Arbitration CAS 2010/A/2112 FC Rapid Bucuresti v. FC Timisoara & Romanian Professional Football League (RPFL), award of 3 December 2010 (operative part of 14 June 2010)

Panel: Mr Efraim Barak (Israel), President; Mr José Juan Pintó (Spain); Mr Olivier Carrard (Switzerland)

Football
Transfer
Legal status of the authority that issued the challenged decision
Withdrawal of the conclusions by the appellant and withdrawal of the appeal against one of the parties

1. **According to Swiss law, an appeal brief must contain the indications of the relief sought, the motivation and the elements of proof, but not necessarily an indication of the lower authority as a respondent. If the appeal is not manifestly groundless, the appeal authority sends the appeal brief to the lower authority, in order for the latter to produce a response brief and to submit its file to the relevant appeal authority. In fact, the lower administrative authority is a party to the appeal *ex officio*, it is automatically considered as a respondent if its decision is attacked. Therefore, although the lower administrative authority is considered as a respondent to the appeal proceedings, it is not appointed in this capacity because the appellant directs its appeal against that authority but rather because there is an automatic appointment.**

2. **In cantonal administrative procedure, the appeal authority remains seized of the matter unless one of the conditions of admissibility disappears during the course of the procedure. If the appellant withdraws his conclusions, the appeal becomes without object and is struck from the roster of cases of the appeal authority. Moreover, a withdrawal against a party is only possible if that party agrees. If a party wishes to withdraw its request without abandoning its rights, it can only do so with the approval of the other party. If this condition is not fulfilled, the withdrawal is transformed into a renunciation of the right itself, the proceedings end *ipso jure* and the judge renders a decision striking the case from the roster. Therefore, the appeal cannot be withdrawn unilaterally against the lower authority, once the proceedings have started. The appellant has the possibility to withdraw its conclusions, rendering the proceedings without object. However, this is not the case if the appellant only withdraws his appeal against one of the parties, but not his conclusions.**

The Appellant, S.C. FC Rapid Bucuresti, is a football club with its seat in Bucharest, Romania ("FC Rapid" or the "Appellant"). In the relevant season for this appeal its first football team participates in

the National Championship League I, a competition which is organised by the Professional Football League of Romania.

The First Respondent S.C. FC Timisoara, is a football club with its seat in Bucharest, Romania ("FC Timisoara" or the "First Respondent"). Its first football team also participates in the National Championship League I in same season.

The Second Respondent is the Romanian Professional Football League (LPF or the "Second Respondent"). It is a legal entity, incorporated under Romanian Law as an entity of private law and, pursuant to the regulations of the Romanian Football Federation; it is the organizer of professional football activity in the National Championship League I in Romania.

The Romanian Football Federation (RFF) is an affiliated member of FIFA and UEFA, being the sole authority recognized by these international bodies, and authorized to organize the football activity in Romania in accordance with article 1 of the Statute of Romanian Football Federation (edition 2009).

The 2010 winter transfer period for professional football players in Romania took place between 28 January 2010 and 25 February 2010.

On 1 February 2010, SC FC Sportul Studentesc SA and FC Rapid signed two transfer agreements related to the players B. and V. ("the players") for a defined and fixed period between 01.02.2010 and 30.06.2010.

On 2 February 2010, FC Rapid signed with the players employment contracts valid until 30 June 2010.

In order for the transfer of players to be legitimate, the transfer agreement and the employment contracts concluded in respect of the players should have been registered with the competent body (either the RFF or the LPF) within the 2010 winter transfer period, i.e. between 28.01.2010 and 25.02.2010. According to the relevant regulations, once the transfer period ends, registrations may no longer be made with the LPF or the FRF. By the conclusion of the winter 2010 transfer period, FC Rapid had failed to make the necessary applications to register the players.

FC Rapid and FC Timisoara were scheduled to compete against one another on 05.03.2010.

The Bucharest Municipal Football Association (AMFB) is a legal entity and an affiliated member of the RFF. The powers and activities of the AMFB derive from the RFF regulations. Pursuant to Art. 46 of the RFF regulations, the AMFB organizes football activities at county and municipal level, and it consists of sports clubs and associations participating in the county competition system.

Until 4 March 2010 FC Rapid had no team neither registered nor participating in the 4th league competition organized by AMBF.

On 4 March 2010, FC Rapid requested the AMFB to approve the registration of the 3rd team of the club in the 4th league competition organized by the AMFB. The request was registered by the AMBF under serial No. 338/04.03.2010.

On the same day, the AMFB issued the "annual visas" for the players by means of adding a stamp bearing the abbreviations AMFB on the player's card ("Carnet de Legitimate") allowing them to play for FC Rapid in the 2010 AMBF competition.

Still on the same day, 4 March 2010, and apparently based on the visas issued by the AMBF, the LPF, upon the request of FC Rapid, granted also the annual visas of the two players allowing them to play for FC rapid in the competition organized by the LPF, i.e. the National Championship League I. This was also done by another stamp, bearing the abbreviations LPF to the same player's card.

The Panel notes that no document or any other independent evidence was submitted to prove that the request by FC Rapid to the AMBF was indeed granted. In this respect the conclusion of the Panel is that the "annual visas" granted to the Players were given in an irregular way, may be by mistake, and based only on the request before this request was formally granted.

Subsequently and still on 4 March 2010, the AMFB informed FC Rapid by means of a formal decision no. 411 that its request to register the 3rd team in the 4th League city championship had been denied and, as a result, that the transfers of the players B. and V. were null and void. The application was rejected according to article 20.1.b of the Regulation of Organisation of Football Activity (ROAF) and the AMFB retained that *"If the withdrawal / exclusion of the teams occurred after the start of the championship…the vacancies will not be filled in…"*. By the same address, the AMFB communicated that *"any operation of legitimation/transfer performed with a view to participate to the championship of seniors are null" and that "the transfer of the players B. and V. are null since they remain legitimated at S.C. FC Sportul Studențesc S.A"*.

On 5 March 2010, the LPF informed FC Rapid, by decision no. 422, that the annual visas stamped by LPF's Competition Department on the two players' ID cards were annulled, resulting in the players losing their eligibility to play for FC Rapid.

On the same day, FC Rapid submitted a new request to AMFB that the club's 3rd team be allowed to perform "informally" during the 2009-2010 season in the 4th League of the Municipal Football Association.

Subsequently, by decision no. 427 of 5 March 2010, AMFB revoked the decision no 411/04.03.2010 rendered the day before, and confirmed the registration of the 3rd team in the 4th league, stipulating that this enrolment would occur *"without accumulation points and no right to promotion"*.

On the same day, FC Rapid played against FC Timisoara within the 20th phase of the 1st division championship. Before the match, FC Rapid was ranked 4th and FC Timisoara 7th in the classification National Championship League I.

Before the beginning of the match, FC Timisoara contested the two players' eligibility for the following reason: *"The transfer of both players (namely V. and B.) was irregularly made and the provisions in the ROAF and the RSTJF [The Regulations concerning the Statute and Transfer of Football Players] of the FRF were not observed, the same applies for the AMF Bucharest"*.

FC Rapid won the game against FC Timisoara with the score 1-0.

By Appeal filed on 6 March 2010 to the Disciplinary Committee of the LPF, FC Timisoara communicated the reasons of its contest.

In the decision issued after the session of 10 March 2010, the Disciplinary Committee of the LPF firstly analysed the contest filed by FC Timisoara and concluded that the contest included three distinct causes of action being for subject matter (a) *"the participation under irregular conditions of the players V. and B. to the match that was played between FC Rapid Bucharest and FC Timisoara on the date of 05.03.2010",* (b) *"the validity of the acquiring of the rights to play for FC Rapid Bucharest by the players V. and B.",* and (c) *"the validity of the exercising of the rights to play by the players V. and B. on the Rapid-Timisoara match of the 05.03.2010"*.

Secondly, the Disciplinary Committee of the LPF declined its competence to decide on the issues regarding (a) the validity of the acquiring of the rights to play and (b) the validity of the exercising of the rights to play in favour of the Committee for Disputes Resolution of the LPF.

Finally, the Disciplinary Committee of the LPF suspended its decision on the third issue on which it had competence until the other two issues were *"irrevocably decided upon"*.

By the decision dated 16 March 2010, the Committee for Disputes Resolution of the LPF declined its competence on the issue concerning the validity of acquiring the right to play in favour of the National Chamber of Dispute Settlement of the FRF.

On 19 March 2010, FC Timisoara filed before the National Chamber of Dispute Settlement of the FRF a renouncement on the claim regarding the validity of acquiring the right to play.

By Decision no. 196 dated 25 March 2010, the National Chamber of Dispute Settlement of the FRF recorded the renouncement to the decision of this issue.

By Decision no. 166 dated 30 March 2010, the Committee for Disputes Resolution of the LPF decided that *"the players V. and B. have irregularly exerted their right to play in the game FC RAPID – FC TIMISOARA from the date of March 05th, 2010"*.

Within the prescribed legal term, FC Rapid filed an appeal against the decision no. 166 to the Appeal Committee of the LPF.

By Decision no. 60 dated 7 April 2010, the Appeal Committee of the LPF rejected the appeal submitted by FC Rapid against the Decision no. 166.

On 26 April 2010, FC Rapid filed an appeal before the CAS against the Decision no. 60 delivered by the Appeal Committee of the LPF on 7 April 2010.

On 26 April 2010, the Appellant filed its statement of appeal, together with 3 exhibits, within which it nominated Mr Jose Juan Pinto as the Arbitrator appointed by them. It further requested the President of the Appeals Division to consider the submission of the appeal to a sole arbitrator pursuant to Article R.53 of the Code of Sports-Related Arbitration (the "Code") due to the urgent nature of the appeal.

On 27 April 2010, the Appellant informed the CAS that it withdraw one of the reliefs contained in the Appeal, namely its request to order the Respondents to pay a compensation in the amount of Euros 335.000.-.

On 7 May 2010, the Appellant filed its appeal brief, together with 28 exhibits.

On 12 May 2010, the Second Respondent disagreed with the Appellant's request to refer the dispute to a sole arbitrator and asked for the formation of a Panel of three arbitrators. It further nominated Mr Olivier Carrard as Arbitrator.

On 13 May 2010, the First Respondent also disagreed with the Appellant's request. It agreed with the formation of a Panel of three arbitrators and accepted the choice made by the Second Respondent concerning the Arbitrator.

On 27 May 2010, the Appellant informed the CAS that it wished to withdraw its appeal against the Second Respondent in consideration that it was not a party to the original proceedings between FC Rapid and FC Timisoara. However, the Appellant intended to maintain its appeal against the First Respondent.

By letter dated 31 May 2010, the Second Respondent requested the CAS to reject the Appellant's demand on its behalf and to continue the proceedings with itself remaining as a party.

The Second Respondent argued that as the organiser of the National Championship League I (the league in which the dispute arose), it has a direct interest in the matter. It further argued that it must remain a party to the proceedings because the Appellant's action pertains to the interests of football in Romania which the Second Respondent holds a direct interest therein. Additionally, as the disciplinary action was the result of a violation of the LPF's regulations, the action therefore "belonged" to the LPF.

On the same day, the First Respondent requested that the CAS allow the Second Respondent to remain a party to the proceedings.

Still on 31 May 2010, the CAS informed the Parties that the Second Respondent will remain a party to the proceedings pending the issuance of a decision by the Panel.

On the same day the First Respondent filed its answer to the Appellant's Appeal Brief.

On 31 May 2010, the Second Respondent filed its respective answer.

On 8 June 2010, the CAS notified the Parties that the Panel deemed itself sufficiently informed to render a decision on the basis of the written submissions and consequently no hearing would be held.

LAW

CAS Jurisdiction

1. According to Article 56.3 of the FRF Statutes which can be translated into English as *"the decisions pronounced by the Commission of Appeal of the Romanian Football Federation may be attacked at the Arbitral Court of Law of Sports in Lausanne"* and Article 36.17 of the RSTJF *"the decisions of the RFF/PFL Appeal Committee are final and enforceable and may be appealed against with the Court of Arbitration for Sport, according to the RFF Statutes"*. It I therefore clear that the decisions passed by the Appeal Committees of the LPF or the FRF may be appealed against before the CAS

2. In addition, the jurisdiction of the CAS derives from Article R47 of the Code. The parties further confirmed the CAS Jurisdiction by signing the Order of Procedure.

3. It follows that the CAS has jurisdiction to decide upon this appeal. Pursuant to this and under article R57 of the Code, the Panel has full power to review the facts and the law.

Applicable Law

4. Article R58 of the Code provides the following:

   "The Panel shall decide the dispute according to the applicable regulations and the rules of law chosen by the parties or, in the absence of such choice, according to the law of the country in which the federation, association or sports-related body which has issued the challenged decision is domiciled or according to the rules of law, the application of which the Panel deems appropriate. In the latter case, the Panel shall give reasons for its decision".

5. The parties have not expressed the application of a particular law. Whilst the Appellant makes a general reference to the application of Romanian law, it has not founded its argumentation on the premise of this law. In this respect the decision of the sole arbitrator in CAS 2008/A/1477 & 1567 may be quoted and adopted:

   "The parties have not chosen the application of any particular law. In such a situation, Article R.58 of the Code offers an alternative choice to the Panel. The Panel shall apply either the rules of law which application is being

appropriate, in particular the general principles of law, or the law of the country in which the federation body which has issued the challenged decision is domiciled (see LOQUIN E., L'utilisation des principes generaux du droit et le developpement d'une Lex Sportiva, in The Proceedings before the Court of Arbitration for Sport, Berne 2007, page 92).

In the present proceedings, the parties have not presented any submission as regards the applicable law. In particular, the Appellant has not mentioned any provision of Romanian law on which to found its grounds of appeal. In consequence, the Sole Arbitrator lacks the necessary evidence in order to try the case according to Romanian law.

Due to this lack of evidence, the Sole Arbitrator is of the opinion that it is appropriate to decide the dispute according to the general rules of Lex Sportiva and complementarily, to the rules of Swiss law, which are applied generally in the disputes concerning the transfer of football players decided by the bodies of FIFA. This approach is also conversant with Art. 16 par. 2 of the Swiss Statutes on Private International Law, which provides that Swiss law shall be applicable if the content of foreign law cannot be evidenced. Therefore, the rules and regulations RFF shall apply primarily, and the principles of Lex Sportiva and Swiss law shall apply complementarily".

8. Thus, in accordance with this and pursuant to Article 47.7 of the Statutes of the FRF which states:

"The professional football leagues may not resort to the regular courts of law with regard to any football-related disputes or to any disputes arising in connection to the provisions of the FIFA/UEFA/RFF Statutes and Regulations. Such disputes shall be solved by the competent bodies, pursuant to the FIFA/UEFA/RFF Statutes and Regulations and to the CAS Code".

9. The Parties are bound by the statutes and regulations of the FRF and such will thus be applied by the Panel. In addition to this, as the FRF is domiciled in Romania, the Parties should be subject to the law of the Republic of Romania. However, none of the parties have argued their case on the grounds of Romanian law and therefore Romanian law will not be applied by the Panel. Further, in accordance with the Swiss Statutes on Private International Law as discussed above, the Panel shall complementarily apply Swiss law.

Discussion

A. The LPF's Quality of Party at the Present Proceedings

10. By letter dated 27 May 2010, FC Rapid withdrew its appeal against the LPF, maintaining its actions against FC Timisoara. The Respondents objected this request and insisted in the LPF remaining as a party to the proceedings.

11. No provisions concerning this matter in the LPF and the FRF regulations, or the laws of Romania, have been argued before the Panel. Therefore the issue must be resolved in accordance with Swiss law.

12. Swiss Federal Statute of Administrative Procedure (*"Loi fédérale sur la procédure administrative"*) provides that an appeal brief must contain the indications of the relief sought, the motivation and the elements of proof[1]. It must however not contain the indication of the lower authority as a respondent. If the appeal is not manifestly groundless, the appeal authority sends the appeal brief to the lower authority, in order for the latter to produce a response brief and to submit its file to the relevant appeal authority[2].

13. In fact, the lower administrative authority is a party to the appeal *"ex officio"*, it is automatically considered as a respondent if its decision is attacked[3].

14. Therefore, it appears that, although the lower administrative authority is considered as a respondent to the appeal proceedings, it is not appointed in this capacity because the appellant directs its appeal against that authority but rather because there is an automatic appointment. Notification is made by the filing of the appeal with the competent appeal authority.

15. In cantonal administrative procedure, the appeal authority remains seized of the matter unless one of the conditions of admissibility disappear during the course of the procedure. In such a case, the appeal authority renders a decision declaring the admissibility of the appeal. If the appellant withdraws his conclusions, the appeal becomes without object and is struck from the roster of cases of the appeal authority[4].

16. Moreover, according to the principles of Swiss civil procedure, a withdrawal against a party is only possible if that party agrees. If a party wishes to withdraw its request without abandoning its rights, it can only do so with the approval of the other party. If this condition is not fulfilled, the withdrawal is transformed into a renunciation to the right itself[5]. In a renunciation of rights, the withdrawing party accepts the other party's position and abandons its own pretentions. In such a case, the proceedings end *ipso jure* and the judge renders a decision striking the case from the roster[6].

17. Therefore, the appeal cannot be withdrawn unilaterally against the lower authority, once the proceedings have started. The appellant has the possibility to withdraw its conclusions, rendering the proceedings without object. However, this is not the case if the appellant only withdraws his appeal against one of the parties, but not his conclusions.

18. Thus, in this case, FC Rapid cannot withdraw the appeal against the LPF, which is the lower authority. In addition, FC Rapid did not withdraw its relief sought, which means that it maintained its appeal.

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[1] Article 52 §1 Swiss Federal Statute of Administrative Procedure ("Loi fédérale sur la procédure administrative")
[2] Article 57 Swiss Federal Statute of Administrative Procedure ("Loi fédérale sur la procédure administrative")
[3] BELLANGER F., *La qualité de partie en procédure administrative,* in *Les tiers dans la procédure administrative,* Zurich 2004, p.41.
[4] BOVAY B., *Procédure administrative*, Bern 2000, p.421.
[5] HOHL F., Procédure civile, Tome I, Bern 2001, p. 257-258.
[6] HOHL, *op.cit*., p.253.

19. In conclusion, the appeal proceedings shall continue with the LPF as a party and are not influenced by FC Rapid's letter dated 27 May 2010.

B. The Motivation of the Contestation within the Referee's Report

20. According to the Appellant, the only ground of the contestation that was contained within the referee's report of 5 March 2010 was limited to the validity of the acquisition of the right to play of the two players, and particularly the validity of their transfers.

21. Pursuant to this, the contestation concerning the valid exercise of the right to play by the two players during the game, which had not been invoked within the report, should not have been examined by the courts.

22. Considering all the submissions and evidence presented by the Parties, the Panel is of the opinion that the First Respondent correctly complied with the provisions of Articles 27 and 28 of the ROAF, in fulfilling the conditions of motivation.

23. The First Respondent briefly motivated its contestation within the referee's report before further developing the content of its claim for a second time in front of the Disciplinary Committee of the LPF the day following the game, as stipulated by the regulations.

24. The procedure pertaining to such a contest is established by article 28 of the ROAF which provides for two precise steps in order to allow the contesting team to comprehensively complete its claim before the competent committees.

25. The purpose of such a two-step proceeding would be defeated if the contesting team were obliged to formulate an exhaustive contestation already within the referee's report

26. In the present case, the First Respondent developed the complete grounds of its contestation before the Disciplinary Committee of the LPF, together in writing and verbally, concerning both the validity of the right to play and the exercising of the right to play within the legal term of 48 hours.

27. These elements were moreover confirmed by Decision no. 63 delivered on 23 April 2010 by the Appeal Committee of the LPF. In light of the fact that neither party appealed against this decision, it is therefore final and binding.

28. For these reasons, the Panel considers that the First Respondent indeed complied with the requirements of motivation stipulated by the provisions of the ROAF, and this argument of the Appellant must be rejected

C. The Waive of the Count with respect to the Valid Acquisition of the Right to Play

29. According to the Appellant, on 19 March 2010, as the First Respondent renounced its contest in respect of the validity of the acquisition of the right to play of the two players, which was the sole cause of action for the contestation mentioned within the referee's report, and was subsequently developed before the Disciplinary Committee of the LPF, the present proceedings have become objectless.

30. However, as aforementioned, the Panel does not accept that the question of the validity of the acquisition of the right to play of the two players was the sole ground of the cause of action filed by the First Respondent.

31. Indeed, such contest was divided by the Disciplinary Committee of the LPF in three distinct causes of action being for subject (a) *"the participation under irregular conditions of the players V. and B. to the match that was played between FC Rapid Bucharest and FC Timisoara on the date of 05.03.2010",* (b) *"the validity of the acquiring of the rights to play for FC Rapid Bucharest by the players V. and B.",* and (c) *"the validity of the exercising of the rights to play by the players V. and B. on the Rapid-Timisoara match of the 05.03.2010".*

32. As the waiver by the First Respondent was made restrictively in respect of the validity of the acquisition of the right to play of the two players, there is no room to consider that the other issues should have been dismissed on the same occasion.

33. Moreover, the issue of the participation under irregular conditions of the two players in the game of 5 March 2010 lays within the jurisdiction of the Disciplinary Committee of the LPF as it constitutes a disciplinary matter, and could in no case be waived in the sole discretion of the First Respondent.

34. Therefore, as the contest filed by FC Timisoara remains valid regarding two of its three aspects despite the latter's renouncement to the question concerning the validity of the acquisition of the playing right of the two players, the Panel deems that the waiver by the First Respondent on 19 March 2010 does not annul the full object of the proceedings before the Romanian Tribunals and therefore, as a consequence, before the CAS.

D. The Eligibility of the Two Players to Play in the Match of 5 March 2010

35. Pursuant to the provisions of Article 15 subsections 1 and 2 of the RSTJF:

"1. Clubs shall register, with the organizing body, the contracts concluded with players within maximum 45 days as of their execution, as per the provisions of article 15.5.1.

2. If a club fails to register, with the competent body, the contracts concluded with players, the appendixes or riders thereto, or the transfer contracts, within 45 days as of their execution, as per articles 15.5.1 and 19.11, respectively, then said documents shall lose their validity as far as the registration or the transfer of players in concerned".

36. According to article 3.2 (c) of the transfer agreements in respect of the players: *"The assignee club binds itself to file with the board that is competent to process the transfer all the documents as provided for by the RFA regulations in force (…)".*

37. It is preliminarily ascertained from the submitted documents that the Appellant did not register the transfer agreements of the two players before the LPF or the FRF within the 45 days period as of their execution as prescribed by Article 15(1) of the RSTJF.

38. In addition, no registration for the two players was made by the Appellant before the conclusion of the winter transfer period on 25 February 2010. It is the Panels conclusion that this proven fact, *per se*, establish enough ground to conclude the Players were indeed not eligible to play in the Match on 5 March 2010. Nevertheless, the Panel will also refer to the submissions of the parties in regards of the different and contradictory decision of the AMFB and their impact on the decision of the LPF regarding the eligibility of the Players to participate in same match.

39. From the evidences that were presented to the panel, the Panel concludes that, apparently in order to overcome its failure to register the Players within the mandatory period of time, and in order to obtain – in spite of these failures – the player's registration for the game scheduled on 5 March 2010 subsequent to the closure of the official transfer period, the Appellant requested the AMFB, on 4 March 2010, to approve the entering of its 3rd team in the 4th league competition organized by AMFB.

40. The Panel concurs and finds that it was correctly considered by the Dispute Settlement Committee in terms of Decision no. 166 of 30 March that once the annual visa was cancelled by the issuing body, only the competition body of the LPF may issue a new visa under the condition of a new request.

41. Although the visas for the players were initially granted, both the AMFB and the LPF revoked them at a later stage by means of the issuance of Decision no. 411 of 4 March 2010 and Address no. 422 respectively.

42. After considering all of the submissions and the evidence, the Panel is of the opinion that the fact that the AMFB finally allowed the enrolment of the Appellant's 3rd team in the 4th league competition does not modify in any way the prior cancellation of the previously operative visas.

43. The cancellation by the AMFB of Decision no. 411 of 4 March 2010 by means of Decision no. 427 of 5 March 2010 could under no circumstances entail the nullity of the decision of the LPF (Letter no. 422/05.03.2010) since the revocation passed by the AMFB concerned its own act and its own visas whereas the revocation made by the LPF concerned the acts and the annual visas of the LPF. Further, the revocation by the AMFB could not possibly have any legal effect on the acts of the LPF and more particularly Address no. 422 of 5 March 2010 since there is no relationship of correspondence and subordination between the two institutions.

44. Moreover, although Decision no. 427 rendered on 5 March 2010 by the AMFB, authorised the enrolment of the club in the 4th league competition and effectively revoked its Decision no. 411/04.03.2010, it did not affect the Decision no. 422 dated 5 March 2010 in any way by which the LPF annulled the visas of the two players.

45. Therefore, as they had no valid annual visas, the players B and V. were not eligible to play in the match held on 5 March 2010 between FC Rapid and FC Timisoara in accordance with the provisions of Article 7 par. 2 lett. a) of the RSTJF.

E. The LPF Letter dated 4 March 2010

46. On 5 March 2010, acting as a representative of the LPF, the Director of the Competitions Department, Mr Mircea Cezar Ionescu, communicated to the Appellant the revocation of the visas of the two players by letter no. 422 dated 5 March 2010.

47. First of all, as can be ascertained from Exhibit number 16 submitted by the LPF, the Panel notes that the aforementioned letter bears the date (4 March 2010) and the registration number 422 of the decision.

48. Moreover, considering the Director of the Competitions Department of the LPF was entitled to grant the visas to the players, there is no reason to doubt its competence to cancel them. In addition, by reading the regulations and statutes presented by the parties there is no mention of a possible right for any other person holding any other formal position to cancel the visas. Therefore it can be inferred that the Director of the Competitions Department of the LPF was indeed competent to cancel such visas.

49. The issuance of the annual visa is a unilateral act which has the legal regime being essentially revocable. Consequently, the issuing body is competent to cancel it. The manager of the Competition Department of the LPF is the only person entitled and competent to grant and cancel an annual visa. In the same manner, the manager is the only one who may dispose of the annulment of a visa issued by the LPF.

50. The Appellant raises the argument that Article 30.5 of the RSTJF should be applied in terms of which the National Chamber for Disputes Resolution or the Committee for Dispute Resolution should be appointed as competent to decide on any dispute or case in the capacity of first judgment. This argument is rejected by the Panel.

51. The Panel is of the opinion that the proceedings regarding the granting and the cancelling of the visas constitutes a simple administrative matter and therefore cannot be and should not be assigned to same tribunal. A clear distinction should be preserved between the right to challenge an administrative decision that can be brought to the competent tribunal, and the Administrative act itself which is exercised by the administrative body and nit by a judicial tribunal.

52. Therefore, the Panel finds that the manager of the Competition Department has acted legally and regularly.

53. As it is already mentioned, the fact that Decision no. 427 rendered on 5 March 2010 by the AMFB, authorizing the enrolment of the club in the 4th league competition and revoking Decision no. 411/04.03.2010, had no influence on the decision no. 422 dated 5 March 2010, by which the LPF annulled the visas of the two players.

54. Since the LPF and the AMFB are two independent bodies, Decision no. 427 from the AMFB could not produce – per se- any effects on the decision no. 422 delivered by the LPF cancelling the two players' visas.

55. Therefore, the Panel is the opinion that the Decision of the LPF no. 422 dated 4 March 2010 is valid.

F. Decision no. 166 of the Committee for Disputes Resolution within the LPF dated 30 March 2010

56. The Committee for Disputes Resolution within the LPF retained that

"once the visa is annulled by the issuing body, in this particular case by LPF through the competition directorate, only it being able to issue a new visa, upon the analysis of a new request, and the AMFB letter has no effect upon the LPF actions, neither directly, nor indirectly, taking into account that there is no functional relationship between the two institutions by means of which anyone of them could interfere in the decisional action of the other one".

57. Thus, apart from the question of the validity of the Decision passed by the Executive Bureau of the AMFB on 5 March 2010, even if there would have been a doubt concerning the breach of the provisions of the article 40.3 of the ROAF, it could not modify the situation considering that the Decision of the LPF no. 422 dated 4 March 2010 would remain valid.

58. Therefore, the Panel finds that the argument raised by the Appellant in this regard should be rejected and the Decision no. 166 of the Committee for Disputes Resolution within the LPF dated 30 March 2010 must be confirmed.

G. Decision no. 60 of the Appeal Committee of the LPF dated 7 April 2010

59. For all the aforementioned reasons, as the Decision no. 422 delivered by the LPF on 4 March 2010 is found to be valid and enforceable, the cancellation of the visas of the two players remains effective and the Appeal against the decision No. 60 of the Appeal Committee of the LPF is rejected.

The Court of Arbitration for Sport rules:

1. The Appeal filed by FC Rapid Bucuresti against the Decision no. 60 dated 7 April 2010 issued by the Appeal Committee of the LPF is rejected.

2. The Decision no. 60 dated 7 April 2010 issued by the Appeal Committee of the LPF is confirmed.

3. (…).

4. (…).

5. All other further claims are dismissed.