence over the other entity;
   d. One entity is an associate or joint venture of the other entity (or an associate or joint venture of a member of a group of which the other entity is a member);
   e. Both entities are joint ventures of the same third party;
   f. One entity is a joint venture of a third entity and the other entity is an associate of the third entity;
   g. The entity is controlled or jointly controlled by a person identified in paragraph 2;
   h. A person identified in paragraph 2(a) has significant influence over the entity or is a member of the key management personnel of the entity (or of a parent of the entity);
   i. The entity, or any member of a group of which it is a part, provides key management personnel services to the reporting entity.

69. Article 14(1) of the Procedural Rules provides that:

   “1 At the end of the investigation, the CFCB chief investigator, after having consulted with the other members of the investigatory chamber, may decide to:

   a) dismiss the case; or
   b) conclude, with the consent of the defendant, a settlement agreement; or
   c) apply, with the consent of the defendant, disciplinary measures limited to a warning, a reprimand or a fine up to a maximum amount of €100,000; or
   d) refer the case to the adjudicatory chamber.”

70. Article 15 of the Procedural Rules states that:

   “1 Settlement agreements pursuant to Article 14(1)(b) shall take into account, in particular, the factors referred to in Annex XI of the UEFA Club Licensing and Financial Fair Play Regulations. Such agreements may be deemed appropriate in circumstances which justify the conclusion of an effective, equitable and dissuasive settlement without referring the case to the adjudicatory chamber.

   2 Settlement agreements may set out the obligation(s) to be fulfilled by the defendant, including the possible application of disciplinary measures and, where necessary, a specific timeframe.

   3 If a defendant proves that it has fulfilled the obligations set out in a settlement agreement in advance of the established timeframe, the CFCB chief investigator may, on reasoned request by
the defendant, decide to amend the terms of the settlement agreement for the following sporting season.

4 The CFCB chief investigator monitors the proper and timely implementation of the settlement agreement.

5 If a defendant fails to comply with the terms of a settlement agreement, the CFCB chief investigator shall refer the case to the adjudicatory chamber.”

71. 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.”

72. 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.”

73. 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,
74. 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

75. In its Observations, the Club did not dispute that on the basis of the break-even information submitted by the Club under Article 62 of the CL&FFP Regulations in respect of the monitoring period ending in 2015, it was in breach of Clauses 1.2 and 3.2 of the Settlement Agreement.

76. The Club requested, however, that the adjustments recommended by the auditors, in accordance with findings 3-5 of the Compliance Report, taken into account by the Investigatory Chamber for the re-calculation of the break-even result of the Club should not be applied by the Adjudicatory Chamber.

77. Moreover, the Club argued having changed its ownership structure as well as having adopted several measures in 2017, based on the Nielsen recommendations, and that consequently, by the end of 2018 and sporting season 2018/19, the Club expects a significant improvement of its break-even result.

78. Such matters were considered by the Adjudicatory Chamber as follows:

Donations from related parties

79. The CFCB Investigatory Chamber’s decision to report the donations from NKO Fund as donations from related parties is challenged by the Club. The Club argues that, according to the legislation of the Russian Federation, a joint stock company is a private legal structure and therefore it should not be considered as part of the state administration nor state finances.

80. As per Annex X(F)(3)(b) of CL&FFP Regulations, an entity is related to the Club if the entity and the Club are controlled, jointly controlled, or significantly influenced by the same government. Further, as per Annex X(F)(1) of CL&FFP Regulations, when considering any potential related party relationship, attention should be directed to the substance of the relationship and not merely the legal form.

81. In the case at hand, although the legal form has been modified, the company is still to be considered a related party. According to the Compliance Report, NKO Fund and Tatenergo are fully controlled by Svyazinvestneftekhim (“SIN-X”), which is solely owned by the Republic of Tatarstan government, and Mr. Rustam Minnikhanov, the President of the Republic of Tatarstan, is the chairman of both the Board of Trustees of the Club and the Board of Directors of “SIN-X”. There is consequently a link between the Club and its donors, which required the amendment of the calculation of the break-even result. Additionally, independent Compliance Auditors were appointed by the CFCB Investigatory Chamber due to the Club’s failure to provide the chamber with satisfactory evidence that the relevant companies were not related parties. The auditors also concluded that NKO and Tatenergo were related to FC Rubin Kazan based on the definition of related parties in Annex X (F) of the CL&FFP Regulations (findings 3-5 of the Compliance Report).
82. The CFCB Adjudicatory Chamber takes note of the Club’s allegation that FC Rubin Kazan’s board of trustees only has representative power with minimum prerogatives to influence the club’s operation. Also, the Club alleges that there is not a Board of Trustees in place in the structure of the administration. However, in spite of the fact that the Club does not bring evidence of these allegations to contradict the findings of the Compliance Audit, it should be noted that the presence of public officials, especially of the highest status within a territory, are presumed to maintain a significant level of influence, which is sufficient to establish the relatedness of the companies.

The integration of donations into the calculation of the break-even

83. The CFCB Adjudicatory Chamber takes note of the Club’s allegations that there were discrepancies in the interpretation of some donations agreements. The economic essence of such deals, according to the Club, was different from its legal form.

84. The Club however has not provided any evidence to justify the commercial nature of the transactions between the club and its donors. Moreover, any changes recently made do not have any impact on the breach of the Settlement Agreement that had already occurred.

85. According to Annex X (F) (k) of the CL&FFP Regulations, monies received as a donation from a related party should not be included within relevant income for the purposes of the BE calculation. Therefore, the donations from NKO Fund and Tatenergo were to be excluded from the break-even calculation.

86. For the aforementioned reasons, the Club’s request for the integration of these elements into the break-even calculation cannot be granted.

Measures adopted in 2017

87. The settlement regime includes the reporting periods of 2015, 2016 and 2017. Therefore, despite the efforts and measures adopted by the Club, the argument that, by the end of 2018 and sporting season 2018/19, the Club expects a significant improvement of its break-even result has no impact on the breach of the Settlement Agreement already incurred by the Club.

Conclusion

88. Having examined the evidence, in particular the findings of the CFCB Chief Investigator, the Observations and the arguments presented by the Club, the CFCB Adjudicatory Chamber determines that the Club has failed to comply with the terms of the Settlement Agreement since it had an aggregate break-even deficit which exceeded the relevant acceptable deviation by forty-five million, nine hundred and fifty-three thousand Euros (€45,953,000) for the reporting periods ending in 2015, 2016 and 2017.

PART VI – Disciplinary Measures

89. In its Observations, Rubin Kazan explained the measures which were implemented by the Club within the period from 2017-2018 in order to strengthen both its break-even position and operational efficiency. However those factors are not relevant for the assessment of the consequences of the breach that had already occurred.
90. The CFCB Adjudicatory Chamber stresses the importance of the objectives of UEFA’s financial fair play rules which aim to protect the integrity and smooth running of the UEFA club competitions and to achieve financial fair play in the UEFA club competitions, in particular by improving the economic and financial capability of the clubs, increasing the transparency and credibility of the clubs, protecting creditors, encouraging the clubs to operate on the basis of their own revenues (i.e. to “break-even”) and protecting the long-term viability and sustainability of European football.

91. In the present case, the Club was found to have breached the break-even requirement and, in what essentially constituted a second chance, was given the opportunity to bring itself into compliance with UEFA’s regulations through the conclusion of a settlement agreement (comprising, inter alia, certain break-even targets).

92. The CFCB Adjudicatory Chamber has made it clear in a number of cases that UEFA’s financial fair play rules are underpinned by the principle that all of the clubs that compete in UEFA’s club competitions must be treated equally (in this regard, see paragraph 51 of case AC-01/212, Malaga CF and paragraph 47 of case AC-06/2014, Panevézio Futbolo Klubas Ekranas).

93. Indeed, this principle is expressly stated in the CL&FFP Regulations, with Article 53(2) providing that in carrying out its responsibilities the CFCB must ensure the “equal treatment of all licensees”.

94. The principle of equal treatment has particular importance in relation to the break-even requirement because a breach of this requirement may directly affect the competitive position of a club, to the detriment of the vast majority of clubs who comply with UEFA’s financial fair play requirements.

95. Under Article 29 of the Procedural Rules, a wide range of disciplinary measures may be imposed. The CFCB Adjudicatory Chamber thus has flexibility to impose a sanction which properly meets the seriousness of the contravention, taking into account the objectives of the CL&FFP Regulations, as referred to above.

96. Any sanction imposed must serve as a sufficient deterrent to discourage clubs from breaching the rules. The disciplinary measures imposed must also be fair to those clubs who have participated in UEFA competitions in full compliance with the rules.

97. In this regard, the CFCB Adjudicatory Chamber bears in mind the requirement for proportionality and consistency with other decisions on similar facts and circumstances, as reflected in the Court of Arbitration for Sport ("CAS") decision in CAS 2012/A/2821 Bursaspor v UEFA (at paragraph 144). However, it is not possible to draw easy comparisons between different cases, for the relevant factors involved will vary greatly between clubs.

98. In the Bursaspor case, CAS recognised (at paragraph 143) that UEFA’s financial fair play rules do not provide for standard sanctions.

99. Moreover, in CAS 2012/A/2702 Gyori v UEFA, CAS underlined that the sanctions regime in respect of club licensing is established within the discretionary powers of UEFA, based on its assessment of the facts and circumstances of each case (at paragraph 160).
100. Finally, in CAS 2012/A/2824 Besiktas v UEFA, CAS held that simply because a different sanction might have been imposed, that would not make a selected sanction disproportionate (at paragraph 127).

101. Under the Procedural Rules, it is for the CFCB Adjudicatory Chamber to decide on the appropriate sanction to impose, taking into account the circumstances of the particular case.

102. In light of the considerations discussed above and having regard to the large scale of the Club’s aggregate break-even deficit for the reporting periods ending in 2015, 2016 and 2017, the CFCB Adjudicatory Chamber considers that an exclusion from one UEFA club competition for which FC Rubin Kazan would otherwise qualify in the next two (2) seasons (i.e. the 2019/20 and 2020/21 seasons) to be the appropriate measure.

103. The CFCB Adjudicatory Chamber determines that the Settlement Agreement shall cease to have effect after this Decision becomes final and binding in accordance with Clause 9.2 of the Settlement Agreement.

104. 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.

105. For the avoidance of doubt, the intention is that the exclusion imposed in this Decision should only apply to the UEFA Champions League and the UEFA Europa League.

PART VII – Operative part

106. The CFCB Adjudicatory Chamber hereby decides:

1. FC Rubin Kazan has failed to comply with the terms of the Settlement Agreement.
2. To impose on FC Rubin Kazan an exclusion from participating in the next UEFA club competition for which it would otherwise qualify in the next 2 (two) seasons (i.e. the 2019/20 and 2020/21 seasons).
3. The Settlement Agreement shall cease to have effect after this Decision becomes final and binding.
4. FC Rubin Kazan is to pay three thousand Euros (€3,000) towards the costs of these proceedings.
5. The costs of proceedings must be paid into the bank account indicated below within thirty (30) days of communication of this Decision to FC Rubin Kazan.
6. This Decision is final and shall be notified to:
   a) FC Rubin Kazan;
   b) the FUR;
   c) the CFCB Investigatory Chamber; and
   d) the UEFA Administration.
107. This Decision may be appealed in writing before CAS in accordance with Article 34(2) of the Procedural Rules and Articles 62 and 63 of the UEFA Statutes. According to Article 62(3) of the UEFA Statutes, the time limit for an appeal to CAS is ten days from the receipt of this Decision.

____________________________
J. N. Cunha Rodrigues
CFCB Chairman

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Circumstances of the case

On 15 November 2018, the CFCB Chief Investigator referred the case of Sporting Clube de Portugal – Futebol, SAD (the “Club”) to the CFCB Adjudicatory Chamber for alleged breaches of Articles 65(1) and 66bis(1) of the UEFA Club Licensing and Financial Fair Play Regulations – Edition 2018 (the “CL&FFP Regulations”) as a result of having significant overdue payables (a) towards other football clubs as at 30 June 2018 and 30 September 2018; and (b) towards social/tax authorities as at 30 June 2018.

The Club accepted the existence of overdue payables towards other football clubs and social/tax authorities as at 30 September 2018. In this regard, the Club submitted to the UEFA Administration its updated and reconfirmed monitoring documentation, which included self-declarations by the Club indicating total overdue payables of €2,213,000 as at 30 September 2018.

Based on these findings, the CFCB Chief Investigator suggested the following disciplinary measures: (a) exclusion from the next UEFA club competition for which the Club would otherwise qualify in a number of seasons to be determined by the CFCB Adjudicatory Chamber, unless the Club is able to prove that is had paid the overdue payables by 31 January 2019; and (b) a fine, to be determined by the CFCB Adjudicatory Chamber. Additionally, the CFCB Chief Investigator also extended a conservatory measure that was imposed on 15 November 2018 on the Club to temporarily withhold UEFA revenues that the Club may be entitled to receive from the 2018/19 UEFA club competitions.

The Club in its submissions requested to be released of any sanction invoking force majeure by reference to (i) an invasion of the Club’s academy in May 2018, (ii) a period of management in stability and (iii) a Swiss court attachment order in the amount of €2,300,000 in September 2018.

Decision

Whilst rejecting the Club’s force majeure argument, the CFCB Adjudicatory Chamber decided that the Club had breached Articles 65(1) and 66bis(1) of the CL&FFP Regulations and therefore imposed a fine of €50,000 on the Club, as well as lifting the conservatory measure suggested by the CFCB Chief Investigator and ordering the Club to pay €3,000 towards the costs of the proceedings.

Chairman : José Narciso da Cunha Rodrigues (Portugal)
Vice-Chairmen : Christiann Timmermans (Netherlands)  
Louis Peila (Switzerland)
Member: Adam Giersz (Poland)
PART I – Introduction

1. On 15 November 2018, the Chief Investigator of the UEFA Club Financial Control Body (the “CFCB”) referred the case of Sporting Clube de Portugal, SAD (“Sporting” or the “Club”) to the CFCB Adjudicatory Chamber.

2. In the present Decision, the CFCB Adjudicatory Chamber examines whether Sporting has breached Articles 65(1) and 66bis (1) of the UEFA Club Licensing and Financial Fair Play Regulations – Edition 2018 (the “CL&FFP Regulations”) as a result of having overdue payables:
   (a) towards other football clubs as at 30 June 2018 and 30 September 2018; and
   (b) towards social/tax authorities as at 30 June 2018.

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. On 8 June 2018, Sporting was admitted to the 2018/19 UEFA Europa League.

5. By 16 July 2018, Sporting submitted to the UEFA Administration, via the CL/FFP IT Solution and the Portuguese Football Federation, its completed monitoring documentation (comprising financial information as at 30 June 2018) in accordance with the set deadline. This monitoring information included self-declarations by the Club indicating total overdue payables of € 6,968k as at 30 June 2018 as follows:
   • overdue payables towards other football clubs of € 1,820k; and
   • overdue payables towards social/tax authorities of € 5,148k.

   The Club also indicated that it had paid the total amount of the € 5,148k overdue payables towards social/tax authorities shortly after 30 June 2018.

6. In August 2018, Sporting informed the UEFA Administration that outstanding balances towards other football clubs declared as overdue as at 30 June 2018 had been settled.

7. On 7 September 2018, the CFCB Investigatory Chamber informed the Club that it was kept under monitoring because of its declared overdue payables as of 30 June 2018 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 its employees and towards social/tax authorities as at 30 September 2018. Such updated monitoring documentation had to be submitted to the UEFA Administration by no later than 15 October 2018.

8. Taking into account that the payables declared as overdue as at 30 June 2018 had been fully settled as at the date of the meeting of the CFCB Investigatory Chamber in August 2018, the CFCB Investigatory Chamber decided not to open investigatory proceedings against Sporting at that stage.
9. By 15 October 2018, the Club submitted to the UEFA Administration, via the CL/FFP IT Solution and the Portuguese Football Federation, its updated monitoring documentation (comprising financial information as at 30 September 2018) in accordance with the set deadline. This monitoring information included self-declarations by Sporting indicating overdue payables towards other football clubs as at 30 September 2018.

10. On 16 October 2018, further to the review of the Club’s above-mentioned updated monitoring documentation, the UEFA Administration requested Sporting to reconfirm the overdue amounts and to provide supporting documents for any subsequent payments.

11. Following this request, Sporting confirmed on 30 October 2018 a corrected overdue payable position as at 30 September 2018. Subsequent to respective amendments of its submission via the CL/FFP IT Solution, the final monitoring information provided by Sporting indicated total overdue payables towards other football clubs of € 2,213k as at 30 September 2018.

12. On 8 November 2018, 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 Sporting had overdue payables towards other football clubs and towards social/tax authorities for a total amount of:

- € 6,968k as at 30 June 2018; and
- € 2,213k as at 30 September 2018.

13. The CFCB Investigatory Chamber decided that Sporting had overdue payables towards other football clubs and social/tax authorities as at 30 June 2018 and overdue payables towards other football clubs as at 30 September 2018.

14. Based on the above findings, on 15 November 2018, 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 Sporting by the CFCB Adjudicatory Chamber in respect of the Club’s alleged breaches of Articles 65(1) and 66bis (1) of the CL&FFP Regulations:

(a) an exclusion from the next UEFA club competition (UEFA Champions League and UEFA Europa League), for which Sporting would otherwise qualify in a number of seasons to be determined by the CFCB Adjudicatory Chamber at its discretion, unless Sporting is able to prove by 31 January 2019 that it has paid the amounts towards other football clubs that were established by the CFCB Investigatory Chamber as being overdue payables as at 30 September 2018; and

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

15. 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 November 2018 on Sporting, consisting of temporarily withholding the UEFA revenues from the 2018/19 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

16. 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.

17. On 16 November 2018, the CFCB Chairman informed Sporting of the opening of the judgment stage in accordance with Article 19(3) of the Procedural Rules.

18. Pursuant to Article 20(1) of the Procedural Rules, the Club was invited to submit its written observations.

19. The Club made its written submission within the established deadline (the “Observations”), announcing that it would pay the overdue payable amounts.

20. The Club further provided, after the deadline established for the written submission, three proofs of payment as announced.

21. On 29 November 2018, the Chief Investigator informed the Chairman of the Adjudicatory Chamber that the Club “evidenced payment orders for all amounts payable towards other football clubs that were established by the CFCB Investigatory Chamber as being overdue as at 30 September 2018, i.e. EUR 2’213k less EUR 55k for solidarity contributions in accordance with the transfer agreements”.

22. The Chief Investigator further stated that “as a consequence, and in reference to the disciplinary measures suggested in my above-mentioned decision, I remain with the suggestion of a fine to be determined by the CFCB Adjudicatory Chamber at its discretion”.

23. Pursuant to Article 21(1) of the Procedural rules, the CFCB Chairman decided that a hearing was not needed.

24. 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

25. The case concerns alleged contraventions of the CL&FFP Regulations.

26. 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.”

27. 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.”

28. Article 66bis 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 social/tax authorities as a result of contractual or legal obligations in respect of its employees as defined in 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 that 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 towards social/tax authorities.

4 The following information must be given, as a minimum, in respect of each overdue payable towards social/tax authorities, together with an explanatory comment:
   a) Name of the creditor;
   b) Balance overdue as at 30 June/30 September, including the due date for each overdue element; and
   c) Amount subject to any claim/proceedings pending as at 30 June/30 September.

5 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.”

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.”

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.”

31. 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.”

32. 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.”

33. 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.”

34. 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

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

(a) overdue payables towards other football clubs as at 30 June 2018 and 30 September 2018; and

(b) towards social/tax authorities as at 30 June 2018.

36. The Club claims (i) that it has paid the total amount towards other football clubs after deducting the solidarity contributions; and (ii) that the overdue payables towards social and tax authorities as at 30 June 2018 were paid shortly after that date.

37. The Chief Investigator confirmed the payments and that the Club no longer has overdue payables.

38. The CFCB Adjudicatory Chamber notes that as the overdue payable as at 30 June 2018 were only conclusively settled in August 2018 and that the overdue payables as at 30 September 2018 were only settled after the 30 September 2018 deadline they therefore have no bearing on the Club’s overdue payables position as at the relevant dates.

39. In its Observations, the Club argued that, in August 2018, the CFCB Investigatory Chamber decided not to open an investigation against the Club with respect to its overdue payable as at 30 June 2018 and that therefore it was not possible for the CFCB Investigatory Chamber to refer this aspect to the CFCB Adjudicatory Chamber in November 2018.

40. In addition, Sporting invoked several circumstances that should be considered as extraordinary events, beyond the control of the club, which must be qualified as a case of force majeure, for the purposes of e) Annex XI of the CL&FFP Regulations.

41. In this context, the Club requests that the CFCB Adjudicatory Chamber dismiss the case, releasing sporting from any disciplinary sanctions.
42. Finally, the Club requests the immediate withdrawal of the conservatory measures of temporarily withholding the UEFA revenues from the 2018/2019 UEFA club competitions determined by the CFCB Investigatory Chamber.

PART VI – Disciplinary Measures

43. 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).

44. With respect to the Club’s argument that the CFCB Investigatory Chamber was prevented from investigating the Club’s overdue payables amount as at 30 June 2018 as it did not do so in August 2018, the CFCB Adjudicatory Chamber is not persuaded. The CFCB Adjudicatory Chamber notes that a decision by the CFCB Investigatory Chamber not to immediately open investigatory proceedings in August 2018 and to instead require the Club to provide an update of its payables information by 30 September 2018 in no way prevents the CFCB Investigatory Chamber from reviewing the totality of that information once received and making whatever decision it considered appropriate at that stage. Accordingly, the Club’s argument in this respect is rejected.

45. Sporting has asked to be released of any sanction invoking force majeure by reference to (i) an invasion of the Club’s academy in May 2018 (ii) a period of management instability and (iii) a Swiss court attachment order in the amount of EUR 2,300,000 in September 2018.

46. In this regard, the CFCB Adjudicatory Chamber stresses that force majeure is a strict concept and that it must be established that there is an impossibility which is beyond the control of the Club. As has been consistently found in CAS jurisprudence, the legal principle of force majeure implies an objective (rather than a personal) impediment, beyond the control of the “obliged party”, that is unforeseeable, that cannot be resisted and renders the performance of the obligation impossible (CAS 2013/A/3471 and 2015/A/3909). Such an impossibility has not been alleged, let alone established, by the Club in the present case. In addition, the amount seized on foot of the court order in September 2018 manifestly had no impact on Sporting’s commission of the offences in these proceedings. Accordingly, the Club’s arguments based on force majeure are rejected.

47. The CFCB Adjudicatory Chamber reverts to the amended proposal of the CFCB Investigatory Chamber, which suggested the imposition of a fine, to be determined by the CFCB Adjudicatory Chamber at its discretion.

48. As confirmed by CAS, strict deadlines are inevitable and “the matter of deadlines has to be considered under the principles of equality of treatment; it is a must to treat all the clubs and the national football associations the same way” (in this regard, see CAS 2013/A/3233 PAS Giannina v. UEFA).

49. Having due consideration to the facts, the CFCB Adjudicatory Chamber deems that a fine of fifty thousand Euros (€50,000) is appropriate.
50. 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.

51. The conservatory measure imposed by the CFCB Chief Investigator is lifted and therefore, will no longer be in force.

PART VII – Operative part

52. The CFCB Adjudicatory Chamber hereby decides:

1. Sporting Clube de Portugal – Futebol, SAD (“Sporting”) has breached Articles 65(1) and 66bis (1) of the CL&FFP Regulations.
2. To impose a fine of fifty thousand Euros (€50,000) on Sporting.
3. The conservatory measure imposed by the CFCB Chief Investigator is lifted.
4. Sporting is to pay three thousand Euros (€3,000) towards the costs of these proceedings.
5. The costs of proceedings must be paid into the bank account indicated below within thirty (30) days of communication of this Decision to Sporting.
6. This Decision is final and shall be notified to:
   a) Sporting;
   b) the Federação Portuguesa de Futebol;
   c) the CFCB Chief Investigator; and
   d) the UEFA Administration.

53. This Decision may be appealed in writing before the Court of Arbitration for Sport (the “CAS”) in accordance with Article 34(2) of the Procedural Rules and Articles 62 and 63 of the UEFA Statutes. According to Article 62(3) of the UEFA Statutes, the time limit for an appeal to CAS is ten (10) days from the receipt of this Decision.

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J. N. Cunha Rodrigues
CFCB Chairman

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### Decision of 6 December 2018
Professional Football Club Levski AD
(licensing criteria)

#### Circumstances of the case
On 15 November 2018, the CFCB Chief Investigator referred the case of Professional Football Club Levski AD (the “Club”) to the CFCB Adjudicatory Chamber for alleged breaches Articles 66(1) and 66bis (1) of the UEFA Club Licensing and Financial Fair Play Regulations – Edition 2018 (the “CL&FFP Regulations”) as a result of having significant overdue payables (a) towards other football clubs as at 30 September 2018; (b) in respect of employees as at 30 June 2018 and 30 September 2018; and (c) towards social/tax authorities as at 30 June 2018 and 30 September 2018.

The Club accepted the existence of overdue payables towards other football clubs, employees and social/tax authorities as at 30 September 2018. In this regard, the Club submitted to the UEFA Administration its final monitoring information, which included self-declarations by the Club indicating total overdue payables of €1,040,000 as at 30 September 2018.

Based on these findings, the CFCB Chief Investigator suggested the following disciplinary measures: (a) exclusion from the next UEFA club competition for which the Club would otherwise qualify in a number of seasons to be determined by the CFCB Adjudicatory Chamber, unless the Club is able to prove that is had paid the overdue payables by 31 January 2019; and (b) a fine, to be determined by the CFCB Adjudicatory Chamber. Additionally, the CFCB Chief Investigator also extended a conservatory measure that was imposed on 6 September 2018 on the Club to temporarily withhold UEFA revenues that the Club may be entitled to receive from the 2018/19 UEFA club competitions.

#### Decision
The CFCB Adjudicatory Chamber decided that the Club had breached Articles 65, 66(1) and 66bis(1) of the CL&FFP Regulations and shall therefore be excluded from participating in the next UEFA club competition for which it would otherwise qualify in the next two (2) seasons (i.e. the 2019/20 and 2020/21 seasons) unless the Club was able to prove by 28 February 2019 that it had paid the amounts that were identified as overdue payables as at 30 September 2018, and imposed a fine of €100,000 on the Club.

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**Chairman:** José Narciso da Cunha Rodrigues (Portugal)

**Vice-Chairmen:** Christiann Timmermans (Netherlands)
Louis Peila (Switzerland)

**Member:** Adam Giersz (Poland)
PART I – Introduction

1. On 15 November 2018, the Chief Investigator of the UEFA Club Financial Control Body (the “CFCB”) referred the case of Professional Football Club Levski AD (“Levski” or the “Club”) to the CFCB Adjudicatory Chamber.

2. In the present Decision, the CFCB Adjudicatory Chamber examines whether Levski has breached Articles 66(1) and 66bis (1) of the UEFA Club Licensing and Financial Fair Play Regulations – Edition 2018 (the “CL&FFP Regulations”) as a result of having overdue payables:

   (a) towards other football clubs as at 30 September 2018;

   (b) in respect of employees as at 30 June 2018 and 30 September 2018; and

   (c) towards social/tax authorities as at 30 June 2018 and 30 September 2018.

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. On 8 June 2018, Levski was admitted to the 2018/19 UEFA Europa League.

5. By 16 July 2018, Levski submitted to the UEFA Administration, via the CL/FFP IT Solution and the Bulgarian Football Union, its completed monitoring documentation (comprising financial information as at 30 June 2018) in accordance with the set deadline.

   This monitoring information included self-declarations by the Club indicating total overdue payables of € 760k as at 30 June 2018 as follows:

   - overdue payables in respect of employees of € 333k; and
   - overdue payables towards social/tax authorities of € 427k.

6. On 6 September 2018, the CFCB Investigatory Chamber informed the Club that an investigation was opened against Levski because of the significant overdue payables as of 30 June 2018 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 its employees and towards social/tax authorities as at 30 September 2018. Such updated monitoring documentation had to be submitted to the UEFA Administration by no later than 15 October 2018.

7. A conservatory measure consisting of temporarily withholding the UEFA revenues from the 2018/19 UEFA club competitions that the Club was entitled to receive, was also imposed on Levski.

8. By 15 October 2018, the Club submitted to the UEFA Administration, via the CL/FFP IT Solution and the Bulgarian Football Union, its updated monitoring documentation (comprising financial
information as at 30 September 2018) in accordance with the set deadline. This monitoring information included self-declarations by Levski indicating overdue payables as at 30 September 2018.

9. On 24 October 2018, further to the review of the Club’s above-mentioned updated monitoring documentation, the UEFA Administration requested Levski to reconfirm the overdue amounts and to provide supporting documents for any subsequent payments.

10. On 29 October 2018, the Club replied with regard to the payables towards social/tax authorities that “The matter is in developed staged of the discussion with the tax authorities. The club aims before year end to make large payment and have new agreement in place”.

11. Following the request of clarification by the UEFA Administration, the Club amended its overdue payables data towards social/tax authorities and did not object to the final amounts declared as overdue payables as of 30 September 2018.

12. The final monitoring information provided by Levski indicated total overdue payables of €1,040k as at 30 September 2018 as follows:

- Overdue payables towards other football clubs of €50k;
- Overdue payables in respect of employees of €83k; and
- Overdue payables towards tax/social authorities of €907k.

13. On 8 November 2018, 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 Levski had overdue payables towards other football clubs, in respect of employees and towards social/tax authorities for a total amount of:

- € 760k as at 30 June 2018; and
- € 1,040k as at 30 September 2018.

14. The CFCB Investigatory Chamber also decided to cancel the compliance audit (previously announced to the Club on 6 September 2018) because the self-declarations submitted by Levski in respect of overdue payables as of 30 September 2018 were considered as sufficient evidence.

15. The CFCB Investigatory Chamber decided that Levski had overdue payables, has not complied with the monitoring requirements of the UEFA CL&FFP and, in particular, Levski has breached:

- Article 65 (1) of the UEFA CL&FFP as a result of having overdue payables towards other football clubs as at 30 September 2018;
- Article 66 (1) of the UEFA CL&FFP as a result of having overdue payables in respect of its employees as at 30 June 2018 and 30 September 2018; and
- Article 66bis (1) of the UEFA CL&FFP as a result of having overdue payables towards social/tax authorities as at 30 June 2018 and 30 September 2018.
Based on the above findings, on 15 November 2018, 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 Levski by the CFCB Adjudicatory Chamber in respect of the Club’s alleged breaches of Articles 65(1), 66(1) and 66bis (1) of the CL&FFP Regulations:

(a) an exclusion from the next UEFA club competition (UEFA Champions League and UEFA Europa League), for which Levski would otherwise qualify in a number of seasons to be determined by the CFCB Adjudicatory Chamber at its discretion, unless Levski is able to prove by 31 January 2019 that it has paid the amounts in respect of other football clubs, employees and towards social/tax authorities that were established by the CFCB Investigatory Chamber as being overdue payables as at 30 September 2018; and

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

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 6 September 2018 on Levski, consisting of temporarily withholding the UEFA revenues from the 2018/19 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

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.

On 16 November 2018, the CFCB Chairman informed Levski of the opening of the judgment stage in accordance with Article 19(3) of the Procedural Rules.

Pursuant to Article 20(1) of the Procedural Rules, the Club was invited to submit its written observations.

The Club submitted its written submission within the established deadline (the "Observations"), requesting an extension until 28 February 2019 to prove the payment of the established overdue amounts as at 30 September 2018. The Club justified its request by the fact that the Club intends to transfer one or two professional football players to other football clubs in the upcoming transfer window (01 to 28 February), in order to gain financial resources.

Pursuant to Article 21(1) of the Procedural rules, the CFCB Chairman decided that a hearing was not needed.

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

24. The case concerns alleged contraventions of the CL&FFP Regulations.

25. 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:

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

g) 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;

h) to introduce more discipline and rationality in club football finances;

i) to encourage clubs to operate on the basis of their own revenues;

j) to encourage responsible spending for the long-term benefit of football;

k) to protect the long-term viability and sustainability of European club football.”

26. 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."

27. 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 FinancialControl 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."

28. Article 66bis 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 social/tax authorities as a result of contractual or legal obligations in respect of its employees as defined in 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 that 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 towards social/tax authorities.

4 The following information must be given, as a minimum, in respect of each overdue payable towards social/tax authorities, together with an explanatory comment:
   a) Name of the creditor;
   b) Balance overdue as at 30 June/30 September, including the due date for each overdue element; and
   c) Amount subject to any claim/proceedings pending as at 30 June/30 September.

5 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.”

29. 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.”

30. 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 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.”

31. 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.”

32. 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.”

33. 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.”

34. 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

35. Having examined the evidence and the findings of the CFCB Chief Investigator, the CFCB Adjudicatory Chamber determines that Levski has breached Articles 65 (1), 66(1) and 66bis (1) of the CL&FFP Regulations because it had:
   (a) overdue payables towards other football clubs as at 30 September 2018;
   (b) overdue payables in respect of its employees as at 30 June 2018 and 30 September 2018; and
   (c) overdue payables towards social/tax authorities as at 30 June 2018 and 30 September 2018.

36. The Club submits Observations only requesting an extension to pay the overdue amounts until 28 February 2019, end of the upcoming transfer window.

PART VI – Disciplinary Measures

37. 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).

38. 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 Levski otherwise qualify in a number of seasons to be determined by the CFCB Adjudicatory Chamber at its discretion, unless Levski is able to prove by 31 January 2019 that it has paid the amounts in respect of other football clubs, its employees and towards social/tax authorities that were established by the CFCB Chief Investigator as being overdue payables as at 30 September 2018; and

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

39. It is duly noted that, on 19 November 2018, Levski communicated to the CFCB Adjudicatory Chamber that the upcoming transfer window in Bulgaria runs from 1-28 February 2019 and requested an extension to 28 February 2019 to prove that it had paid the overdue amounts. Accordingly, the Adjudicatory Chamber decided to accept the Club’s extension request.

40. 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 (2) two seasons (i.e. the 2019/20 and 2020/2021 seasons), unless the Club is able to prove by 28 February 2019 that it has paid the amounts established as being overdue payables as at 30 September 2018 as well as a fine of one hundred thousand Euros (€100,000) are appropriate penalties.

41. 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.

42. The conservatory measure imposed by the CFCB Chief Investigator is lifted and therefore, will no longer be in force.

PART VII – Operative part

43. The CFCB Adjudicatory Chamber hereby decides:

1. Professional Football Club Levski AD (“Levski”) has breached Articles 65, 66(1) and 66bis (1) of the CL&FFP Regulations.

2. To exclude Levski from participating in the next UEFA club competition for which it would otherwise qualify in the next (2) two seasons (i.e. the 2019/2020 and 2020/2021 seasons) unless the Club is able to prove by 28 February 2019 that it has paid the amounts that were identified as overdue payables as at 30 September 2018 (i.e. one million and forty thousand Euros (€1,040,000).

3. To impose a fine of one hundred thousand Euros (€100,000) on Levski.

4. The conservatory measure imposed by the CFCB Chief Investigator is lifted.

5. Levski is to pay three thousand Euros (€3,000) towards the costs of these proceedings.

6. The costs of proceedings must be paid into the bank account indicated below within thirty (30) days of communication of this Decision to Sporting.
7. This Decision is final and shall be notified to:

a) Levski;

b) the Bulgarian Football Union;

c) the CFCB Chief Investigator; and

d) the UEFA Administration.

44. This Decision may be appealed in writing before the Court of Arbitration for Sport (the “CAS”) in accordance with Article 34(2) of the Procedural Rules and Articles 62 and 63 of the UEFA Statutes. According to Article 62(3) of the UEFA Statutes, the time limit for an appeal to CAS is ten (10) days from the receipt of this Decision.

J. N. Cunha Rodrigues
CFCB Chairman

UEFA Bank details:
Union Bank of Switzerland
CH-3001 Bern
Acc. No. 235-90 186444.6
Bank Code 235
Swift: UBS WCH ZH 80A
IBAN CH30 00235235901864446
Circumstances of the case

On 15 November 2018, the CFCB Chief Investigator referred the case of Football Club Vardar AD Skopje (the “Club”) to the CFCB Adjudicatory Chamber for alleged breaches of Articles 66(1) and 66bis (1) of the UEFA Club Licensing and Financial Fair Play Regulations – Edition 2018 (the “CL&FFP Regulations”) as a result of having significant overdue payables (a) in respect of employees as at 30 June 2018 and 30 September 2018; and (b) towards social/tax authorities as at 30 June 2018 and 30 September 2018.

The Club accepted the existence of overdue payables in respect of employees and towards social/tax authorities as at 30 June 2018 and 30 September 2018. In this regard, the Club submitted to the UEFA Administration its updated monitoring documentation, which included self-declarations by the Club indicating total overdue payables of €1,116,000 as at 30 September 2018, comprised of €893,000 in respect of employees and €223,000 towards social/tax authorities.

Based on these findings, the CFCB Chief Investigator suggested the following disciplinary measures: (a) exclusion from the next UEFA club competition for which the Club would otherwise qualify in a number of seasons to be determined by the CFCB Adjudicatory Chamber, unless the Club is able to prove that it had paid the overdue payables by 31 January 2019; and (b) a fine, to be determined by the CFCB Adjudicatory Chamber. Additionally, the CFCB Chief Investigator also extended a conservatory measure that was imposed on 6 September 2018 on the Club to temporarily withhold UEFA revenues that the Club may be entitled to receive from the 2018/19 UEFA club competitions.

Decision

CFCB Adjudicatory Chamber decided that the Club had breached Articles 66(1) and 66bis(1) of the CL&FFP Regulations and shall therefore be excluded from participating in the next UEFA club competition for which it would otherwise qualify in the next two (2) seasons (i.e. the 2019/20 and 2020/21 seasons) unless the Club was able to prove that it had paid by 31 January 2019 the amounts that were identified as overdue payables as at 30 September 2018, and imposed a fine of €100,000 on the Club.

Chairman : José Narciso da Cunha Rodrigues (Portugal)
Vice-Chairmen : Christiann Timmermans (Netherlands)
Louis Peila (Switzerland)
Member: Adam Giersz (Poland)
PART I – Introduction

1. On 15 November 2018, the Chief Investigator of the UEFA Club Financial Control Body (the “CFCB”) referred the case of Football Club Vardar AD Skopje (“Vardar” or the “Club”) to the CFCB Adjudicatory Chamber.

2. In the present Decision, the CFCB Adjudicatory Chamber examines whether Vardar has breached Articles 66(1) and 66bis (1) of the UEFA Club Licensing and Financial Fair Play Regulations – Edition 2018 (the “CL&FFP Regulations”) as a result of having overdue payables:

   (a) in respect of employees as at 30 June 2018 and 30 September 2018; and

   (b) towards social/tax authorities as at 30 June 2018 and 30 September 2018.

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. On 8 June 2018, Vardar was admitted to the 2018/19 UEFA Europa League.

5. By 16 July 2018, Vardar submitted to the UEFA Administration, via the CL/FFP IT Solution and the Football Federation of Macedonia, its completed monitoring documentation (comprising financial information as at 30 June 2018) in accordance with the set deadline.

This monitoring information included self-declarations by the Club indicating total overdue payables of € 122k as at 30 June 2018 as follows:

- overdue payables in respect of employees of € 70k; and
- overdue payables towards social/tax authorities of € 52k.

6. On 6 September 2018, the CFCB Investigatory Chamber informed the Club that an investigation was opened against Vardar because of the significant overdue payables as of 30 June 2018 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 its employees and towards social/tax authorities as at 30 September 2018. Such updated monitoring documentation had to be submitted to the UEFA Administration by no later than 15 October 2018.

7. A conservatory measure consisting of temporarily withholding the UEFA revenues from the 2018/19 UEFA club competitions that the Club was entitled to receive, was also imposed on Vardar.

8. By 15 October 2018, the Club submitted to the UEFA Administration, via the CL/FFP IT Solution and the Football Federation of Macedonia, its updated monitoring documentation (comprising financial information as at 30 September 2018) in accordance with the set deadline. This monitoring
information included self-declarations by Vardar indicating total overdue payables of €1,116 as at 30 September 2018 as follows:

- Overdue payables in respect of employees of €893k; and
- Overdue payables towards social/tax authorities of €223k.

9. On 24 October 2018, further to the review of the Club’s above-mentioned updated monitoring documentation, the UEFA Administration requested Vardar to reconfirm the overdue amounts and to provide supporting documents for any subsequent payments.

10. On 26 October 2018, the Club reconfirmed the declared overdue amounts as of 30 September 2018.

11. On 8 November 2018, 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 Vardar had overdue payables in respect of employees and towards social/tax authorities for a total amount of:

- €122k as at 30 June 2018; and
- €1,116k as at 30 September 2018.

12. The CFCB Investigatory Chamber decided that Vardar had overdue payables in respect of employees and social/tax authorities as at 30 June 2018 and as at 30 September 2018.

13. Based on the above findings, on 15 November 2018, 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 Vardar by the CFCB Adjudicatory Chamber in respect of the Club’s alleged breaches of Articles 66(1) and 66bis (1) of the CL&FFP Regulations:

(a) an exclusion from the next UEFA club competition (UEFA Champions League and UEFA Europa League), for which Vardar would otherwise qualify in a number of seasons to be determined by the CFCB Adjudicatory Chamber at its discretion, unless Vardar is able to prove by 31 January 2019 that it has paid the amounts in respect of employees and towards social/tax authorities that were established by the CFCB Investigatory Chamber as being overdue payables as at 30 September 2018; and

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

14. 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 6 September 2018 on Vardar, consisting of temporarily withholding the UEFA revenues from the 2018/19 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

15. 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.

16. On 16 November 2018, the CFCB Chairman informed Vardar of the opening of the judgment stage in accordance with Article 19(3) of the Procedural Rules.

17. Pursuant to Article 20(1) of the Procedural Rules, the Club was invited to submit its written observations.

18. The Club did not submit written submission within the established deadline (the “Observations”).

19. Pursuant to Article 21(1) of the Procedural rules, the CFCB Chairman decided that a hearing was not needed.

20. 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

21. The case concerns alleged contraventions of the CL&FFP Regulations.

22. 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."

23. 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.”

24. Article 66bis 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 social/tax authorities as a result of contractual or legal obligations in respect of its employees as defined in 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 that 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 towards social/tax authorities.

4 The following information must be given, as a minimum, in respect of each overdue payable towards social/tax authorities, together with an explanatory comment:

   a) Name of the creditor;

   b) Balance overdue as at 30 June/30 September, including the due date for each overdue element; and

   c) Amount subject to any claim/proceedings pending as at 30 June/30 September.

5 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.”

25. 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.”

26. 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.”

27. 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.”

28. 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.”
29. 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.**

30. 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**

31. Having examined the evidence and the findings of the CFCB Chief Investigator, the CFCB Adjudicatory Chamber determines that Vardar has breached Articles 66(1) and 66bis (1) of the CL&FFP Regulations because it had:

   (a) overdue payables in respect to employees as at 30 June 2018 and 30 September 2018; and
   
   (b) towards social/tax authorities as at 30 June 2018 and 30 September 2018.

32. The Club failed to submit Observations and therefore, the findings of the Investigatory Chamber remained uncontested.

**PART VI – Disciplinary Measures**

33. 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).
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 Vardar would otherwise qualify in a number of seasons to be determined by the CFCB Adjudicatory Chamber at its discretion, unless Vardar is able to prove by 31 January 2019 that it has paid the amounts in respect of its employees and towards social/tax authorities that were established by the CFCB Chief Investigator as being overdue payables as at 30 September 2018; and

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

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 (2) two seasons (i.e. the 2019/20 and 2020/2021 seasons), unless the Club is able to prove by 31 January 2019 that it has paid the amounts established as being overdue payables as at 30 September 2018 as well as a fine of one hundred thousand Euros (€100,000) are appropriate penalties.

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.

The conservatory measure imposed by the CFCB Chief Investigator is lifted and therefore, will no longer be in force.

PART VII – Operative part

The CFCB Adjudicatory Chamber hereby decides:

1. Football Club Vardar AD Skopje (“Vardar”) has breached Articles 66(1) and 66bis (1) of the CL&FFP Regulations.

2. To exclude Vardar from participating in the next UEFA club competition for which it would otherwise qualify in the next (2) two seasons (i.e. the 2019/2020 and 2020/2021 seasons) unless the Club is able to prove by 31 January 2019 that it has paid the amounts that were identified as overdue payables as at 30 September 2018 (i.e. one million, one hundred and sixteen thousand Euros (€1,116,000).

3. To impose a fine of one hundred thousand Euros (€100,000) on Vardar.

4. The conservatory measure imposed by the CFCB Chief Investigator is lifted.

5. Vardar is to pay three thousand Euros (€3,000) towards the costs of these proceedings.

6. The costs of proceedings must be paid into the bank account indicated below within thirty (30) days of communication of this Decision to Sporting.

7. This Decision is final and shall be notified to:
a) Vardar;
b) the Football Federation of Macedonia;
c) the CFCB Chief Investigator; and
d) the UEFA Administration.

39. This Decision may be appealed in writing before the Court of Arbitration for Sport (the "CAS") in accordance with Article 34(2) of the Procedural Rules and Articles 62 and 63 of the UEFA Statutes. According to Article 62(3) of the UEFA Statutes, the time limit for an appeal to CAS is ten (10) days from the receipt of this Decision.

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J. N. Cunha Rodrigues
CFCB Chairman

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