

**UEFA CLUB FINANCIAL CONTROL BODY**

**Adjudicatory Chamber**

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**DECISION**

**in case**

**AC-02/2020**

**Lechia Gdansk S.A.**

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**Composition of the chamber:**

- **J. N. Cunha Rodrigues, Chairman**
- **L. Peila, Vice-chairman**
- **C. W. A. Timmermans, Vice-chairman**
- **C. Flint QC, Member**
- **A. Giersz, Member**

**14 May 2020**

## **PART I – Introduction**

1. On 24 February 2020, the Chief Investigator of the UEFA Club Financial Control Body (the “CFCB”) referred the case of Lechia Gdansk S.A. (“Lechia” or the “Club”) to the CFCB Adjudicatory Chamber (the “Referral Decision”).
2. In the present Decision, the CFCB Adjudicatory Chamber examines whether Lechia has failed to comply with the monitoring requirements set out in Articles 53 to 74 of the UEFA Club Licensing and Financial Fair Play Regulations – Edition 2018 (the “**CL&FFP Regulations**”) and, in particular the late submission of completed monitoring documentation.
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 9 April 2019, all licensors were provided with the key deadlines for club/licensors regarding the submission of the required club monitoring information for the 2019/20 monitoring process.
5. These key deadlines were then forwarded to the Club by its licensor (*i.e.* the Polish Football Association).
6. On 12 June 2019, Lechia was admitted to the 2019/20 UEFA Europa League.
7. Within the required deadline, on 16 July 2019, Lechia submitted to the UEFA Administration, via the Polish Football Association, its completed monitoring documentation. The monitoring information included the Club’s break-even information for the reporting periods ending in 2017 and 2018.
8. On 30 August 2019, the CFCB Investigatory Chamber convened in order to assess the above-mentioned monitoring documentation submitted by the Club.
9. On 20 September 2019, considering that the Club had breached the Indicator 3 as defined in Article 62 of the CL&FFP Regulations (“*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*”) as a result of having a break-even deficit for one or both of the reporting period 2018 and 2017, Lechia was requested to submit its break-even information for the reporting period in 2019 by 15 October 2019.  
Considering the Club’s statutory closing date is 30 June, its break-even information for the reporting period ending in 2019 was required to be based on audited annual financial statements.

10. Within the requested deadline, Lechia submitted to UEFA its break-even information for the reporting period ending in 2019.

The Club's break-even information for the reporting period ending in 2019 was however not calculated and reconciled to audited annual financial statements since the Club had not completed the audit of its annual financial statements for the year ended 30 June 2019.

11. On 15 October 2019, the Polish Football Association informed the UEFA Administration that Lechia had not submitted its audited annual financial statements. The Polish Football Association further stated that it did not know when such audited annual financial statements would be available.
12. On 30 October 2019, the UEFA Administration requested the Polish Football Association to let the Club know that its break-even information for the reporting period ending in 2019 was not based on audited annual financial statements. Lechia was also to be reminded of its regulatory obligations under the CL&FFP Regulations and requested to provide information on the status of the auditing process of its annual financial statements for the year ended 30 June 2019.
13. On 31 October 2019, the Polish Football Association forwarded the UEFA correspondence to Lechia.
14. On 4 November 2019, Lechia responded to UEFA that the audit would take place during the second half of November 2019 and that the auditor's opinion would be issued in the beginning of December 2019. Lechia explained that the situation was affected by personnel changes and works related to its accounting system.
15. On 8 November 2019, the CFCB Investigatory Chamber met and discussed the Club's case.
16. On 18 November 2019, the UEFA Administration communicated to the Club that the latter was requested by the CFCB Investigatory Chamber to submit its audited financial statements ended 30 June 2019 before the next meeting of the CFCB Investigatory Chamber due to take place on 12 December 2019. On the same date, the Club's President acknowledged receipt of the communication sent by the UEFA Administration.
17. On 5 December 2019, Lechia's President informed the UEFA Administration that the Club's annual financial statements for the year ended 30 June 2019 were still being dealt with by the Club's auditor. He stated that the Club's audited annual financial statements should be finalised by Tuesday 10 December 2019 and that he hoped Lechia would not be sanctioned.
18. On 6 December 2019, Lechia was reminded by UEFA that its break-even information for the reporting period ending in 2019 was not based on audited financial statements as required by the CL&FFP Regulations. The Club was also urged to submit its audited

annual financial statements ended 30 June 2019 as soon as possible and was finally requested to submit a short overview of any differences between the audited figures and the break-even information previously submitted on the basis of unaudited figures.

19. On 12 December 2019, the Club submitted an updated set of financial information ended 30 June 2019 which was still not audited. This updated financial information showed a net loss of PLN 6.5 million (EUR 1.5 million) compared to a net profit of PLN 7.7 million (EUR 1.8 million) as per its submission on 15 October 2019.
20. On the same day, the CFCB Investigatory Chamber met in order to (re)assess the case of Lechia. The CFCB Investigatory Chamber unanimously found that the Club had failed to submit its break-even information for the reporting period ending in 2019, calculated and reconciled to the Club's audited annual financial statements, in accordance with CL&FFP Regulations.
21. On 20 December 2019, the CFCB Investigatory Chamber requested the Club to submit, by 15 January 2020 at the very latest, its break-even information for the reporting period ending in 2019 calculated and reconciled to its audited annual financial statements for the year ended 30 June 2019.
22. On 15 January 2020, the Club informed the CFCB Investigatory Chamber that the audit work was still ongoing and that no auditor's opinion had then been issued, Lechia also apologized "*for this situation*".

The Club's auditors furthermore confirmed that they were "*in the process of auditing the financial statements prepared as at June 30, 2019*".

23. On 7 February 2020, the Club informed UEFA that the audit work was still not finalised and provided a new finalisation date for the audit of 20 February 2020.
24. On the same day, the CFCB Investigatory Chamber, headed by the CFCB Chief Investigator, Mr Yves Leterme, met in order to take a decision on the case of Lechia. While deciding on the Club's case, the CFCB Investigatory Chamber took into account that:
  - a. the Club did submit, on 15 October 2019, its break-even information for the reporting period ending in 2019. However, such break-even information was not calculated and reconciled to audited annual financial statements;
  - b. the Club submitted, on 12 December 2019, an updated set of financial information as at 30 June 2019. These updated figures were still not audited and the indicated net result (a loss of EUR 1.5 million) differed significantly from the net result initially submitted on 15 October 2019 (a profit of EUR 1.8 million);
  - c. the auditing process was still ongoing;

- d. for club licensing purposes, for the 2020/21 season, the Club is requested to submit its audited financial statements ended 30 June 2019 in March to the Polish Football Association; and
- e. *“it must be stressed that compliance with the monitoring requirements set out in the CL&FFP Regulations is mandatory. Clubs are given ample time and opportunity to collate correct and accurate data and to submit such data in a complete form. Both the CFCB Adjudicatory Chamber and the Court of Arbitration for Sport (the “CAS”) have stressed on several occasions that the disclosure obligations under the CL&FFP regulations are essential to assess the financial situation of the clubs which take part in UEFA club competitions (see in this regard CAS, 2012/A/2702, Györi ETO FC v. UEFA, paragraph 115). Therefore, disclosures have to be “timely”, otherwise the whole Club Licensing and Financial Fair Play system would be undermined (CFCB, 14 January 2013, case AC-09/2012, FK Vojvodina Novi Sad, paragraph 32; CFCB, 26 June 2013, case AC-04/2013, PAS Giannina, paragraph 51; CFCB, 5 June 2014, case AC-01/2014, FK Crvena Zvezda, paragraph 38). As CAS has stated, “[t]he matter of the deadlines has to be considered under the principle of equality of treatment; it is a must to treat all clubs (...) the same way. (...) it is the Club’s duty of diligence to respect the deadlines set by the UEFA Rules” (CAS, 2008/A/1579 Fubalski Zemun v. UEFA, paragraph 4.5). Thus, if clubs were allowed to present their financial data at individual and inconsistent deadlines throughout the year, then this would run contrary to the principle of equal treatment and also frustrate the underlying objectives of the CL&FFP Regulations which include the aim of introducing “more discipline and rationality in club football finances”. If such behaviour was allowed, there would quite simply be no valid and legitimate system of assessment” (CFCB Adjudicatory Chamber Decision, AC-06/2014 Panevėzio Futbolo Klubas Ekranas, paragraphs 39, 41 and 43).*
25. Based on the above findings, on 24 February 2020, 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 UEFA Club Financial Control Body (the “**Procedural Rules**” – edition 2019) and suggested that the following measures be imposed on Lechia for failing to submit its break-even information for the reporting period ending on 2019 calculated and reconciled to its audited annual financial statements for the reporting period ending in 2019, and for breaching its obligation to cooperate with the CFCB and to provide the latter with all necessary information and documents to demonstrate that the monitoring requirements had been fulfilled as required by Article 56 (a) and (b) of the UEFA CL&FFP Regulations:
- A minimum fine of EUR 200,000; and
  - An exclusion from the UEFA club competition for which the Club may qualify unless the two cumulative conditions are fulfilled:

- a) The club provides UEFA with its audited annual financial statements for the reporting period ending in 2019 by 31 March 2020, and
- b) The club fulfils the break-even requirement for the 2019/20 monitoring period (covering the reporting periods ending in 2017, 2018 and 2019) in accordance with CL&FFP Regulations.

### **PART III – Jurisdiction of and Procedure before the CFCB Adjudicatory Chamber**

26. 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.
27. On 28 February 2020, the CFCB Adjudicatory Chamber Chairman informed Lechia of the opening of the judgment stage in accordance with Article 19(3) of the Procedural Rules.
28. Pursuant to Article 20(1) of the Procedural Rules, the Club was asked to submit its written observations by no later than Monday 9 March 2020.
29. No response was received from the Club within the deadline set by the CFCB Adjudicatory Chamber Chairman.
30. On 10 March 2020, the Club wrote to the CFCB Adjudicatory Chamber Chairman apologizing for having missed the deadline to submit observations. The Club cited difficulties related to recent business trips, the absence of key personnel and the coronavirus situation and requested a new deadline of 13 March 2020 to provide its written observations.
31. On 12 March 2020, the Club was granted a new deadline of Friday 13 March 2020 to submit its written observations.
32. On 13 March 2020, the Club submitted its written submission and supporting documents (the “**Observations**”).
33. In its Observations, the Club admitted its failure to comply with the deadlines imposed by the CFCB Investigatory Chamber and explained the reasons of such a delay, *i.e.* a change of auditing company which lacked experience in dealing with the Club. The Club further ensured that it was currently cooperating on a daily basis with its auditor and hoped that the complete audit would be ready by the end of the month of March 2020. The Club finally recalled the pandemic situation which is facing Europe and trusted that the latter will not affect their plans. The Club also attached a statement dated 11 March 2020 from its auditors indicating that they were in the process of auditing the financial

statements prepared as at 30 June 2019 and the results of the audit would be furnished “according to the agreement, following the transference of all necessary documents from the Company”.

34. The Club did not request an oral hearing.
35. On 31 March 2020, the Club wrote to the CFCB Adjudicatory Chamber requesting a further 14 days to submit its audited annual financial statements for the financial year 2019.
36. Finally, on 1 April 2020, the Club filed its audited annual financial report for 2018-2019 with the CFCB Adjudicatory Chamber. The submission of those audited financial statements did comply, albeit late, with the requirement made by the CFCB Chief Investigator on 7 February 2020 that audited financial statements be submitted to the Polish Football Association in March 2020.
37. The quorum of judges required by Article 25(1) of the Procedural Rules being attained, the members of the CFCB Adjudicatory Chamber conducted its confidential deliberation on 14 May 2020 through video conference in accordance with Article 24 of the Procedural Rules.

#### **PART IV – Factual and Legal Appreciation by the CFCB Adjudicatory Chamber**

38. In its Observations, the Club did not dispute that it has failed multiple times to submit its audited financial statements for the reporting period ending in 2019, in accordance with the deadlines set by UEFA. Instead, the Club contended that the “*massive delays*” in its compliance were a result of changing its auditor in 2019 and that the new auditor had pointed out a need for a detailed analysis of the financial operations of the Club.
39. The CFCB Adjudicatory Chamber understands the complications the Club referred to concerning its change of auditor in 2019 but considered that such complications were not a sufficient justification for non-compliance with the requirements of the CL&FFP Regulations.
40. Having examined the evidence, in particular the findings of the CFCB Investigator Chamber and the Observations, the CFCB Adjudicatory Chamber determined that the Club has failed to submit on time the requested information despite having been given numerous opportunities to do so. Not only does this represent a breach of Articles 58 (2) and 62(1)(c) of the CL&FFP Regulations, but said behaviour is also a clear violation of Article 56 (b) of the CL&FFP Regulations which establishes the obligation to provide all necessary information and/or relevant documents.

41. With respect to the proposal of the CFCB Chief investigator to find an additional violation of Article 56 (a) of the CL&FFP Regulations which imposes an obligation of cooperation with the CFCB, the CFCB Adjudicatory Chamber determines that there is insufficient evidence of a substantial failure to cooperate under Article 56 (a) of the CL&FFP Regulations. The CFCB Adjudicatory Chamber considers that in circumstances where a failure to provide all necessary information and/or relevant documents (Article 56 (b) of the CL&FFP Regulations) has been established, in considering Article 56 (a) of the CL&FFP Regulations it is relevant to examine whether the failure to provide information and documents in time required by the CFCB Chief Investigator constitutes misconduct and also what has been the cause of that failure. In this case, the Supervisory Board of the Club had for proper reasons decided in 2019 to change its auditors which caused substantial additional auditing work to be undertaken and is likely to have caused some delay. There is not sufficient evidence that the failure of the Club to provide the audited financial statements within the time limits required by the CFCB Chief Investigator was caused or motivated by a factor which constituted a failure to cooperate under Article 56 (a).

## **PART V – Disciplinary Measures**

42. The CFCB Adjudicatory Chamber has stressed on several occasions that the disclosure obligations under the CL&FFP Regulations are essential to assess the financial situation of the clubs which take part in UEFA club competitions. Therefore, such disclosures have to be correct, accurate and timely, otherwise the whole Club Licensing and Financial Fair Play system would be undermined (CFCB, 14 January 2013, case AC-09/2012, *FK Vojvodina Novi Sad*, paragraph 32; CFCB, 20 December 2013, case AC-05/2013, *SIA Skonto FC*, paragraph 31; CFCB, 5 June 2014, case AC-01/2014, *FK Crvena Zvezda*, paragraph 138). In the present case, the CFCB Adjudicatory Chamber did not consider Lechia to have made its disclosures in a correct, accurate and timely manner for the reasons set out above.
43. The jurisprudence of the Court of Arbitration for Sport (the “CAS”) has recognised that deadlines in the context of the CL&FFP Regulations are fundamental and must be applied consistently in order to secure equal treatment among participants in UEFA competitions. Thus, for example, in case CAS 2008/A/1579, *Fudbalski Klub Zemun v. UEFA* (par. 4.5.), the Panel stated that “(...) *for the (good) organisation of any competition, deadlines are inevitable and such deadlines need to be met by all clubs (...). Therefore, the clubs do not only have to fulfil the material requirements set in the regulations, but they need to meet these conditions on a certain date*”.
44. The CFCB Investigator Chamber suggested the imposition of a fine of the minimum amount of EUR 200,000 and an exclusion from one UEFA club competition to which Lechia would qualify in the future unless it fulfilled two cumulative conditions of (i) providing UEFA with its audited annual financial statements for the reporting period

ending in 2019 by 31 March 2020 and (ii) fulfils the break-even requirement for the 2019/20 monitoring period (covering the reporting periods ending in 2017, 2018 and 2019) in accordance with CL&FFP Regulations.

45. The CFCB Adjudicatory Chamber underlines that, even though the failure to cooperate has not been established, it is important to remind the Club that cooperation with the CFCB bodies is of the essence, and in the matter at stake, should have been much better.
46. However, the CFCB Adjudicatory Chamber considers that the fine of two hundred thousand Euros (EUR 200,000) that was proposed by the CFCB Chief Investigator should be reduced as the Club has, albeit belatedly, filed the requested information which has now been received.
47. The CFCB Adjudicatory Chamber, at the time of taking this decision, was also cognisant of the perilous financial situation that is currently being faced by many European football clubs in light of the COVID-19 pandemic. The Club itself in its Observations has noted the problems that this situation is causing it on a practical level. Irrespective of the failure of the Club to comply with its regulatory requirements the CFCB Adjudicatory Chamber considered it appropriate to show particular leniency on this occasion owing to the very exceptional situation being posed by the COVID-19 pandemic.
48. In view of the foregoing, the CFCB Adjudicatory Chamber considered a fine of twenty-five thousand Euros (EUR 25,000) to be an appropriate disciplinary measure.
49. In addition, costs of one thousand five hundred Euros (EUR 1,500) must be paid by Lechia, in accordance with 32(2) of the Procedural Rules.

## **PART VII – Operative part**

47. For failing to comply with the CL&FFP Regulations and in particular with the Articles 58 (2), 62 (1)(c) and 56(b), the CFCB Adjudicatory Chamber determines, as final decision, in accordance with Articles 27(c) and 29(1) of the Procedural Rules:
  1. **A fine of twenty-five thousand Euros (€25,000).**
  2. **Lechia is to pay one thousand five hundred Euros (€1,500) towards the costsof these proceedings.**
  3. **The costs of proceedings must be paid into the bank account indicatedbelow within thirty (30) days of communication of this Decision to Lechia.**
  4. **This Decision is final and shall be notified to:**

- a) **Lechia Gdansk;**
- b) **the Polish Football Association;**
- c) **the CFCB Investigatory Chamber; and**
- d) **the UEFA Administration.**

This Decision may be appealed in writing before 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 appeal to CAS is ten days from the receipt of this Decision.



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J. N. Cunha Rodrigues  
CFCB Chairman

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