Arbitration CAS 2015/A/3963-3968 Fotbal Club CFR 1907 Cluj SA v. Romanian Football Federation (RFF) (case number 190/CD/2014 Voiculet Claudiu Dorian) & RFF (case number 189/CD/2014 Maftei Vasile) & RFF (case number 185/CD/2014 Maftei Vasile) & RFF (case number 214/CD/2014 Stana Ionel) & RFF (case number 192/CD/2014 Hora Ioan) & RFF (case number 191/CD/2014 Laszlo Sepsi), award of 29 July 2015 (operative part of 22 May 2015)

Panel: Mr Mark Hovell (United Kingdom), Sole Arbitrator

Football
Club licensing (overdue payables)
Primary objectives and secondary effects of sporting sanctions
Escalation of sanctions in case a club fails to pay its overdue payables
Effects of the opening of an insolvency procedure under Romanian law

1. **Sporting sanctions can have primary objectives, but also secondary effects. If a sporting body seeks to issue sporting sanctions, the club may fall into line and correct the actions or omissions that led to that sanction. At UEFA level, if a club has overdue payables, it won't get license to enter the Champions League or Europa League. It may get a second chance to demonstrate that it has complied with the Financial Fair Play Regulations at a later monitoring date, but it's not a process commenced by those owed the overdue sums, it's a sporting sanction issued by UEFA, with its primary objectives of integrity and ensuring a level playing field. However, the secondary effect is that once a club is investigated and given the second chance to settle its overdue payables, most tend to focus on this and do so. That way the debts to players and other clubs often get paid.**

2. **The escalation of sanctions only comes into effect if the club does not pay. If the club does pay, the escalation stops. If it doesn't, then more and more points are deducted, until finally the club faces expulsion.**

3. **There seems to be no authority or direction under Romanian law as to whether a judging body should look at whether the opening of the insolvency procedure needs to be before the decision of the RFF Ethics and Disciplinary Committee was taken, or just on the same day, so potentially later on the same day.**

I. THE PARTIES

1. Fotbal Club CFR 1907 Cluj SA (the "Club" or the "Appellant") is a Romanian football club playing in the Liga 1 of the Romanian Professional Football League ("RPFL").

2. The Romanian Football Federation ("RFF" or the "Respondent") is the national football association of Romania, with headquarters in Bucharest, Romania, and is affiliated to the Fédération Internationale de Football Association ("FIFA").

II. FACTUAL BACKGROUND

3. Below is a summary of the main relevant facts and allegations based on the parties' written submissions, pleadings and evidence adduced at the hearing. Additional facts and allegations may be set out, where relevant, in connection with the legal discussion that follows. Although the Sole Arbitrator has considered all the facts, allegations, legal arguments and evidence submitted by the parties in the present proceedings, he refers in this Award only to the submissions and evidence he considers necessary to explain his reasoning.

4. The Appellant had not paid a large number of its players over the 2013/14 and 2014/15 seasons.

5. Five players (Messrs. Dorian, Vasile, Ionel, Ioan and Sepsi - collectively "the Players") brought their claims to the National Dispute Resolution Chamber of the RFF (the "RFF NDRC") and received six awards, as one player (Mr. Vasile) had two cases heard.

6. The RFF NDRC compelled the Appellant to pay the following amounts to the Players:

- EUR 96,000 to Maftei Vasile;
- EUR 41,500 to Hora Ioan;
- EUR 17,500 to Vioculet Claudiu Dorian;
- EUR 30,000 to Laszlo Sepsi; and
- EUR 7,500 to Stana Ionel.

7. On 19 December 2014, upon the Players' requests, the Ethics and Disciplinary Committee of the RFF (the "RFF EDC") issued six decisions ordering the Appellant to be sanctioned with a penalty (RON 15,000 in total) and granting a five-day grace period in order to settle the debts imposed by the six corresponding decisions of the RFF NDRC. The debts were not paid by the Appellant within the five day-grace period.

8. On 29 January 2015, the Appellant filed a motion with the Cluj Specialised Court to initiate insolvency proceedings.

9. On 4 February 2015, the Appellant was due to appear in front of the Cluj Specialised Court at 11am, but the initial judge who was appointed recused himself. The matter was then heard at midday by a new judge. Through Civil Court Resolution no. 294 of 4 February 2015, the Cluj Specialised Court in docket no. 134/1285/2015 granted the motion filed by the Appellant and ruled on the initiation of a general insolvency procedure.

10. On the same day (i.e. 4 February 2015), the RFF EDC held a hearing on this matter. During the hearing, the Appellant presented a motion for the suspension of the trial until the settlement of the request for the opening of insolvency procedures at the Cluj Specialised Court. The Appellant provided the RFF EDC, as evidence, an excerpt from the Ministry of Justice ("MoJ") website stating that a trial of the request for the opening of insolvency procedures was pending before the Cluj Specialised Court at that time.

11. Notwithstanding the Appellant's request for the suspension of the proceedings pending the settlement of its request to the Cluj Specialised Court for the opening of insolvency procedures, the RFF EDC sanctioned the Appellant as follows:

"Banning its right to transfer and/or endorse players in the capacity as assignee club and taking off 4 (four) points of the ones gained in the championship by the highest ranked championship team, 2 points for the time period between December 25th, 2014 and January 8th, 2015 and 2 points for the time period between January 9th, 2015 and January 23rd, 2015".

12. Six similar decisions were issued in total and a total of 24 points were to be deducted. The RPFL applied the deduction of points.

13. On 10 February 2015, the Appellant filed six appeals against these decisions before the Appeal Committee of the RFF (the "RFF AC").

14. On 19 February 2015, the RFF AC rejected the Appellant's appeals, stating, *inter alia*, that:

"Considering the EFC is not a forced execution body and does not have the authority to enforce the forced execution measures stipulated by the NCPFC, ascertaining that the measures provisioned by article 24 C, par. 1. of the RSTFP and those of article 85, par. 1 of RFF's DR that compel debtors to pay the obligations commanded through the decisions of the RFF's jurisdictional bodies do not consist in the forced execution of the debtor's estate but in his disciplinary sanctioning for non-performance of obligations, the committee appreciates that their enforcement cannot be viewed as an extrajudicial measure or forced execution measure of the collection of receivables from the debtor's estate through the capitalisation of patrimonial goods and right of the latter, but in fact represent only measures for the disciplinary sanctioning of debtor clubs that do not fulfil their obligations commanded through the decisions of the jurisdiction committees".

15. Similar decisions were issued in all six cases and are the decisions appealed against before CAS in the present matter (the "Appealed Decisions").

16. On 23 February 2015, the transfer window closed in Romania.

III. PROCEEDINGS BEFORE THE CAS

17. On 10 March 2015, in accordance with Articles R47 and R48 of the Code for Sports–related Arbitration (hereinafter referred to as the "CAS Code") the Appellant filed six Appeals against

the Respondent with respect to the Appealed Decisions. Together with its Appeals, the Appellant requested a stay of the Appealed Decisions in the following terms:

"By way of urgent interim order:

II. The decision[s] *issued by the Appeal Committee of the Romanian Football Federation, confirming the decision*[s] *of the Ethics and Disciplinary Committee to impose a transfer ban of the* [sic] *is provisionally stayed pending a final order on the merits".*

18. The Appellant argued that its application was of an urgent nature, as it needed to be allowed to register new players to complete its squad as soon as possible. The Appellant requested that an Order be rendered no later than Friday 13 March 2015 at noon.

19. Pursuant to Article R37 of the CAS Code, in view of the alleged urgency of the Appellant's request, the CAS Court Office granted a deadline to the Respondent to file its position in this respect by 12 March 2015.

20. The Respondent did not file any comments on the Appellant's application within the deadline prescribed by the CAS Court Office.

21. By an order issued 13 March 2015, the President of the Appeals Arbitration Division of the CAS rejected the Appellant's application for a stay of the Appealed Decisions. The key reasoning being as follows:

"5.6 The President of the CAS Appeals Arbitration Division notes that the Appellant does not evidence that it is in a position to sign players should the transfer ban be stayed or to re-register players who came back from loan. Mere allegations in this respect are not sufficient and the Appellant should have provided clear evidence in this respect. Moreover, the fact that the Appellant is involved in insolvency proceedings makes it doubtful that it will be able to transfer any new players.

5.7 Furthermore, the President of the CAS Appeals Arbitration Division, according to the FIFA TMS, notes that the last transfer window in Romania ended on 23 February 2015 and that therefore, in any event, the Appellant may not register any new players following possible transfers. The President of the CAS Appeals Arbitration Division notes that the Appellant has not proven that there exists another transfer window for national transfers".

22. On 24 March 2015, the Appellant submitted six secondary applications for a stay of proceedings with respect to the Appealed Decisions, on the following terms:

"The Club … contends that new circumstances demonstrate that the Club is actually facing a concrete risk of sporting prejudice which would be difficult to remedy otherwise than staying the challenged decision. Because of the numerous players that have left the first team squad, there is a paucity of experienced players in CFR Cluj's first team squad. This is causing the Club to have a severe shortage of players to field … and compelling it, in order to have enough players for match day, to rely on unexperienced youth team players, all of whom have never

played in any Romanian league, not even at a level lower than the top tier in which CFR Cluj is currently competing. This situation can only be avoided by allowing the Club to register players that it could register absent the ban imposed on it by the Respondent".

23. Pursuant to Article R37 of the CAS Code, in view of the alleged urgency of the Appellant's new request, the CAS Court Office granted a deadline to the Respondent to file its position in this respect by 12.00 noon on 26 March 2015.

24. Furthermore, on 25 March 2015, the CAS Court Office notified the parties that the matter at hand would be submitted to Mr. Mark Hovell, Solicitor, Manchester, England, as a sole arbitrator.

25. On 26 March 2015, the Respondent filed its response to the Appellant's application within the deadline prescribed by the CAS Court Office.

26. The Sole Arbitrator found that although a previous request for provisional measures was submitted and rejected, according to Swiss law and CAS jurisprudence (namely *CAS 2005/A/916, order of 23 August 2005*), a second request for provisional measures is permissible if new facts occur which show that provisional measures are required to remedy a substantial damage that would be difficult to remedy.

27. By an order issued on 27 March 2015, the Sole Arbitrator accepted the Appellant's secondary applications for a stay of proceedings with respect to the Appealed Decisions and the Respondent was ordered to register any and all players upon request of the Appellant, but only in accordance with the rules applicable for such registration contained in the RFF Regulations on the Status and Transfers of Players ("RSTP") and the FIFA RSTP.

28. On 7 April 2015, in accordance with R51 of the CAS Code, the Appellant filed its Appeal Brief. The Appeal Brief contained the following prayers for relief:

"Fotbal Club CFR 1907 Cluj S.A. applies for the Court of Arbitration for Sport to rule as follows:

I. The decision issued by Appeal Committee of the Romanian Football Federation on 19 February 2015, confirming the decision of the Ethics and Disciplinary Committee, is null and void, respectively is annulled.

Alternatively:

II. The decision issued by Appeal Committee of the Romanian Football Federation on 19 February 2015, confirming the decision of the Ethics and Disciplinary Committee, is annulled.

Ruling de novo:

III. All disciplinary proceedings of the Romanian Football Federation against to FOTBAL CLUB CFR CLUJ S.A. for non-payment of debts are adjourned until the conclusion of the insolvency proceedings pending before the Cluj Specialised Court in docket no. 134/1285/2015.

IV. The Romanian Football Federation is ordered to refrain from imposing any disciplinary sanctions for non-payment of debts of Fotbal Club CFR 1907 Cluj S.A. as long as the insolvency procedure is pending.

At any rate

V. The Romanian Football Federation shall bear the costs of this arbitration and reimburse any and all advances of costs paid by Fotbal Club CFR 1907 Cluj S.A.

VI. The Romanian Football Federation shall compensate Fotbal Club CFR 1907 Cluj S.A. for the legal and other costs incurred in connection with these proceedings, in an amount to be determined at the discretion of the Panel".

29. On 4 May 2015, in accordance with R55 of the CAS Code, the Respondent filed its Answer to the Appeal Brief. The Respondent submitted the following requests for relief (emphasis added by the Respondent):

"A. ***to dismiss the appeal lodged by the Appellant*** *against the Decision of 19 February 2015 rendered by the Appeal Committee of the Romanian Football Federation and against the Decision of 4 February 2015 rendered by the Disciplinary and Ethics Committee of the Romanian Football Federation;*

B. ***to maintain and consider the challenged Decisions undisturbed;***

C. ***subsequently, to deny all the prayers for relief made by the Appellant, including:***
c.1. regarding the ruling de novo, to deny this motion as inadmissible and ungrounded;
c.2. regarding the order to the RFF to refrain from imposing any disciplinary sanctions for non-payment of debts on the Appellant as long as the insolvency procedure is pending, to deny this motion as inadmissible;

D. ***to order the Appellant to pay all costs, expenses and legal fees*** *relating to the arbitration proceedings before CAS encumbered by the Respondent".*

30. On 18 May 2015, the Respondent submitted to the CAS Court Office a legal opinion of Professor Ion Turcu, a Romanian insolvency law expert.

IV. HEARING

31. On 4 May 2015, the CAS Court Office invited both parties to state whether they preferred to hold a hearing in these matters.

32. On 7 May 2015, the Appellant wrote to the CAS Court Office and stated its wish to hold a hearing in Cluj or alternatively in Lausanne, Switzerland. The Appellant also stated its strong objection to holding a hearing in Bucharest, for reasons of costs and independence.

33. On 8 May 2015, the Respondent wrote to the CAS Court Office stating its wish to hold a hearing in Bucharest, or alternatively in Lausanne, Switzerland, if the parties could not reach an agreement. The Respondent also stated its strong objection to holding a hearing in Cluj.

34. On 11 May 2015, the CAS Court Office received a letter from the RPFL. Although the RPFL was not a party to the dispute, it stated that it would be directly affected by the outcome of the Appeals for reasons of TV scheduling. According to the Regulation on the Organization of Football Activity adopted by the RFF, any matches in the final round of the season which could have an impact on winning the championship/promotion, qualification in European Championships or relegation were to be scheduled at the same time on the same day. Accordingly, the RPFL needed to know whether the Appellant would be involved in such a match in the final round in order to confirm its TV scheduling. As such, the RPFL requested the CAS to issue a decision without grounds by no later than 22 May 2015.

35. On 13 May 2015, in light of the letter from the RPFL and the parties' disagreement about holding the hearing in either Cluj or Bucharest, the CAS Court informed the parties that the Sole Arbitrator (after consulting with the parties by telephone conference) decided to hold a hearing in Lausanne, Switzerland, on 19 May 2015.

36. A hearing was held on 19 May 2015 at the Lausanne Palace in Lausanne, Switzerland. The Sole Arbitrator was present and was assisted by Mr. William Sternheimer, Managing Counsel & Head of Arbitration at CAS. The following persons attended the hearing:

i. **Appellant**: Mr. Jorge Ibarrola, Ms. Natalie St. Cyr Clarke and Ms. Elena Jirnova, all external counsel, Mr. Cosmin Razvan Pana, former counsel for the Appellant, Mr. Razvan Zavaleanu, the Official Receiver of the Appellant, Mr. Mihai Pop, Director of Internal Affairs of the Appellant, Professor Radu Catana, Romanian insolvency law expert and Mr. Sorin Pocurariu, interpreter for the Appellant.

ii. **Respondent**: Mr. Adrian Stangaciu and Mr. Paul-Filip Ciucur, both counsel for the Respondent, in person, with Professor Ion Turcu, Romanian insolvency law expert and Messrs. Vasile Maftei, Hora Ioan, Stana Ionel, Vioculet Claudiu and Laszlo Sepsi, all

witnesses, all available by telephone, but ultimately only Professor Ion Turcu was called to give evidence.

37. At the hearing, the Sole Arbitrator asked the parties to express their position on the admissibility of the *amici curiae* that had been sent to the CAS Court Office by the representatives of the Players (the Association of Professional and Amateur Football Players and by a firm of attorneys). Whilst the Respondent was happy for these to be admitted to the CAS file, the Appellant objected. The Sole Arbitrator noted that the hearing had been convened quickly to accommodate the parties and the RFPL, so as to facilitate an operative award before the football season in Romania concluded. This resulted in only one option for a hearing date that worked for the parties and it proved difficult to find the time to hear evidence from one of the Players, even though they were available to be heard by telephone. The *amici curiae* contained the position of the Players and in order to respect the right of the Respondent to be heard and to rely upon such evidence, the Sole Arbitrator determined to allow the *amici curiae* to the CAS file. The Sole Arbitrator noted the fact that the Appellant did not have the opportunity to cross examine one of the Players, however it had had the opportunity since 25 March 2015 to object to the inclusion of the *amici curiae*, but had not done so. The Sole Arbitrator took account of the lack of examination of the Players' position, when weighing up its value.

38. The parties were given the opportunity to present their cases, to make their submissions and arguments and to answer questions posed by the Sole Arbitrator. After the parties' final, closing submissions, the hearing was closed and the Sole Arbitrator reserved his detailed decision to this written award.

39. Upon closing the hearing, the parties expressly stated that they had no objections in relation to their right to be heard and that they had been treated equally in these arbitration proceedings. The Sole Arbitrator had carefully taken into account in his subsequent deliberation all the evidence and the arguments presented by the parties, both in their written submissions and at the hearing, even if they have not been summarised in the present award.

V. THE PARTIES' SUBMISSIONS

(A) Appellant's submissions

40. In summary, the Appellant submitted that the Appealed Decisions should be annulled for three reasons:

i. They were in contravention of Romanian law;
ii. The sanction were disproportionate; and
iii. The Panel of the RFF AC was improperly constituted.

(i) The Appealed Decisions were in contravention of Romanian law

41. The Appellant noted that Article 75(1) of the Romanian Insolvency Law, Law 85/2014, states:

> *"**As the opening of the proceeding, all court actions, out of the court actions, or forced execution procedures for the recovery of claims against the debtor's estate shall be suspended**. The creditors' rights may be recovered only through the insolvency proceedings, by lodging proofs of debt. Their claims may be re-docketed only if the decision ordering the opening of the proceeding is cancelled, the resolution ordering the opening of the proceeding is revoked or the proceeding is closed according to article 178. Where the decision to open the proceeding is cancelled or revoked, as appropriate, the court actions or out of court actions for recovery of claims against the debtor's estate may be docketed and the forced execution measures may be resumed. **On the date the decision to open the proceeding remains final the court action or out of court action as well as the forced executions are suspended**"* [emphasis added by the Appellant].

42. The Appellant argued that the Respondent's disciplinary proceedings fell within the scope of Article 75(1) of Law 85/2014. Although the deduction of points and a transfer ban have the legal nature of a disciplinary sanction, these measures have the attributes of a communicatory sanction and should be qualified as a *sui generis* enforcement method specific to a sports regulation.

43. The Appellant argued that the communicatory character came from the fact that the sanction was intended to force sanctioned clubs to pay their debts towards the RFF or third parties (players, clubs etc.). Further, *"the sanctions are nothing but consequences of a default in observing payment obligations. This also results from the fact that, as per the sports regulation, such sanctions may only be removed through the performance of the payment"*.

44. At the hearing, the Appellant stated that the disciplinary procedures carried out by the RFF EDC were, in reality, a debt collection or enforcement procedure. They are only commenced upon the petition of players and 'escalate' or 'graduate' until the payments are made. Sanctions are applied if payments are not made and the sanctions are increased until eventually, if the debts are not paid, it effectively results in the relegation of the club. The Appellant argued that this was caught by the moratorium contained in Article 75(1) of Law 85/2014. To support this position, the Appellant relied upon the expert evidence of Professor Catana, a Romanian insolvency law expert who provided a detailed written report and who was examined at length during the hearing. The Appellant argued that Article 75(1) catches judicial actions (such as commercial court proceedings), "extra judicial" actions (such as those going through arbitration or special tribunals) and enforcement measures (such as bailiffs looking to seize assets). Professor Catana submitted that the key element was a debtor being "compelled" to pay.

45. At the hearing, Professor Catana confirmed that his opinion was that the escalating nature of the disciplinary sanctions that the RFF EDC could issue, upon the petition of the creditor, such as the Players, was with the sole purpose to compel the Club to pay those Players and therefore it was both an enforcement measure and one taken by an extra judicial body.

46. Further, the Appellant referred to the escalation contained in Article 24(C) of the RFF RSTP:

> *"**C. Clubs:***
> *1. For the offences stipulated in article 23, letters i) and j), if the club fails to perform its obligations within 30 days from the notification of the final and enforceable decision, these sanctions shall be imposed on the club in the following order:*
> *a) payment of a fine of 3.000 – 7.000 lei and the club shall be granted a 5-day grace period to fully comply with its payment obligations;*
> *b) ban on transfers and/or registration of players as assignee club and deduction of points. Deduction of points is applied to those accrued in the championship by its highest-level team and, for each 15 calendar days of delay in payment, another two points shall be deducted from the team in question.*
> *c) The sanctions presented under let. b) shall be applied for 90 days, after which the respective club's team shall be excluded from all competitions. If the debtor club has several senior teams, all these shall be excluded from competitions.*
> *2. If a club has committed the offences stipulated under art. 23 let. i) and j) in relation to several players or clubs, the sanctions shall be imposed for each case in particular".*

47. At the hearing, Professor Catana explained that once an insolvency procedure was opened by the Cluj Specialised Court, the Players would then join the list of creditors in that procedure and take part in any restructuring plan. At the end of the procedure and any restructuring, any enforcement or similar procedures that had been stayed would then automatically be closed/terminated, by operation of the Insolvency Law.

48. The Appellant went on to point out that it was also the practice of the RFF to suspend disciplinary proceedings against clubs until insolvency proceedings against clubs had concluded. The RFF acknowledged this in their consistent practice and against the Club, the RFF EDC stayed disciplinary proceedings brought by 11 other players and never sanctioned the Club further with point deductions after 4 February 2015 in relation to the Players' proceedings despite the "escalation" in Article 24(c) of the RFF RSTP. The Appellant also presented examples of two separate disciplinary proceedings by the RFF EDC against SC FC Otelul SA Galati for the non-payment of debts where the RFF EDC adjourned the disciplinary proceedings against that club until the *"discontinuation of the insolvency state"*.

49. The Appellant also noted that this was FIFA's standard practice and gave the examples of FIFA's disciplinary proceedings against Club Rapid Bucuresti for non-payment of debts, where the FIFA Disciplinary Committee suspended the disciplinary proceedings until insolvency proceedings were finalised in accordance with Romanian law.

50. Accordingly, the Appellant stated that *"there is therefore no doubt that the RFF and FIFA law and practice dictates that when a club is undergoing insolvency proceedings, disciplinary proceedings against it must be adjourned or suspended pending the conclusion of the insolvency proceedings"*.

51. In the present case, the Appellant noted that the Club was subject to insolvency proceedings on the same day that the RFF EDC concluded its disciplinary proceedings, on 4 February 2015. The Appellant's representative at the RFF EDC hearing informed the RFF EDC about the existence of the application to open insolvency proceedings, filed with the Specialised Court in Cluj, and about the fact that the deadline for the resolution of that application was set on the same day. Further, RTZ Partners SPRL, the appointed receivers, immediately communicated the request for suspension of the litigation pending before the RFF EDC.

52. The Appellant argued that the RFF EDC should have either adjourned to see if an insolvency procedure was opened or not, or it should have stayed the proceedings altogether. However, it did neither as the RFF EDC chose not to examine these issues and delivered the decisions to not adjourn the disciplinary proceedings and penalise the Appellant, even though by the time the RFF EDC withdrew for deliberation, the decision to open the insolvency proceedings had already been delivered with immediate effect.

53. At the hearing, Mr Pana, in his evidence, acknowledged that under the Romanian Civil Procedure Code, the copies of documents that he produced to the RFF EDC to persuade it to adjourn should have been certified, but the RFF EDC consulted the official MoJ website and were aware of the insolvency hearing – this, in effect, verified the uncertified copies. He was present at the RFF EDC hearing to request that the RFF EDC either stayed their proceedings in anticipation of the opening of the insolvency procedure, or, adjourned to see the outcome of the insolvency hearing. Mr Pana also confirmed that, as far as he remembered, he referred the RFF EDC to Article 32(8) of the RFF RSTP, which stipulated that it should have suspended its hearing if it was aware that another court (in this case the Cluj Specialised Court) could issue a decision that could have an influence on its own proceedings.

54. On this point, at the hearing, Professor Catana stated that the RFF EDC was compelled to "find the truth" and that once the RFF EDC had the "beginning of evidence" (which was the MoJ website and the uncertified papers from Mr. Pana), then whilst this was not complete evidence, it should have adjourned to find the truth.

55. The Appellant argued that to ignore the evidence presented to the RFF EDC was a gross violation of its duties and also a violation of Article 32(4) of the RFF RSTP which states that *"taking into account the* ***active role of the court****, the NDRC may, when resolving the case, consider means of evidence that were not presented by the parties"* [emphasis added by the Appellant].

56. The Appellant stated that the imposition of a transfer ban was a course of action that was *"initiated for the realisation of claims against the debtor's property. Although the immediate effect of the transfer ban cannot be monetised, the prevention of the club conducting its normal course of business is obviously a punitive measure designed to force the Club to pay the players"*. In other words, it is designed for *"the realisation of claims against the debtor's property"*.

57. The imposition of a 24 point deduction has had a similar aim and effect as it left the Appellant at the bottom of the table and facing certain relegation at the end of the season. The Appellant

argued that relegation would have caused the Appellant to face certain extinction due to the financial consequences it would suffer. The Appellant estimated that the financial damage it would cause the Club from the loss of TV broadcasting revenue alone would be approximately EUR 2.3 million.

58. Furthermore, at the hearing, the Appellant stated that the RFF AC could have seen - albeit with hindsight - but it could see nonetheless that the insolvency procedure was opened on 4 February 2015. It should have then annulled the RFF EDC decisions, not upheld them in the Appealed Decisions.

(ii) Proportionality

59. In the alternative, the Appellant argued that the sanctions imposed were disproportionate to the amounts owed to the Players. It owed the Players EUR 192,500, yet were penalised by 24 points which the Appellant argued was almost certain to cause relegation which, as stated above, could cost the Appellant in excess of EUR 2.3 million. Moreover, at the hearing, the Appellant noted that clubs in England – as a comparison – are 'only' deducted 9 or 10 points depending on whether they are in the Premier League or Football League. The Appellant argued Article R58 of the CAS Code gave the Sole Arbitrator the ability to delve into the merits and address the issue of proportionality.

60. The Appellant argued that it was therefore not in the best interests of the RFF (as well as the Appellant of course) to put the Appellant in a financially dire situation as the RFF's primary interest should be to secure the maximum payment for the Players and also keep one of the most successful Romanian clubs in business. Further, the Appellant argued that relegation and the financial damage it would cause would only diminish the pool of money available to pay all creditors.

61. At the hearing, Mr. Zavaleanu (the Official Receiver), spoke of his role and the likely outcome for the Club, should the Appeals be upheld or denied. He also explained that he could not have advised the Club to have paid the Players, prior to the Appealed Decisions, even though he was advising the Club prior to the opening of the insolvency proceedings as it was within the 120 day window prior to going into a likely insolvency procedure and such payments would have been annulled upon the formal opening of the insolvency procedure.

(iii) The Panel of the RFF AC was improperly constituted

62. The Appellant contended that the Appealed Decisions should be annulled as one of the members of the RFF EDC, Mr. Marian Tudor, was also a member of the RFF AC that delivered the Appealed Decisions. The Appellant stated that having adjudicated in a prior case on the same matter, Mr. Tudor had already expressed an opinion on the outcome of the Appeal against the disciplinary decision. Moreover, the Appellant noted that an improperly constituted panel is one of the few grounds on which a CAS award can be annulled by the Swiss Federal Tribunal.

63. The Appellant stated that the appointment of Mr. Tudor on the RFF AC was a breach of the following regulations:

- Article 95 of the RFF Disciplinary Regulations;
- Articles 20 and 21 of the Romanian Constitution;
- Articles 3, 4 and 6 of the Romanian Civil Procedure Code; and
- Article 6 of the European Convention on Human Rights (of which Romania is a signatory).

64. Accordingly, the Appellant stated that the appointment of Mr. Tudor on the RFF AC was contrary to the Appellant's right to have an impartial tribunal and a breach of one of the fundamental rules of justice. Therefore, the Appellant requested that the Appealed Decisions be declared null and void due to an improperly constituted panel.

(B) Respondent's submissions

65. In summary, the Respondent submitted the following in support of its answer to the Appeals.

(i) The Appealed Decisions were in contravention of Romanian law

66. The Respondent stated that:

> *"As from the start of the disciplinary procedures the club had been deceiving both the committees and the players by using in bad faith procedural instruments, concealing relevant information attempting to avoid being sanctioned and ultimately lying to the committees in order to obtain unfounded postponements. A clear example of it is the letter of 20 January 2015 addressed from the Club to the committee, where the Appellant promises to pay its debts towards the players as soon as the club cashes in the TV rights. However, the Club deliberately and in bad faith postponed receiving the TV rights from the Professional Football League, which were at its entire disposal, waiting for the opening of the insolvency procedure".*

67. The Respondent reiterated this point at the hearing, when it asserted that there was bad faith by the Appellant throughout the circumstances of this case, beginning with the instigation of the insolvency proceedings in order to *"be safe"* from paying its debts.

68. The Respondent also stated that at the time of the RFF EDC decisions, the Appellant failed to provide sufficient evidence justifying the granting of a postponement of the RFF EDC hearing. The Respondent stated that *"considering the way the Club had conducted itself and of all previous postponements granted to the Club which turned out to be useless, undeserved and unfounded, it was understandable that the* [RFF EDC] *was reluctant to grant a new postponement"* and the submission of a *"a simple non-certified nor endorsed by the own club, photocopy of a request for a change of summons mentioning a case number, was not sufficient evidence to avoid the imposition of a sanction".*

69. The Respondent stated that the Appellant could easily have provided as evidence before the RFF EDC a certified copy of the request submitted before the Cluj Specialised Court whereby it requested the entering into insolvency. Their failure to do so cannot be imputed on the RFF EDC *"who after considering all evidence in the file and the circumstances of the case, freely deemed that it could be easily another unfounded request to postpone the hearing in prejudice of the players' rights and accordingly, in use of its powers decided to proceed and impose a sanction which should have been imposed weeks before"*.

70. Further, the Respondent asserted that the decisions of the RFF EDC were taken before the Cluj Specialised Court decided to admit the request of the Appellant to enter into voluntary insolvency proceedings. Therefore, in any case at the time the sanctions were applied, the Respondent asserted that the Appellant had no legal impediment to pay the Players.

71. The Respondent also asserted that the RFF EDC and the RFF AC both considered that the sports sanctions cannot be included in the category envisaged by Article 75(1) of the Insolvency Law, no. 85/2014.

72. At the hearing, the Respondent argued that Article 75 does not affect every type of proceeding against the debtor. The Respondent relied upon the expert evidence of Professor Turcu, who was examined at length during the hearing on the telephone and who had provided a detailed written report. The Respondent made reference to a recent Supreme Court decision (and this case was already referred to by Professor Turcu) confirming that not all actions need be stayed pursuant to Article 75. Professor Turcu was of the opinion that the sporting sanctions were totally distinct from enforcement sanctions and were "parallel", as such they were not caught by Article 75. According to Professor Turcu, any claims must be of a patrimonial nature i.e. about money. In no way could a deduction of points, which effects the position in the league table, or a transfer ban, be about money.

73. Further, the Respondent argued at the hearing that Article 75 is there to stop "personal claims" by the creditors. In the case at hand, the Respondent was issuing disciplinary sanctions against the Appellant. It was not owed anything. The Respondent was not a creditor of the Appellant, it had no personal claim.

74. In response to the claims by the Appellant regarding the RFF's standard practice, the Respondent argued at the hearing that it was not its practice to stay disciplinary proceedings where a club was in an insolvency procedure due to Article 75, rather they usually determine that there is no point in awarding any sanctions, as the club in question could no longer make payments due to the effect of the Insolvency Law.

75. The Respondent noted that the Appellant had a consistent history of not paying their players and pointed out that over a two year period up to March 2015, the Appellant had 24 separate cases concerning unpaid debts to players.

76. With regards to the allegations by the Appellant that the Appealed Decisions were a violation of Romanian statutory provisions, the Respondent contended that the RFF EDC was legally

entitled to deny the postponement of the hearing and evaluate the evidence submitted by the Appellant in accordance with Article 102 of the RFF Disciplinary Regulation especially in view of the repeated abusive use of procedural instruments by the Appellant. At the hearing, the Respondent noted that whilst the RFF EDC panel consulted the MoJ website, it was not proper or safe evidence (i.e. not a mechanism to summons parties during proceedings for example and not "infallible"). Moreover, the Civil Procedure Code required certified copies of pleadings etc. – these weren't provided by the Appellant. References to Articles 153 and 154 of the Civil Procedural Code were made to support the Respondent's position.

77. Further, the Respondent contended that at the moment the RFF EDC imposed the sanctions, the Appellant had no impediment whatsoever to pay the Players and consequently the sanctions were correctly and legally applied.

78. The Respondent also noted at the hearing that Article 32(8) of the RFF RSTP was not relevant for the RFF EDC, it was only directed at the RFF NDRC.

79. The Respondent asserted that an action (be it judicial or extrajudicial) should not be stayed if the right to be obtained cannot be achieved within the insolvency proceedings. Otherwise, creditors could be deprived from an efficient procedural method of obtaining their rights which would constitute a violation of the free access to justice established by the Romanian Constitution and European Convention for Human Rights.

80. At the hearing the Respondent noted that as Mr. Zavaleanu was advising the Appellant before it petitioned and before it appeared before the Cluj Specialised Court, the Appellant should have known the risk of allowing the RFF EDC disciplinary proceedings to continue (i.e. that it could face the points deduction and transfer ban). Yet, instead of paying the debt of EUR 192,500 to the Players (and whilst that payment could in theory have been annulled as it would have been paid within 120 days of the opening of the insolvency procedure, Mr. Zavaleanu would have the sole discretion whether to so annul or not), the Appellant took a huge risk that it must now be held responsible for.

(ii) Proportionality

81. The Respondent also argued that the Appellant was attempting to change its requests for relief in the CAS procedure, by adding new requests, such as the one for the Arbitrator to rule *de novo*. In this respect, the Respondent cited Article 34.15 of the RFF RSTP which states *"In the appeal procedure one cannot change the capacity of the parties, the cause or object of the initial claim and neither can a new prayer for relief be made"*. A similar provision in the Romanian Civil Procedure Code (Article 478(3)) was also cited.

82. Accordingly, on these grounds the Respondent requested that all alternative arguments and prayers for relief about proportionality by the Appellant should be disregarded, as they were not included in the Appellant's prayers for relief and now cannot be amended as per the CAS Code.

(iii) The Panel of the RFF AC was improperly constituted

83. With regards to the allegations by the Appellant that the RFF EDC and/or RFF AC panels were improperly constituted, the Respondent stated that this was merely more "bad faith" from the Appellant.

84. At the hearing, the Respondent referred to Mr. Tudor as "a false problem". The Respondent claimed that Mr. Tudor was a member of the RFF EDC in December 2014, but was appointed to the RFF AC on 5 January 2015. He therefore could not have taken part in the deliberation and the ruling made by the RFF EDC on 4 February 2015. When the RFF EDC reconvened it took away points and gave a transfer ban – Mr. Tudor took no part in those decisions. It was only those decisions that were appealed to the RFF AC. He sat on that tribunal. Consequently, the Respondent argued that the panel for the Appealed Decisions was duly composed.

VI. JURISDICTION OF THE CAS

85. Article R47 of the CAS Code states that:

"An appeal against the decision of a federation, association or sports-related body may be filed with the CAS insofar as the statutes or regulations of the said body so provide or as the parties have concluded a specific arbitration agreement and insofar as the Appellant has exhausted the legal remedies available to him prior to the appeal, in accordance with the statutes or regulations of the said sports-related body".

86. In the absence of a specific arbitration agreement, in order for the CAS to have jurisdiction to hear an appeal, the statutes or regulations of the sports-related body from whose decision the appeal is being made must expressly recognise the CAS as an arbitral body of appeal.

87. According to Article R49 of the CAS Code:

"In the absence of a time limit set in the statutes or regulations of the federation, association or sports-related body concerned, or of a previous agreement, the time limit for appeal shall be twenty-one days from the receipt of the decision appealed against".

88. The Appellant relied on Article 36(17) of the RFF RSTP as conferring CAS jurisdiction, which was not disputed by the Respondent. According to such provision:

"[t]he decisions of the RFF/PFL Appeal Committee are final and enforceable at domestic level since the date of delivery and are subject to appeal before the Court of Arbitration for Sport within 21 days from notification".

89. It follows that the CAS had jurisdiction to decide on the present dispute. The jurisdiction of the CAS was also confirmed by the Order of Procedure duly signed by the parties.

VII. ADMISSIBILITY

90. The Appellant indicated that the Appealed Decisions were notified on 27 February 2015. The deadline to file the Statements of Appeal was 20 March 2015. Pursuant to Article R51 of the CAS Code, the Appellant had 10 days thereafter to file its Appeal Briefs, namely until 31 March 2015. Upon the Appellant's request, the CAS Court Office granted an extension of five days to file the Appeal Briefs. This deadline expired on Saturday 4 April 2015 and was thus automatically extended until the first subsequent business day (Article R32 of the CAS Code) which was Tuesday 7 April 2015, as Monday 6 April 2015 was an official holiday in Switzerland, the place where the notification had to be made. The Appeal Briefs were filed on 7 April 2015.

91. The Appeals also complied with all other requirements of Articles R48 of the CAS Code, including the payment of the CAS Court Office fee.

92. It follows that the Appeals were admissible.

VIII. APPLICABLE LAW

93. Article R58 of the CAS Code provides the following:

> *"The Panel shall decide the dispute according to the applicable regulations and, subsidiarily, to the rules of law chosen by the parties or, in the absence of such a 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 Panel deems appropriate. In the latter case, the Panel shall give reasons for its decision".*

94. There was no dispute between the parties that the RFF RSTP is applicable, with Romanian law applying additionally to fill in any gaps or lacuna within those regulations, in particular in the area of insolvency law.

IX. LEGAL DISCUSSION

A. Merits

The Sole Arbitrator observes that the main issues to be resolved are:

a) Does Article 75 of the Insolvency Law apply to the RFF disciplinary process?
b) What is the effect of the opening of the insolvency procedure for the Appellant on 4 February 2015?
c) What should the RFF AC have decided, upon reviewing the RFF EDC's decisions?
d) If the RFF AC were correct in upholding the RFF EDC decisions, should the Sole Arbitrator amend the deduction of points on the grounds of proportionality?

e) If not, should the Appealed Decisions be annulled on the grounds of an improperly constituted RFF AC panel?

95. As a general comment, this Award may not be as significant as the Appellant portrayed it – if the appeals were to fail, then surely the systematic non-payment of the Players and other players would be the true reason for the Appellant's possible (but not certain, although Mr. Zavaleanu gave evidence to that being the likely outcome) liquidation.

96. On the other hand, the unique feature of this case is that there were two hearings both on 4 February 2015. If any other club seeks or needs to go into administration, it seems the disciplinary processes of the Respondent would not be used anyway once the insolvency proceedings are opened. It seems unlikely that other clubs going down this route would have the two hearings on the same day. The Sole Arbitrator is not convinced this Award, should the appeal succeed, would open the "floodgates" or lead to a "domino effect" of other clubs looking to avoid sanctions by running off to the insolvency courts, as the Respondent submitted. Further, the Respondent has the opportunity to review its regulations, perhaps in the light of some of the other national Federations' regulations that were referred to during the hearing.

a) Does Article 75 of the Insolvency Law apply to the RFF disciplinary process?

97. Looking at the issues at hand, the starting point is the scope of Article 75(1) of the Insolvency Law 85/2014, which states as follows:

"As the opening of the proceeding, all court actions, out of the court actions, or forced execution procedures for the recovery of claims against the debtor's estate shall be suspended. The creditors' rights may be recovered only through the insolvency proceedings, by lodging proofs of debt. Their claims may be re-docketed only if the decision ordering the opening of the proceeding is cancelled, the resolution ordering the opening of the proceeding is revoked or the proceeding is closed according to article 178. Where the decision to open the proceeding is cancelled or revoked, as appropriate, the court actions or out of court actions for recovery of claims against the debtor's estate may be docketed and the forced execution measures may be resumed. On the date the decision to open the proceeding remains final the court action or out of court action as well as the forced executions are suspended".

98. The Sole Arbitrator notes the Supreme Court decision cited by the Respondent – not all legal actions do need to be stayed, but the judging authority needs to examine the type of action/proceeding in hand. The Sole Arbitrator has the view that sporting sanctions can have primary objectives, but also secondary effects. This is true with other sanctions in other proceedings. If a landlord seeks to take back possession of a property, the primary objective is to do with ownership of the property, however a secondary effect may be that the debtor/tenant pays its arrears of rent in order to remain in occupation. If a sporting body seeks to issue sporting sanctions, the club may fall into line and correct the actions or omissions that led to that sanction.

99. There were references by both parties to the English system and to UEFA's Financial Fair Play ("FFP") Rules. In England, there is no licensing system, but if a club becomes insolvent, then

the relevant League automatically deduct the 9 or 10 points – here the primary objective is on grounds of integrity, there is no linkage to forcing the club to pay its debts; also an embargo (or transfer ban) is issued, with the primary objective that the club does not make situation worse by continuing to bring in players it can't afford, again there is no linkage to paying debts. There are separate rules, so if the administrator of the insolvent club wants to pass the club's membership rights or share in the League (the equivalent of a license) to a new owner, then whoever receives it must pay off the club's football debts in full.

100. That final part of the English Football Creditor Rules ("FCR") has the primary objective to protect the players/other clubs and to help get the debts due to them paid, but if the administrator cannot find someone to pay the football debts (so if club is liquidated) then players and clubs just rank as ordinary unsecured creditors along with everyone else, however the point deductions and embargo would have remained. The very existence of the FCR often lead clubs on the verge of insolvency ensuring that they come to arrangements with their football creditors, outside of an insolvency procedure, to pay these debts and to avoid the sporting sanctions. Hence, the entire FCR package of sanctions often lead to a secondary effect, that the debts to players and other clubs get settled.

101. The Sole Arbitrator is not aware that these purely sporting sanctions have been challenged in UK courts (successfully or at all – there have been appeals to Leagues however), where the club in question was in administration and had the benefit of a moratorium. Perhaps a clearer comparable example is at UEFA level. If a club has overdue payables, it won't get license to enter the Champions League or Europa League. It may get a second chance to demonstrate that it has complied with the FFP Regulations at a later monitoring date, but it's not a process commenced by those owed the overdue sums, it's a sporting sanction issued by UEFA, with its primary objectives of integrity and ensuring a level playing field. However, the secondary effect is that once a club is investigated and given the second chance to settle its overdue payables, most tend to focus on this and do so. That way the debts to players and other clubs often get paid.

102. The Sole Arbitrator notes the position of Professor Turcu that the sporting sanctions were totally different from enforcement proceedings. As stated above, if the primary objective is a punishment or on integrity grounds, then the Sole Arbitrator can understand Professor Turcu's position, but where the primary objective is enforcement, even if this is by a sports tribunal, he cannot concur with Professor Turcu.

103. The Sole Arbitrator notes that the Respondent seemed to accept that once a club is in an insolvency procedure, then it does not continue or start disciplinary procedures, whether that is because it acknowledges the effect of Article 75 (as the Appellant submitted) or because the Respondent notes that there is simply no point, as the club cannot pay historic debts whilst it is in such procedure (as the Respondent submitted). This is consistent with FIFA too. FIFA now (as a result of recent CAS cases such as *CAS 2011/A/2586 and CAS 2012/A/2754*) will continue with determinations (i.e. will look to see if one party is owed money by the insolvent club), but not proceed with enforcement. The Sole Arbitrator was neither presented with any

jurisprudence nor aware of any whereby FIFA had looked at issuing sporting sanctions (such as a transfer ban) and whether it determined to continue with those proceedings, despite a club being in an insolvency procedure.

104. Further, during the hearing of this case, the Sole Arbitrator noted that the RFF Licensing Committee can sanction clubs (in administration or not – 3 examples were given at the hearing) for having overdue payables – here we see the RFF's sporting sanctions. The primary objective is integrity and fair play.

105. In summary, the Sole Arbitrator was not persuaded by Professor Turcu that the disciplinary measures by the RFF EDC are not linked to enforcement and are completely parallel. Their primary objective is to put pressure on the club to pay its debts to the creditor that petitions the RFF EDC.

106. The escalation of sanctions only comes into effect if the club does not pay. If the club does pay, the escalation stops. If it doesn't then more and more points are deducted, until finally the club faces expulsion. This seems to the Sole Arbitrator to be "extra judicial" and to attack the assets of the Appellant, in favour of the players that petitioned the RFF EDC in the first place. Further, whilst the debts are not due to the Respondent, it has been petitioned by the Players to act on their behalf in relation to their debts. As Professor Catana stated, the sanctions are an "accessory" to these personal claims.

107. In summary, the Sole Arbitrator determines that the disciplinary sanctions handed out by the RFF EDC and upheld on appeal by the RFF AC are caught by the provisions of Article 75(1) of Insolvency Law 85/2014.

b) What is the effect of the opening of the insolvency procedure for the Appellant on 4 February 2015?

108. If the opening of the insolvency had been on 3 February 2015, then the Sole Arbitrator can only assume that the RFF EDC would have simply stayed its disciplinary proceedings and no points would have been deducted nor any transfer ban issued. Following the above, the Sole Arbitrator determines that the RFF EDC should have taken notice of Article 75 and stayed or not started such disciplinary procedures. However, the insolvency was opened on 4 February 2015, which must be considered.

109. The Sole Arbitrator noted that the RFF EDC could see that the insolvency proceedings at the Cluj Specialised Court were taking place on the same day – it was not presented with "perfect" evidence in accordance with the Civil Procedure Code, but a lawyer for the Appellant was before them nonetheless, with access to the MoJ website. The Sole Arbitrator noted Professor Catana's opinion that the RFF EDC should have looked for "the truth" at this stage, but equally notes that the Appellant had appeared to have delayed paying the Players and awarded disciplinary sanctions over a long period of time, so perhaps the RFF EDC had some reasons to be sceptical.

110. In any event, this gave rise to certain options for the RFF EDC – ignore Mr. Pana and issue sanctions; adjourn the proceedings; or stay them? The Sole Arbitrator agrees that a stay seemed unlikely – there wasn't an insolvency court order at that moment; but to ignore Mr. Pana on formal procedural grounds had risks. As such, the Sole Arbitrator determined that, in hindsight, it might have been safer for the RFF EDC to have adjourned. It was helpful to learn from Professor Catana exactly what the insolvency judge at the Cluj Specialised Court would need to see and to understand before opening the insolvency procedure (and what was not needed – e.g. evidence that the return for creditors would be improved, etc.) which was basically just proof that the Club was insolvent. It was also interesting to know that creditors could appeal against any decision by the Cluj Specialised Court insolvency proceedings and, in perhaps 3% of cases, they did (although creditors have 10 days to appeal, it's from when they are notified, so this could take up to 3 months) – but if the RFF EDC had adjourned, seen that the insolvency procedure was opened and then stayed the disciplinary proceedings; the disciplinary proceedings would be reactivated if the insolvency proceedings were successfully appealed by creditors.

111. Whilst the Club could and perhaps should have produced certified copies of all that was going before the insolvency court (the accounting information that would demonstrate its insolvency, for example), there seemed enough information (or the "beginning of evidence", as Professor Catana put it) to lead the RFF EDC to the decision to adjourn. That said, it is not that decision that is being appealed directly to the CAS, it's the RFF AC's review of that decision. The Sole Arbitrator noted the additional point that the RFF AC definitively knew that the insolvency proceedings were opened on the same day, when it arrived at the Appealed Decisions.

112. There seems to be no authority or direction under Romanian law as to whether a judging body should look at whether the opening of the insolvency procedure needs to be a) before the RFF EDC's decision was taken, or b) just on the same day, so potentially later on the same day. There was no clear evidence which bodies' decisions actually came first. Professor Catana provided the only assistance to answering that issue. He referred to Article 88 of the Insolvency Law, which looked at creditors' claims. If one arose on the day of the opening of the insolvency procedure, would it be caught by the procedure or could it be a future debt that the Official Receiver would be responsible for? According to Professor Catana, if the debt arose within 24 hours prior to the opening of the insolvency procedure, then it would caught by the procedure. In any event, the Sole Arbitrator notes again that the RFF AC was aware that the insolvency procedure was opened on the same day, which should have been sufficient for it to change the RFF EDC decision and to have confirmed that the ongoing disciplinary proceedings against the Club should have been stayed on that day.

113. As such, the Sole Arbitrator determines that the disciplinary procedure would be within the scope of Article 75(1) of the Insolvency Law and therefore the RFF EDC should firstly have adjourned to see if the insolvency procedure would have been opened and then, having seen it was opened, it should have stayed the proceedings. The RFF AC reviewed the actions of the RFF EDC. Even if it determined that the RFF EDC was not obliged to adjourn, it, with the benefit of hindsight would have seen that the insolvency of the Appellant was opened on the

same day that the disciplinary proceedings were "escalated" and that such proceedings should have instead been stayed that day, with the result that the sanctions issued should have been annulled. There is no authority to say that the opening of the insolvency has to be hours or minutes before the disciplinary procedure for Article 75(1) of the Insolvency Law to take effect, just it has to be opened that day.

c) Other issues

114. Having arrived at the above determination, there is no need for the Sole Arbitrator to address the other issues. All other prayers for relief are dismissed.

ON THESE GROUNDS

The Court of Arbitration for Sport rules:

1. The appeals filed by Fotbal Club CFR 1907 Cluj SA on 10 March 2015 against the six decisions rendered by the RFF Appeal Committee on 19 February 2015 and referenced 190/CD/2014 Voiculet Claudiu Dorian, 189/CD/2014 Maftei Vasile, 185/CD/2014 Maftei Vasile, 214/CD/2014 Stana Ionel, 192/CD/2014 Hora Ioan, and 191/CD/2014 Laszlo Sepsi are upheld.

2. The six decisions rendered by the RFF Appeal Committee on 19 February 2015 and referenced 190/CD/2014 Voiculet Claudiu Dorian, 189/CD/2014 Maftei Vasile, 185/CD/2014 Maftei Vasile, 214/CD/2014 Stana Ionel, 192/CD/2014 Hora Ioan, and 191/CD/2014 Laszlo Sepsi are set aside.

3. All disciplinary proceedings of the Romanian Football Federation against Fotbal Club CFR 1907 Cluj SA for non-payment of debts in the above-referenced matters are adjourned until the conclusion of the insolvency proceedings pending before the Cluj Specialised Court in docket n° 134/1285/2015.

4. (…).

5. (…).

6. All other or further requests or motions submitted by the Parties are dismissed.