



Decision of 18 November 2020

rendered by the

APPEALS BODY

Sitting in the following composition:

Chairman: Tomás Marqués Pedro José (ESP)

In the case

Norwegian Football Association

and

UEFA

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 in the course of these proceedings. The Appeals Body refers in the present decision only to the facts it considers necessary to explain its reasoning.
 2. Via Circular Letter No. 53/2020 dated 15 July 2020, the UEFA administration informed its member associations and their clubs of the implementation of the UEFA Return to Play Protocol (the "Protocol"), which was approved by the UEFA Executive Committee on 9 July 2020. The Protocol is an exceptional set of rules that outlines the framework of medical, sanitary and hygiene procedures, together with operational protocols, that are to be applied when staging UEFA competition matches.
 3. Via Circular Letter No. 66/2020 dated 31 August 2020, the UEFA administration informed its member associations of the special rules applicable to UEFA National Team competition matches, i.e. the 2020/21 UEFA National League (league phase), the 2019/21 UEFA Under-21 European Championship (qualifying phase) and the UEFA Women's EURO qualifiers (the "Rules"), that were approved by the UEFA Executive Committee at its meeting on 29 August 2020. Most notably, Circular Letter No. 66/2020 outlines the consequences of national associations being unable to field a team for a specific match if it cannot be rescheduled.
 4. Via Circular Letter No. 71/2020 dated 28 September 2020, the UEFA administration informed its member associations and their clubs that the UEFA Executive Committee had approved several amendments to the Protocol at its meeting on 24 September 2020.
 5. On 13 November 2020, one of the Norwegian Football Association's (the "NFF") players returned a positive COVID-19 test result as part of the comprehensive testing measures put into place by UEFA in accordance with the Protocol. Consequently, the Norwegian authorities deemed that all NFF staff and players were considered as being "close contacts" of the COVID-19 infected player and as a result, the entire delegation was placed into mandatory quarantine for 10 days.
 6. On 14 November 2020, the Norwegian Directorate of Health contacted the NFF and requested that the latter cancel its chartered flight to Romania for the 2020/21 UEFA Nations League group stage match against the Romanian Football Federation's national team in Bucharest, scheduled to take place on Sunday, 15 November 2020 (the "Match").
 7. On 14 November 2020, the NFF sought an exemption from the Norwegian Ministry of Health to allow its quarantined players and staff to leave Norway to participate in the Match. In its request, the NFF provided the Norwegian Minister of Health a detailed plan of the measures it would take to ensure that it was not in breach of Norwegian COVID-19 legislation in the course of its travels to Romania for the Match.
 8. However, later the same day, the Norwegian Ministry of Health denied the NFF's request for the abovementioned travel exemption and confirmed to the latter that its players and
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staff would be in breach of Norwegian COVID-19 legislation should they travel from Norway whilst in "infection quarantine".

9. Against this background, the NFF decided that its scheduled chartered flight due to depart Norway on 14 November 2020 should not leave for Romania.
10. Shortly thereafter, the NFF informed the UEFA administration that the NFF delegation would not be able to travel to Romania to play the Match due to the pressure the Norwegian authorities had placed on the NFF, together with the prospect of prosecution for any quarantined players and staff who travelled to Romania. Equally, the NFF informed UEFA that the Match must be cancelled.
11. Due to the sequence of events and the short turn-around time until the scheduled commencement of the Match, i.e. less than 23 hours, the NFF was unable to gather enough players who were unaffected by the quarantine to field a team for the Match.
12. As a result, the Match could not be played.
13. On 16 November 2020, the NFF was informed of the opening of disciplinary proceedings against it and was given a deadline of 18 November 2020 at 10:00 CET to submit its statements regarding the present case.
14. On 16 November 2020, the Chairman of the UEFA Control, Ethics and Disciplinary Body referred the present case to the Appeals Body due to its urgent nature.
15. Any other relevant facts shall be referenced further below, if necessary.

II. Summary of proceedings before the Appeals Body

16. The NFF in its statement dated 17 November 2020, essentially stated the following:
 - First, the NFF points out that the decision not to play the Match, for all practical reasons, was taken by the Norwegian government, and not by the NFF.
 - Prior to the Match, the NFF had managed to obtain exemptions from the Norwegian health authorities allowing its representative teams to travel to match venues, as well as for its players to return to their clubs after national team duties, as set out in UEFA Circular Letter No. 66/2020.
 - Norway's representative team had scheduled a friendly match against Israel on Wednesday, 11 November 2020. Following a positive COVID-19 test result from an Israeli player, the Norwegian government requested that the NFF cancel the match. As a result, said match was cancelled.
 - On Friday, 13 November 2020, one of the NFF's players tested positive for COVID-19. The squad was due to travel to Romania for the Match via a chartered plane on Saturday, 14 November 2020 at 13:00. According to Norwegian law, all persons who have had close contact with a confirmed COVID-19 infected person less than 48 hours before the infected person experienced the first symptoms of infection shall be quarantined for 10 days after such close contact took place. As all players
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and staff were considered as close contacts of the COVID-19 infected individual, the entire team delegation was placed into mandatory quarantine by the Norwegian authorities.

- The short timeframe between the player testing positive for COVID-19 and the Match, i.e. two days, made it impossible for the NFF to call-up enough replacement players who were not in mandatory quarantine to participate in the Match. In this respect, the only possibility for the Match to take place was if the NFF had obtained an exemption from the Norwegian authorities to travel to Romania.
 - As the squad was at the airport preparing to leave for Romania, the NFF's President was contacted by the Director of the Norwegian Directorate for Health, as well as two other representatives from the same Directorate, who strongly requested that the NFF cancel the flight. The Directorate for Health informed the NFF that any players and staff in quarantine who travel to Romania for the Match would be in breach of Norwegian COVID-19 legislation. The NFF then contacted the Minister for Health, who subsequently confirmed the above.
 - Based on the strong pressure from the Norwegian Ministry of Health and the Norwegian Directorate for Health, together with the prospect of public prosecution and imprisonment for the involved players and staff, the NFF decided not to let the plane leave for Romania. Said decision was taken on 14 November 2020 at 22:19 local time. As the Match was scheduled to be played on 15 November 2020 at 20:45 local time, i.e. less than 23 hours later, it was impossible to gather enough players not affected by the mandatory quarantine to field a team. Therefore, there was no other alternative than to call off the Match.
 - In accordance with paragraphs 2 and 3 of the Rules, the NFF requests that UEFA reschedules the Match. If UEFA deems it impossible to reschedule the Match, the NFF submits that the Appeals Body has the following two options: 1) if one of the national associations is responsible for the Match not taking place, then said national association will be declared to have forfeited the match; and 2) if none of the teams are responsible for the Match not taking place, the Match cannot be declared as forfeited and the outcome of the Match will be decided by the drawing of lots.
 - In this respect, the NFF is of the opinion that Circular Letter No. 66/2020 must be considered as *lex specialis* compared to Article 26.01 of the Regulations of the UEFA Nations League (2020/21) ("UNL Regulations"). Accordingly, the NFF points out that the UNL Regulations differ from Annex I.2.1 to the Regulations of the UEFA Champions League (2020/21 Season) and Regulations of the UEFA Europa League (2020/21 Season), in the sense that a team that cannot play a UEFA club competition match will be declared to have forfeited the match and be considered to have lost the match 3-0, regardless of whether or not it was "responsible" for the match in question taking place. To such point, the NFF refers to the CAS 2020/A/7356: *ŠK Slovan Bratislava v. UEFA & KÍ Klaksvík* precedent.
 - In conclusion, the NFF submits that it cannot be identified with or held responsible for any decisions made by the Norwegian government. The decision not to play the Match was in fact taken by the Norwegian Ministry of Health and the Norwegian Directorate for Health. As a consequence, the NFF cannot be held responsible for the Match not taking place.
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- Therefore, the outcome of the match, unless it can be rescheduled, shall be decided by drawing of lots carried out by the UEFA administration.
17. Any arguments not referenced in the above summary shall be addressed further below, insofar as they are relevant.

III. Competence of the Appeals Body

18. Article 29(3) of the UEFA Disciplinary Regulations (DR) stipulates that “[...] in particularly urgent cases [...], the chairman may refer the case directly to the Appeals Body for a decision.”
19. Article 30(4) DR states as follows:
- “The Appeals Body has jurisdiction [...] to rule on particularly urgent cases referred to it directly by the chairman of the Control, Ethics and Disciplinary Body.”*
20. Pursuant to Article 30(3)(a) DR, “[t]he chairman of the Appeals Body [...] may take a decision as a judge sitting alone: a. in urgent [...] cases.”
21. Therefore, pursuant to Articles 30(3)(a) and 30(4) DR, and given that the present case needs to be addressed urgently due to its direct impact on the ongoing 2020/21 UEFA Nations League competition, the chairman of the Appeals Body is competent to deal with this case as judge sitting alone.
22. It follows that the Appeals Body has competence to decide on the present proceedings.

IV. Legal considerations of the Appeals Body

A. Legal framework

23. As per Article 5(a) DR, the UEFA Statutes, rules and regulations, in particular the DR, are applicable to these proceedings.
24. In particular, the following provisions are relevant to the present case:
- According to paragraph 2 of the Protocol, “[t]he UEFA Protocol is subject to legal provisions and other orders issued by the competent local authorities in the various countries”.
 - According to paragraph 1 of the Rules (i.e. the special rules applicable to the league phase of the 2020/21 UEFA National League), “[s]hould a group of players of a team be placed into mandatory quarantine or self-isolation following a decision of a competent national/local authority, the match will go ahead as scheduled as long as the team has at least 13 players available (including at least one goalkeeper), irrespective of any other provision of the respective competition’s regulations (including the deadline for the submission of the list of players), provided that all
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players are eligible to represent the Under-21 or the relevant national team in accordance with the applicable FIFA regulations and have been tested negative as required by the UEFA Protocol” (emphasis added).

- According to paragraph 2 of the Rules, *“[i]f a national association is not in a position to field a team with the above-mentioned minimum number of players (i.e. 13 including at least one goalkeeper), the match will, if possible (i.e. subject to viable rescheduling options being available), be rescheduled at a date to be fixed by the UEFA administration, which shall also have the power to assign the rescheduled match to a venue which may be in a neutral country (within the territory of a UEFA member association) if deemed appropriate; in any event, the home team will remain responsible for the organisation of the match and all related costs” (emphasis added).*
- According to paragraph 3 of the Rules, *“[i]f the match cannot be rescheduled, the UEFA Control, Ethics and Disciplinary Body (CEDB) will take a decision on the matter. The national association that is responsible for the match not taking place or not being played in full will be declared to have forfeited the match by the UEFA CEDB unless the latter comes to the conclusion that both or none of the teams is/are responsible for the match not taking place or not being played in full, meaning the match cannot be declared as forfeited. If the match cannot be declared as forfeited, the outcome of the match will be decided by drawing of lots (i.e. win 1-0, loss 0-1 or draw 0-0) carried out by the UEFA administration” (emphasis added).*
- According to Article 26.01 of the UNL Regulations, *“[i]f an association refuses to play or is responsible for a match not taking place or not being played in full, the UEFA Control, Ethics and Disciplinary Body takes a decision in the matter”.*
- According to Article 27(4) of the UEFA Disciplinary Regulations, *“[t]he consequences of a match being declared forfeit are as follows: a. the team forfeiting the match is deemed to have lost 3-0 [...]”.*

B. Legal issues in the case at hand

25. From the case file, the Appeals Body finds that this case concerns the NFF’s inability – pursuant to the Rules – to play the Match due to it not being able to travel to Romania to play the Match.
26. In sum, the legal issues revolve around the following two elements:
 - a) Was the NFF responsible for the Match not taking place?
 - b) If the answer to question (a) above is affirmative, what is the consequence pursuant to the applicable rules?
27. Accordingly, the above questions are analysed below:

a. *Can the NFF be considered as responsible for the Match not taking place?*

28. As a preliminary remark, the Appeals Body recalls Circular Letter No. 66/2020, which emphasises that the preparation of national team matches was progressing against a background of difficulties due to the COVID-19 pandemic.
29. Furthermore, the Appeals Body recalls Paragraph 1 of the Protocol, which states that *"[t]he evolution of the COVID-19 situation is dynamic and unpredictable, both in terms of its epidemiology and the nature of the countermeasures imposed by national governments, and while it is impossible to establish a completely risk-free environment, the aim is to lower the risk as far as possible by applying current medical advice and best practices."*
30. The Appeals Body recalls the NFF's arguments that the decision not to play the match was taken by the competent Norwegian authorities, meaning that the NFF cannot be held responsible for the match not taking place.
31. In reference to the above, the Appeals Body emphasises that UEFA do not, nor do its disciplinary bodies, have the ability to overrule any laws or regulations of the competent local authorities with respect to national COVID-19 legislation, i.e. the Norwegian laws and authorities in the present case. Furthermore, the Appeals Body emphasises that the Protocol is *"[s]ubject to legal provisions and other orders issued by the competent authorities in the various countries"*.¹
32. In this respect, the Appeals Body refers to the correspondence on file received from the NFF and recalls that after its discussions with the competent Norwegian authorities, the NFF informed UEFA on 14 November 2020 that it would not be able to travel to Bucharest to play the Match due to its players and staff being placed into mandatory quarantine by the competent authorities and that, therefore, the Match had to be cancelled. As a result, the Match did not take place.
33. Against this background, the Appeals Body notes that by virtue of the fact that the entire delegation of Norwegian players and staff were placed into mandatory quarantine by the Norwegian authorities, the NFF did not have *"[a]t least 13 players available (including at least one goalkeeper)"*, as provided for under paragraph 1 of the Rules. In this respect, the Appeals Body notes that the NFF did not, nor was it able to, provide an alternative list of players who were not subject to the mandatory quarantine measures who may have been able to travel to Romania to participate in the match.
34. As a result, the NFF did not have the required number of players to field a team for the Match, hence why it sought an exemption from the Norwegian Ministry of Health to allow its quarantined players and staff to leave Norway to participate in the Match. To such point, the Appeals Body stresses that given the constantly evolving nature of the COVID-19 pandemic, the NFF could have foreseen the possibility that some or all of its players and staff may have been placed into mandatory quarantine by the Norwegian authorities if positive COVID-19 cases were identified within the delegation and in turn, ought to have been more prepared to send an alternative list of players to the Match,

¹ UEFA Return to Play Protocol, "2. Objectives", page 6.

particularly given that the NFF's travel arrangements were well established and would have facilitated this option should adequate preparations have been made in advance.

35. In light of the above, the Appeals Body cannot accept the NFF's arguments that the Norwegian authorities are responsible for the match not taking place.
36. Third, the Appeals Body refers to paragraph 2 of the Rules, which provides that a "[m]atch will, if possible (i.e. subject to viable rescheduling options being available), be rescheduled at a date to be fixed by the UEFA administration (emphasis added)" in circumstances where the national association is not in a position to field a team.
37. In this respect, the Appeals Body recalls the NFF's submission and request contained therein that the Match be rescheduled to a date fixed by the UEFA administration. To such request, the Appeals Body recalls that the league phase of the 2020/21 UEFA Nations League must be completed by the end of November 2020 due to the detrimental impact that any delays would have on the final ranking of the 2020/21 UEFA Nations League competition, as well as on the draw for the European Qualifiers for the 2022 FIFA World Cup, which is scheduled to take place on 7 December 2020. Furthermore, the Appeals Body notes that the NFF had a match scheduled against the Austrian Football Association in Vienna, Austria, on 18 November 2020, i.e. only three days after the Match was scheduled to take place.
38. Against this background, the Appeals Body finds that in the present circumstances, no "[v]iable rescheduling options" exist by virtue of the fact that no further dates exist in the FIFA International Football Window between the scheduled date of the Match and the date of the draw for the European Qualifiers for the 2022 FIFA World Cup, i.e. 7 December 2020, meaning that it is not possible for the UEFA administration to reschedule the Match given the framework and parameters of the FIFA International Football Window.
39. Therefore, given that the match cannot be rescheduled, in application of the special rules applicable to the league phase of the 2020/21 UEFA Nations League provided for in Circular Letter No. 66/2020, the Appeals Body is comfortably satisfied that the NFF shall be held responsible for the Match not taking place.
- b. If the answer to question (a) above is affirmative, what is the consequence pursuant to the applicable rules?*
40. Given that the NFF is responsible for the Match not taking place, the Appeals Body now turns its attention to the consequences of such responsibility.
41. In this respect, the Appeals Body recalls paragraph 3 of the Rules, which stipulates that "[i]f the match cannot be rescheduled, [...] [t]he national association that is responsible for the match not taking place [...] will be declared to have forfeited the match [...]".
42. The Appeals Body recalls the NFF's request that the outcome of the Match be decided by the drawing of lots carried out by the UEFA administration. However, pursuant to paragraph 3 of the Rules, the Appeals Body emphasises that the drawing of lots will only
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be applicable in situations where responsibility for the match not being played cannot solely be attributed to one of the teams, i.e. *"[i]f the match cannot be declared as forfeited"*.

43. However, the drawing of lots as an outcome is not applicable to the present case, as the Appeals Body has established the responsibility of the NFF for the Match not taking place.
 44. Against this background, and given the strict and literal wording of the Rules outlined above, the Appeals Body finds that when assessing a member association's responsibility in such cases, it has no scope or margin to apply any discretion when determining the consequences of such responsibility, which means – in other words – that the latter has no choice but to declare the Match to be forfeited by the responsible association concerned.
 45. Therefore, in light of the above, the Appeals Body decides that the Match will be declared to be forfeited by the NFF, who shall be considered to have lost the Match 3-0.
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The Appeals Body

decides

To declare the 2020/21 UEFA Nations League match between the Romanian Football Federation and the Norwegian Football Association, that was scheduled to be played on 15 November 2020, as forfeited by the Norwegian Football Association (who is therefore deemed to have lost the match 3-0) for being responsible for the match not taking place (as provided for in Circular Letter No. 66/2020 establishing the special rules applicable to the league phase of the 2020/21 UEFA Nations League).

Chairman

A handwritten signature in black ink, appearing to read 'Pedro Tomás', written over a light blue horizontal line.

Pedro Tomás

Advice as regards the decision with grounds

In principle, the disciplinary bodies issue decisions without grounds, and only the operative part of the decision is notified to the parties, who are informed that they have five days from that notification to request, in writing, a decision with grounds. Failure to make such a request results in the decision becoming final and binding and the parties being deemed to have waived their right to lodge an appeal (Article 52 DR).