



Arbitration CAS 2015/A/4351 Vsl Pakruojis FK, Darius Jankauskas, Arnas Mikaitis, Sigitas Olberkis, Valdas Pocevicius, Alfredas Skroblas, Donatas Strockis, Diogo Gouveia Miranda, C.H. Alexandru and Taras Michailiuk v. Lithuanian Football Federation (LFF), award of 13 July 2016

Panel: Prof. Luigi Fumagalli (Italy), President; Mr Sofoklis Pilavios (Greece); Mr José Juan Pintó (Spain)

Football

Match fixing

CAS jurisdiction

Applicable regulation to a match fixing infringement

Burden of proof regarding actual and presumed commission of match fixing

Establishment of a finding of presumed commission of match fixing

De novo hearing

Proportionality of the sanctions

1. As made clear by the applicable disciplinary regulations of the federation, jurisdiction is granted to CAS only with respect to the decisions rendered by the federation's appeal committee. In addition, the CAS jurisprudence, based on the wording of Article R47 of the Code, made it clear that the exhaustion of internal remedies is one of conditions for the CAS jurisdiction to exist. CAS would not have jurisdiction to hear an appeal (therefore to be deemed inadmissible) brought against the disciplinary body decision *alone*. However, where the disciplinary body decision is challenged *together* with the appeal committee decision, which dealt with the same issues, the CAS has jurisdiction to hear the dispute concerning the disciplinary infringements for which the appellants were sanctioned, as defined by the appealed decisions.
2. The federation's disciplinary rules contemplate two distinct disciplinary infringement regarding match fixing: the actual commission of match-fixing and the presumed commission of match fixing. The two distinct infringements are subject to different conditions: while in both cases the manipulation of the match is required, the direct involvement in the manipulation of the player is required in connection with the actual commission of match fixing, whereas the presumed commission of match fixing is subject to the finding of a "suspicious" conduct or "anomalous" behaviour of the player during the match. However, no different standards of evidence apply: in both cases, the hearing body must evaluate the available evidence according to the "*personal conviction*", i.e. must be reasonably satisfied that the factual elements of the infringement are proved.
3. From the evidentiary point of view, it is for the federation to prove that the elements of the infringement are met. The "suspicious" conduct of a player during a manipulated

match can be proved on the basis of “*the analysis of the Match*”. In fact, as made clear by the regulations, the conclusions of the experts that the behaviour of a player during a match allows the assumption that such a player could have committed the infringement of match-fixing constitutes the basis for applying the sanctions established for presumed match-fixing. Once the presumption is established, it is for the player to rebut it, by offering contrary evidence proving that his behaviour cannot ground the conclusion that he committed match fixing.

4. It is entirely in line with the applicable disciplinary regulation to hold a player responsible for presumed match manipulation when the finding of actual match manipulation is not possible. In this respect, the expert evidence adduced by the federation can show to the satisfaction of the panel that suspicious betting activities took place with regard to some matches especially if the players in question did not offer any other opinion and/or evidence to disprove the expert’s conclusions. The finding that infringements related to presumed commission of match fixing were committed implies the finding of a responsibility of the club in accordance with the regulations.
5. According to article R57 of the CAS Code, the panel has full power to review the facts and the law. Accordingly, even if any of the appellants’ rights had been infringed upon by the federation – but without conceding that they had actually been infringed – the *de novo* proceedings before CAS would be deemed to have cured any such infringements. As a result, the procedural violations alleged by the appellants are not suitable to lead to the setting aside of the challenged decision.
6. Where the sanctions are imposed in a measure consistent with the provisions of the regulations they appear to respect the principle of proportionality, having in mind the different degree of responsibility of each of the players. Although, in any case, according to CAS case law, the measure of the sanction imposed by a disciplinary body in the exercise of the discretion allowed by the relevant rules can be reviewed only when the sanction is evidently and grossly disproportionate to the offence, such jurisprudence, far from excluding or limiting the power of a CAS panel to review the facts and the law involved in the dispute heard, only means that a CAS panel would not easily ‘tinker’ with a well-reasoned sanction, i.e. to substitute a sanction of 17 or 19 months’ suspension for one of 18.

1. BACKGROUND

1.1 The Parties

1. Vsl Pakruojis FK (the “Club” or “Kruojis”) is a Lithuanian football club from the city of Pakruojis, Lithuania. The Club is affiliated to the Lithuanian Football Federation. Mr Darius Jankauskas, Mr Arnas Mikaitis, Mr Sigintas Olberkis, Mr Valdas Pocevicus, Mr Alfredas

Skroblas, Mr Donatas Strockis, Mr Diogo Gouveia Miranda, Mr C.H. Alexandru and Mr Taras Michailiuk (the “Players”) are professional football players, who played for the Club in the 2014/2015 season. The Club and the Players are collectively referred to as the “Appellants”.

2. The Lithuanian Football Federation (the “LFF” or the “Respondent”) is the governing body of football in Lithuania with its registered office in Vilnius, Lithuania. The Respondent is affiliated to the Fédération Internationale de Football Association (“FIFA”) and is a member of the Union of European Football Associations (“UEFA”).

1.2 The Dispute between the Parties

3. The circumstances stated below are a summary of the main relevant facts, as submitted by the parties in their written pleadings or in the evidence given in the course of the proceedings. Additional facts may be set out, where relevant, in connection with the legal discussion which follows.
4. On 27 May 2015, a match was scheduled to be played between FK Siauliai and the Club in Siauliai (“Match 1”).
5. On the same day, 27 May 2015, the LFF received a letter of the Gaming Control Authority of the Ministry of Finance of the Republic of Lithuania that Match 1 had been arranged for fraudulent betting purposes. Such letter had attached the printout from some websites and read, in an unchallenged English translation¹, as follows:
“Please be informed that on 27 May 2015, the Gaming Control Authority ... noticed a significant move in the betting odds on the sports betting sites in the football match of the Siauliai team, i.e. in the morning of May 27, 2015, the average odds for this team was 3.5 whereas at 03:35 PM on the same day it was 1.78. Reaction to said change of the betting odds, some of the betting sites removed this match from available betting offers”.
6. As a result, one of the Respondent’s officials, Mr Gerhardas Dunauskas, prior to kick-off, informed the coaches of the two teams of the situation and asked them to warn their players to play fairly.
7. Match 1 ended with the result of 1:0 for FK Siauliai. The player No. 28 of FK Siauliai scored the winning goal at min. 61:00. At min. 53:00 FK Siauliai missed a penalty caused by a foul of Mr Diogo Gouveia Miranda, one of the Players.
8. The observation of suspicious betting patterns in Match 1 lead the UEFA Betting Fraud Detection System (the “BFDS”)² to issue a report dated 29 May 2015 (the “First BFDS

¹ The English translations of Lithuanian documents filed in this arbitration have not been challenged. Therefore, the Panel shall make reference to the versions provided by the Appellants or by the Respondent without distinctions. At the same time, the Panel notes that several of the documents submitted by the parties and referred to in this award contain various misspellings: they are so many that the Panel, while quoting them, could not underscore them all with a “*sic*” or otherwise.

² The BFDS highlights irregular betting movements both pre-match and in-game (live) in all the core betting markets (Asian handicap, Totals and 1X2) from all major European and Asian bookmakers. This anti-fraud system collects

Report”), the summary of which reads as follows:

“There are several credible indications that betting related manipulation occurred here. The suspicious pre-match betting observed for FK Pakruojis Kruojis not to win and also to lose the match cannot be reasonably justified. Ultimately, there is enough evidence to support the conclusion that this match was manipulated for fraudulent betting purposes by FK Pakruojis.”

9. In support of such conclusion, the BFDS offered the following “betting analysis”:

“There was strong initial pre-match betting for FK Pakruojis Kruojis not to win the match followed by more severe and suspicious betting for them to lose the match shortly before kick-off. Indeed, the severity of this betting led multiple bookmakers to remove a key betting market prematurely, indicating their own concerns regarding the betting observed. The betting preference itself is impossible to justify with logical sporting factors given that FK Siauliai had failed to win a single league game so far this season and had in fact lost nine of their 13 league matches so far this campaign. Furthermore, team news makes this betting preference even harder to explain, as it appeared to slightly favour FK Pakruojis Kruojis who welcomed back their current top scorer, Tomas Birskys. Therefore, given the complete lack of apparent mitigating factors, this betting must be deemed suspicious and be viewed as evidence of a manipulated match.

Whilst the live markets traded in a regular manner throughout, it has been reported by local sources that the Lithuanian Football Association spoke with both clubs in the minutes before kick-off, most likely in relation to the heavy one-sided betting witnessed opposing FK Pakruojis Kruojis in the pre-match markets. This led to a 30 minute delay in the kick-off and it is a distinct possibility that this intervention is likely to have disrupted any plans for manipulation in the live betting markets.

In terms of match action, it should also be noted that FK Pakruojis Kruojis midfielder Diogo Gouveia conceded a penalty for an unnecessary challenge early in the second half. Whilst this penalty was ultimately missed, it does increase our concerns regarding the overall performance of FK Pakruojis Kruojis, particularly when viewed in conjunction with the suspicious betting observed.

Finally, the suspicious history of both teams must also be scrutinized when analyzing this match. FK Siauliai and FK Pakruojis Kruojis have both been involved in a number of escalated matches in recent seasons, including one previously highlighted head-to-head meeting on 09/11/2013. To see these two clubs again involved in a suspicious match only increase our concerns surrounding the integrity of this match. ...

This was the 14th match of the season for both teams in the 2015 Lithuanian A Lyga.

FK Siauliai were in last place in the 10-team league table, with an overall record of W0-D4-L9, amassing a total of four points. They occupied the sole relegation position, and at kick-off, were six points adrift of ninth placed Granitas Klaipeda, who occupied the nearest position of safety. FK Siauliai’s recent form was poor, with a record of W0-D3-L3 from their previous six league fixtures.

FK Pakruojis Kruojis were in sixth place in the league standings, with an overall record of W3-D4-L6, amassing a total of 13 points. At kick-off, they were 11 points behind third placed FK Suduva, who occupied the final UEFA Europa League qualification position. FK Pakruojis Kruojis’s recent form was also poor, with a record of W0-D2-L4 from their previous six league fixtures.

information, with the assistance of Sportradar, an organization with headquarters in London, United Kingdom, investigates suspicious matches and prepares potential disciplinary cases with a view to preventing and combating sports fraud. Reports are supplied to UEFA’s national integrity officers who start investigations into these matters and may also cooperate with their partners in the national law enforcement authorities.

These sides have met on a number of occasions in recent seasons. FK Pakruojis Kruojis hold a distinct advantage in these games with a record of W5-D4-L0 from the last nine head-to-head matches. The most recent meeting on 22/03/2015 was played at FK Pakruojis Kruojis's home ground and ended in a 2:2 draw. The average odds for that match were 1.38 – 4.76 – 6.98.

Both of these sides have been highlighted by the BFDS on numerous occasions and both are considered to be suspicious teams. FK Siauliai were last escalated on 04/10/2014 in a league match against FK Suduva – a game which witnessed suspicious betting for FK Siauliai to lose and lose by a wide margin. FK Pakruojis Kruojis were most recently escalated on 28/04/2015, also in a league match against FK Suduva. This match saw suspicious pre-match and live betting for FK Pakruojis Kruojis to lose the match, and lose heavily. It is also important to note that there has been one previous head-to-head match escalated by the BFDS. This was a league match played on 09/11/2013, which featured highly suspicious betting predicting a heavy FK Siauliai defeat.

If anything, team news slightly favoured FK Pakruojis Kruojis, although not to a significant degree. FK Siauliai made one change to their lineup from their most recent match, with Ernestas Pilypas coming into the side at the expense of Sergiy Shevchuk. FK Pakruojis Kruojis also made one change to their starting 11, with their current top scorer this season, Tomas Birskys, coming into the team in place of Edi le.

1X2

There was very strong betting for FK Siauliai in the pre-match 1X2 market. The largest odds change was observed at BetClic, with FK Siauliai's odds decreasing from an opening high of 3.40 to a low of 1.62 (233% netwin change) at closing ...

The betting in this market reflects a strong and suspicious confidence in FK Siauliai winning the match. FK Siauliai were installed as firm pre-match underdogs, which seemed fair given the two clubs respective league positions and recent head-to-head form, both of which considerably favoured FK Pakruojis Kruojis. However, in the hours leading up to the match, FK Siauliai's odds to win decreased substantially, resulting in them going from significant underdogs to strong favourites prior to kick-off. Given that FK Siauliai have not won a single league game this season this betting preference appears to be very illogical.

As a further point of reference, our pre-match model suggests – external influences aside – that fair odds for FK Siauliai should have been 2.64, so arguably BetClic's opening odds of 3.40 did appear slightly generous. However, odds continued to decrease far below our model odds as kick-off approached, reaching their lowest levels in the minutes before the match was due to start, a period when betting limits and the potential to make illicit profits are both at their peak. This is even more concerning when you consider that team news actually appeared to slightly favour FK Pakruojis Kruojis, as they welcomed back their current top scorer Tomas Birskys. Given the absence of any other mitigating circumstances, such as motivational factors, this pre-match betting can only be viewed as thoroughly suspicious.

The suspicious nature of the betting witnessed across the industry led 22 of 65 (34%) bookmakers offering this match to prematurely remove their pre-match 1X2 markets. This included prominent European bookmakers' bwin and BetVictor as well as leading Asian bookmakers SBObet, MaxBet and 188bet. This strongly suggests that they shared our concerns about the nature of the betting support observed.

Asian Handicap

Similarly, there was very strong and suspicious betting support for FK Siauliai in the pre-match Asian Handicap (AHC) market. This is illustrated by SBObet decreasing their odds from a high of 1.93 to a low of 1.32 (147% netwin change) on the level ball AHC line ...

This betting initially reflects a significant confidence in FK Siauliai avoiding defeat (+0.5 and +0.25 AHC

lines), followed by an even more severe preference for them to win the match (level ball AHC line). Indeed, as previously mentioned, there are no legitimate factors which can reasonably justify this strong betting support for FK Siauliai. The very fact that they are yet to record a single league victory this season, and have lost nine of their 13 matches so far this season, only reinforces the irrational nature of the betting. Therefore, to observe such a strong and relentless one-sided confidence for FK Siauliai appears to completely contradict regular betting logic. In reaction to the persistent betting observed on the +0.5 and +0.25 AHC lines, SBObet adjusted to a more competitive level ball AHC line, however, this did nothing to deter bettors, as odds reached a low of 1.32 for FK Siauliai. Undoubtedly, the betting on this new line was the most severe of all, with odds reaching low and uncompetitive levels prior to kick-off, implying a high degree of confidence in FK Siauliai now winning the match. Overall, this betting equates to a large 1.20 goal decrease in FK Pakruojis Kruojis's expected supremacy at SBObet, with similarly large changes observed at all Asian bookmakers. A change of this magnitude is exceedingly rare and scarcely observed in legitimate betting markets, and therefore must be regarded as thoroughly suspicious.

Totals

There was no suspicious betting preference observed in the pre-match Totals market, with betting witnessed on both sides of the Totals line in the build up to kick-off. The most significant betting was witnessed for Under 2.75 goals at MaxBet, with odds decreasing from a high of 2.33 to a low of 1.62 (85% netwin change), reflecting a degree of confidence in two or less goals being scored in total. However, this betting was not sustained – as we would expect if bettors had prior knowledge of a low scoring match – with Unders odds actually increasing to 1.76 on the same Totals line by kick-off. The absence of any suspicious betting witnessed here suggests that although bettors showed a high level of confidence in FK Siauliai both avoiding defeat and ultimately winning the game, they appeared unaware of the exact final score in this match.

Betting Exchanges

This match generated a turnover of € 66,974 at the leading betting exchange Betfair, vastly higher than the tournament average of € 6,446. Whilst a lot of this increase in turnover can be put down to the aforementioned changes in the fixed-odds markets creating arbitrage opportunities, it shows that exchange bettors took particular interest in this match, with over 10 times the turnover compared to a typical game in this league”.

10. Following the receipt of the First BFDS Report, investigation with respect to Match 1 was initiated by the Investigative Committee of the LFF (the “Investigative Committee”). More specifically, the Investigative Committee requested a group of three experts (the “Experts”) to analyse the players’ behaviour at Match 1, in order to answer the following questions:
 - “1. Did FC “Kruojis” seek not to win deliberately and also possibly to lose the match?
 2. Was the foul for which a penalty kick had been imposed was in such a situation which is inevitable and menaced to miss a goal?
 3. Was a goal missed by FC “Kruojis” in a game situation; or it was intentional sequence of action of defending team players?”.

11. The “analysis of situations and conclusions” of the Experts are the following:
 - “1. FC “Kruojis” started the match controlling the game, creating possible goal situations one after the other. This is logical, because the analysis of the composition of teams and technique of players showed that FC “Kruojis” had to be a striking favourite in this match. Knowing the situation that happened just before

the match, it can be said that the players of FC "Kruoja" really started the match at maximum effort and they only just failed to score 2-3 goals already in the first half. Gaming potential of the team is high, and they could control the whole match at the flow favourable to them. Although FC "Kruoja" knowingly hand over the gaming initiative in the second part of the first half, but their sufficient defence fully prevents an opponent from menacing their gates, while their counterattack is very dangerous. At the beginning of II half FC "Siauliai" again have the initiative, but this time FC "Kruoja" is not able to confidently defend the approaches of their gate, and the ball gets into the penalty area of FC "Kruoja" practically during every attack of FC "Siauliai", which resulted in crucial events that determined the result in such a succession which was favourable for the outcome of suspicious match.

Conclusion – The play of FC "Kruoja" team was influenced by the actions of the LFF official before the said game, so this game developed "according to the situation". After the FC "Kruoja" team had failed to score goals in the first half, the said principle was used, and these actions were deliberately created by the players themselves: on purpose to miss a goal and this had influence on the final outcome of the match, while trying to create the impression of a flawless match.

2. *At 53 minute, the player of FC "Kruoja" N° 66 Diogo Gueveia Miranda, playing in a halfback position, having found himself in his unusual position place, in a situation distant from the introductory, knocks the player of FC "Siauliai" to the ground, pushing him with his hands in the back at the edge of the penalty area very close at the (rear) line of the gate.*

Conclusion – In this situation, the actions of the player of FC "Kruoja" during the defence were deliberately inadequate for the player's position and illogical for existing gaming situation, which may be making of an impact on the final result of the match. Such behaviour of the Match Participant No 66 Diogo Miranda Gueveia during the Match provides assumptions to think that the said Match Participant might have committed the infringement stipulated in the Part 1 of the Article 44 of the LFF Disciplinary Code."

3. *At 60 minute it may seem that FC "Siauliai" scores like a shot in gaming situation, but expert analysis of the situation reveals a very weak play of the players of FC "Kruoja" on the left side of the pitch after FC "Kruoja" has tackled from the very beginnings of the attack on its side of the pitch. The players No 84 A. Skroblas, No 27 D. Jankauskas and No 77 D. Strockis one after another allow the right defender of FC "Siauliai" to dribble over half the pitch and pass it to his partner farther to the edge of the pitch, who freely crosses the ball to the penalty box without any pressure, where the defender of FC "Kruoja" No 3 Crisan Horia Alexandru, after looking at the centre forward of FC "Siauliai", does not even try to cover him, which resulted in a goal earned by the centre forward.*

Conclusion – The actions of the players of FC "Kruoja" were deliberately inadequate for the game situation and influenced the omission of the Goal and the final result of the match. Such behaviour of the Match Participants No 84 A. Skroblas, No 27 D. Jankauskas and No 77 D. Strockis and No 3 Crisan Horia Alexandru during the Match provides assumptions to think that the said Match Participant might have committed the infringement stipulated in the Part 1 of the Article 44 of the LFF Disciplinary Code".

12. As a result of the foregoing, on 12 August 2015, the Investigative Committee adopted a report concluding in the following terms:

"The LFF smscredit.lt league match FC "Siauliai – FC "Kruoja" held on 27 May 2015 was fixed.

Behaviour of players of FC "Kruoja" D. Gouveia, A. Skroblas, D. Jankauskas, D. Strockis and C.H.

Alexandru provides assumptions to think that they might have committed the infringement stipulated in the Part 1 of the Article 44 of the LFF Disciplinary Code”.

13. On 16 August 2015, a second match was played between the Club and FK Siauliai in Pakruojis (“Match 2”; Match 1 and Match 2 are jointly referred to as the “Matches”). FK Siauliai won Match 2 with the result of 3:2. Goals were scored for FK Siauliai by Mr Rapalavicius (No. 5) at min. 34:00, by Mr Radavicius (No. 77) at min. 36:00, and by Mr Jasaitis (No 7) at min. 66:00. In this way FK Siauliai overturned a 0:2 partial goal score.
14. Also before Match 2 suspicious betting patterns were observed. Once again, therefore, Mr Gerhardas Dunauskas prior to kick-off informed the coaches of the two teams of the situation and asked them to warn their players to play fairly. When the result was already 2:3, Match 2 was interrupted at the request of Mr Dunauskas. After its resumption, then, no other goal was scored. In regard of the events at Match 2 the “*Report on Fair Play*” signed by Mr Algimantas Galaminas reads as follows:

“When I arrived at the stadium, a phone call was received from G. Dunauskas, Fair Play Officer of the Lithuanian Football Federation, who asked to urgently summon the coaches of both teams and the referee for a meeting. At the meeting G. Dunauskas informed that the information was received from UEFA and other international partners on that this match might have been negotiated and on possible violations of the principles of fair play. The coaches of both teams explained that they are not aware of this, however, they promised to give this information to the players of their teams and to observe the principles of fair play.

According to the information received and by taking into account the respective course of the match 70’ (at that time “K” team, which has lost the upper hand of scoring two goals, was already lagging behind its competitor by 2:3), G. Dunauskas, Fair Play Officer of the Lithuanian Football Federation, addressed me with a request that I asked the referee to pause the game to be able to apply the additional preventive measures. G. Dunauskas assured me that he has obtained authorization from the Secretary General of the Lithuanian Football Federation. After the game was stopped, the chief coaches of both teams and a few players of “K” team were invited. G. Dunauskas explained to them that according to the recent information received and the course of the match this match does not look “clean” and asked them again, if they are really acting in accordance with the principles of fair play. The representatives of both teams confirmed that they are acting this way; therefore, the game was resumed after 2 minutes. I think that the application of such extreme measures had a positive effect. Players felt that they are kept a wary eye on and “strange” goals no longer continued”.

15. On 18 August 2015, the BFDS issued a report (the “Second BFDS Report”) confirming that:
“A thorough analysis of the betting evidence shows credible indications of betting related manipulation. The suspicious confidence bettors exhibited for FK Pakruojis Kruoja not to win and ultimately lose the match cannot be mitigated by regular sporting factors. Ultimately, there is sufficient evidence to support the conclusion that this match was manipulated in order to secure fraudulent betting profits”.
16. Such conclusion was based on the following “*betting analysis*”:

“There was strong and suspicious pre-match betting observed for FK Pakruojis Kruoja not to win and to lose the match. This betting preference immediately appeared illogical given that FK Siauliai had lost eight of their 10 away games during the current season and had won just two of 22 matches overall. However, this did not deter bettors as they displayed a one-sided betting support for FK Siauliai in the pre-match markets. Indeed, such was

the strength of the betting that transpired, odds at the close of pre-match trading indicated that FK Siauliai were the favourites at a number of prominent bookmakers, having been initially considered the clear underdogs. Such a strong betting preference cannot be mitigated by logical factors, and therefore must be considered as suspicious. Furthermore, a number of bookmakers offering this fixture removed the match from their betting schedules in the lead up to kick-off. Such trading decisions reflect the likely doubts these bookmakers held regarding the legitimacy of this strong betting, which can only be regarded as suspicious.

The live markets also saw a suspicious betting preference for FK Pakruojis Kruoja to lose the match. During the early stages of the second half (with the score at 2:2), bettors displayed a suspicious confidence in FK Pakruojis Kruoja losing the match as odds for this outcome reached unjustifiably low levels. The match video shows that during this period neither team was controlling the match, with relatively few attacking opportunities created prior to FK Siauliai third goal, which only serves to heighten our concerns. Such a strong betting preference displayed over a notably short time frame cannot be mitigated under any circumstances, and indicates that bettors likely held prior knowledge that FK Pakruojis Kruoja would ultimately lose this fixture. It must be noted that six of the 10 bookmakers to offer this match for live betting withdrew a key betting market when the match was tied at 2:2. Again, this likely reflects integrity concerns held by the bookmakers following the suspicious level of betting on display shortly after half-time.

In terms of match action, it must be noted that FK Pakruojis Kruoja's defensive performance was undeniably poor. Having secured a 2:0 lead, FK Pakruojis Kruoja consistently failed to mark attacking players properly, presenting the opportunity for their opponents to re-establish themselves in the match. Of most concern was the incident that led to the concession of a penalty by FK Pakruojis Kruoja, and eventually the match being levelled at 2:2. FK Pakruojis Kruoja defender Alfredas Skroblas made a poorly timed tackle within the penalty area, with very little prospect of successfully winning the ball. This incident undoubtedly raised suspicions given the strong betting witnessed against FK Pakruojis Kruoja, and must be considered when analyzing the betting patterns observed.

I must also be documented that shortly after FK Siauliai established a 2:3 lead, the match was halted for approximately three minutes by Lithuanian Football Federation (LFF) integrity officials due to concerns with the performance of FK Pakruojis Kruoja.

Finally, both teams have featured in a vast number of escalated fixtures over a prolonged period of time. Furthermore, the sides have played three head-to-head escalated fixtures, which only serves to accentuate our concerns regarding the integrity of this match. ...

This was the 23rd match for both teams in the 2015 Lithuanian A Lyga.

FK Pakruojis Kruoja were in eighth place in the 10-team league, with an overall record of W4-D7-L11, amassing a total of 19 points. They were positioned eight points ahead of opponents FK Siauliai, who occupied the sole relegation position. Their recent form was very poor, with a record of W1-D1-L4 from their previous six fixtures in all competitions.

FK Siauliai were in 10th and last place, with an overall record of W2-D5-L15, accumulating a total of 11 points. They were positioned seven points behind ninth-placed Granitas Klaipeda at kick-off, who occupied the nearest position of safety. Their recent form was also very poor, with an identical record of W1-D1-L4 from their previous six league matches.

These sides have played one another on 10 occasions in recent seasons. FK Pakruojis Kruoja have held a firm advantage in these fixtures, with a record of W5-D4-L1. The most recent meeting was on 27/05/2015 where the match ended in a 1:0 home victory for FK Siauliai. Notably, this match was escalated by the BFDS due to strong betting observed for FK Pakruojis Kruoja not to win and to lose the game in the pre-match markets. The

average odds for that match were 1.82 – 3.54 – 4.70.

FK Pakruojis Kruoja have been escalated by the BFDS on a large number of occasions, with the league match detailed above on 27/05/2015 against FK Siauliai their most recently escalated fixture. FK Siauliai have also been escalated by the BFDS on a plethora of occasions, with their most recent escalation being against Stumbras Kaunas on 30/06/2015, when they suffered a 1:2 home defeat. It is important to note that these sides have featured in three previous head-to-head escalated fixtures.

FK Pakruojis Kruoja made five changes from their most recent match, with Taras Mikbailiuk, Arnas Mikaitis, Vadym Barba, Tomas Salamanavicius and Sigitas Olberkis replacing Donatas Navikas, Tomas Birskys, Oleksandr Tarasenko, Darius Jankauskas and Maksim Adamenko. Meanwhile, FK Siauliai made just one change from their most recent fixture, with Dovydas Medziausis replacing Rokas Gedminas.

1X2

There was strong betting observed for FK Siauliai in the pre-match 1X2 market. For example, odds for FK Siauliai decreased from a high of 5.10 to a closing low of 2.00 (252% netwin change) at 188bet ...

This betting reflects a strong confidence in FK Siauliai winning the match. Bookmakers installed FK Siauliai as clear underdogs at the start of trading, which appeared entirely reasonable given that FK Siauliai had won just two of their 22 league matches this season prior to kick-off. Furthermore, FK Siauliai had failed to win all of their 10 league away fixtures this season, therefore the subsequent betting observed for them to win this fixture was undoubtedly stronger than expected. Indeed, at the close of pre-match trading, odds at many prominent industry bookmakers suggested that FK Siauliai were favourites to win the match. Although team news favoured FK Siauliai, as FK Pakruojis Kruoja were missing a number of regular starters for this fixture, the extent of the betting witnessed cannot be justified by team news alone, given FK Siauliai's woeful away form this season.

It must be noted that 12 of the 66 bookmakers (18%) to offer a pre-match 1X2 market for this fixture ceased trading prematurely, with the most notable withdrawals being major Asian bookmakers SBObet and Maxbet. This is likely as a result of the strong betting witnessed for FK Siauliai in the pre-match 1X2 market, and firmly indicates that these bookmakers held their own concerns regarding the integrity of this fixture.

Asian Handicap

There was also strong betting witnessed in favour of FK Siauliai in the pre-match AHC market. For instance, odds for FK Siauliai decreased from a high of 2.13 to a low of 1.30 (219% netwin change) on the +0.75 AHC line at MaxBet ...

This betting demonstrates a strong confidence from bettors in FK Siauliai avoiding defeat in the match. The strength of the betting witnessed in this market cannot be justified and is vastly stronger than we would expect to see in a regular market. As noted above, the form of FK Siauliai throughout the current season provides no mitigation that can legitimately explain the strength of the betting. Although, FK Pakruojis Kruoja have won just four of their 22 matches this season, the woeful away form displayed by FK Siauliai highlights the betting in this market as highly illogical. Therefore to see such strong betting for this outcome must be considered as suspicious and is indicative of bettors having prior knowledge of the outcome of this match.

Overall, the betting in this market resulted in a 1.32 goal decrease in the expected supremacy of FK Pakruojis Kruoja at Maxbet, with an even larger change seen at another Asian bookmaker, indicating that heavy amounts were being bet leading up to kick-off. Supremacy changes of this magnitude are scarcely observed in legitimate betting markets, particularly when there are so few extenuating factors to explain such a strong betting preference.

Totals

There was a moderate betting preference observed for Overs in the pre-match Totals market. For example, at 188bet, odds for Overs decreased from an opening high of 1.86 to a low of 1.49 (51% netwin change) on the 2.75 Totals line. Whilst this betting pattern did not entirely align with expectations, as ordinarily a strong betting preference on the plus AHC lines would be accompanied by betting support for a low scoring match, the BFDS do not deem this market to have been targeted for match-fixing purposes. Indeed, 188bet adopted regular trading behavior by adjusting to a more competitive 3.0 Totals line, where Overs odds increased to relatively competitive closing levels of 1.69. Furthermore, given that five of FK Siauliai's last six away fixtures had ended with a least three goals being scored, a degree of betting for this outcome did appear reasonable, and overall, the betting in this market did not raise any integrity concerns in isolation.

Betting Exchanges

This match generated a turnover of € 11,529 at the betting exchange Betfair, which is higher than the league average of € 6,970. However, the moderate increase in turnover could likely be explained by the substantial fixed odds movements leading to arbitrage opportunities for exchange bettors.

1X2

There was suspicious betting observed for FK Siauliai in the live 1X2 market. For example, in the 62nd minute (2:2), Bet365 offered FK Siauliai at odds of 1.73 compared to calculated odds ^[3] of 2.87 (121% netwin deviation).

This betting demonstrates a suspicious confidence in FK Siauliai winning the match. Unusually, this betting preference developed during the early stages of the second half as odds decreased sharply from 2.50 in the 52nd minute to 1.73 in the 62nd minute, despite the scoreline remaining at 2:2. In a legitimate market, we would expect to see odds for FK Siauliai to win the match increasing steadily as the match progressed with the scoreline level, as there is increasingly less time for them to score at least one unanswered goal to win the game. To witness the opposite patterns occur here is concerning from an integrity perspective, and suggests that vast sums were bet on FK Siauliai over a short period of time, indicating an irregular belief that FK Siauliai would score a winning goal in the remainder of the match.

It is noteworthy that six of the 10 bookmakers offering this market for live trading, ceased trading prematurely, ... Between the 51st and 60th minutes of the match when the strongest betting transpired. This is a highly irregular trading decision given that the match was level at this stage, and would strongly suggest that these bookmakers harboured their own concerns regarding the integrity of this game.

Asian Handicap

Further suspicious betting was witnessed for FK Siauliai in the live AHC market. For instance, in the 61st minute (2:2), Maxbet offered FK Siauliai at odds of 1.18 compared to calculated odds of 1.75 (241% netwin deviation) on the level ball AHC line ...

Once again, this betting indicates a suspicious confidence in FK Siauliai winning the match. Similar to the live 1X2 market, the strong betting observed originated shortly after half-time, with odds for FK Siauliai decreasing from 1.58 in the 49th minute to 1.18 in the 61st minute whilst the scoreline remained at 2:2. However, during

³ BFDS explained in its report that “calculated odds are a mathematical representation of the true probability without the external influence of betting opinion and/or bookmaker liability”. They therefore show how a “live betting” market should move in regular, non manipulated conditions.

this period of the game, the match video shows that very few attacking opportunities were created by either side, which highlights the strong betting observed as concerning, particularly given the short timeframe in which it occurred. The betting patterns observed in this market during the early stages of the second half simply cannot be mitigated, and provide indications of bettors appearing to display prior knowledge of a FK Siauliai victory.

Totals

There was no significant betting observed in the live Totals market, as bookmaker odds aligned closely with calculated levels throughout the match. For example, in the 24th minute (2:0), MaxBet offered odds of 1.74 – 2.08 on the (over/Under) 4.25 Totals line compared to calculated odds of 1.63 – 2.28. Such deviations are entirely commonplace within regular betting markets and indicate that live bettors held no firm opinions regarding the number of goals that would be scored in total.

It must be noted that during the period shortly after half-time – when highly suspicious betting was observed across the other live markets – Asian bookmakers opted to offer a 5.5 Totals line and subsequently 5.5 and 5.0 totals lines (with the scoreline at 2:2). Effectively, this meant that if bettors simply held prior knowledge of FK Siauliai winning the match at 2.2, they would not have been able to secure illicit profits within this market. Furthermore, the lack of significant betting within the live Totals market in no way diminishes the suspiciousness of the betting seen in other live markets, as the betting observed for FK Siauliai in these markets simply cannot be justified”.

17. Once again the Investigative Committee requested the Experts to analyse the Players’ behaviour at Match 2. The Experts expressed the following “*analysis of situations and conclusions*”:

“1. *In the situation of the 34th minute when FC Kruoja team misses first goal, when after the corner kick at the FC Kruoja gate, the ball bounces back to the centre of the pitch and FC Kruoja players approached the ball without adhering to the playing positions, leaving even 3 undefended players of the opposing team at the access to the penalty area on the right side of the pitch. The full back of FC Kruoja A. Skroblas very passively returns to his zone, whereas at the same time, particularly from this zone, the ball is being crossed to the penalty area, where the FC Kruoja defender V. Pocevicus simulates defence by turning his back to the rival, what results in a goal struck by the FC Siauliai team.*

Conclusion: in this situation, the actions of the players Alfredas Skroblas and Valdas Pocevicus while defending were deliberate, what may be regarded as making an influence on the final score of the analysed match.

Such behaviour of FC Kruoja players Alfredas Skroblas and Valdas Pocevicus during the analysed match provides basis for assumption that violations of Article 44 Part 1 of the LFF Disciplinary Code may have been committed.

2. *FC Kruoja defender Alfredas Skroblas, from the very first minutes of the match leaves free undefended rivals at the side of the pitch, while constantly appearing in the centre of the pitch, in a result of what during the 35th minute he deliberately makes a foul in his team’s penalty area. Due to this foul, an 11 meter penalty kick to FC Kruoja gate was awarded.*

Conclusion: in this situation, the actions of the player Alfredas Skroblas while defending were deliberate, what may be regarded as making an influence on the final score of the analysed match.

Such behaviour of the FC Kruoja player Alfredas Skroblas during the analysed match provides basis for assumption that he could have committed the violations of Article 44 Part 1 of the LFF Disciplinary Code.

3. *The actions of FC Kruojis team centre midfield player Sigitas Olberkis and defensive midfield players Taras Mikhaljuk, Alfredas Skroblas, and Arnas Mikaitis when missing the third goal are completely inadequate in relation to the present game situation, where the abovementioned players are not able to make a stand against the attacking line players of the opposing team not due to their low personal skills (technique), but due to deliberate passiveness when stealing the ball and absence of interrelation as a team in their defensive actions.*
- Conclusion: the actions of the abovementioned FC Kruojis defence line players when defending were deliberate, what may be regarded as making an influence on the final score of the analysed match.*
- Such behaviour of Sigitas Olberkis, Taras Mikhaljuk, Alfredas Skroblas, and Arnas Mikaitis during the analysed match provides basis for assumption that violations of Article 44 Part 1 of the LFF Disciplinary Code may have been committed”.*
18. As a result of the foregoing, on 31 August 2015, the Investigative Committee adopted a report concluding as follows:
- “The LFF smscredit.lt league match FC “Kruojis” - FC “Siauliai” held on 16 August 2015 was fixed. Behaviour of players of FC “Kruojis” A. Skroblas, D. Pocevicus, S. Olberkis, T. Michailjuk and A. Mikaitis during the match provides assumptions to think that they might have committed the infringement stipulated in the Part 1 of the Article 44 of the Disciplinary Code”.*
19. On 3 September 2015, the Disciplinary Committee of the LFF (the “Disciplinary Committee”) rendered the decision No 294 (the “DC Decision”), the operative part of which, as translated into English, reads as follows:
- “1) *To impose D. Gouveia a sanction of omission of 8 matches (disqualification); D. Jankauskas – 4 matches (disqualification); D. Strockis – 4 matches (disqualification); C.H. Alexandru – 4 matches (disqualification); S. Olberkis – 6 matches (disqualification); T. Michailjuk – 6 matches (disqualification); A. Mikaitis – 6 matches (disqualification); D. Pocevicus – 8 matches (disqualification).*
- 2) *To impose A. Skroblas general sanction of omission of 12 matches (disqualification).*
- 3) *To impose a fine to PI Pakruojis football club of the amount of EUR 12’000”.*
20. In essence, Mr Gouveia Miranda, Mr Jankauskas, Mr Strockis and Mr Alexandru were suspended in relation to Match 1, Mr Pocevicus, Mr Olberkis, Mr Michailjuk and Mr Mikaitis were sanctioned in relation to Match 2; Mr Skroblas was suspended for his behaviour in both Matches. Mr Pocevicus received a larger suspension because he had already been sanctioned for a similar offence in the 2015 season. The Club’s sanction was determined on the basis of a fine of EUR 6,000 for each of the Matches.
21. On 11 September 2015, Darius Jankauskas, Arnas Mikaitis, Sigitas Olberkis, Valdas Pocevicus, Alfredas Skroblas and Donatas Strockis appealed against the DC Decision before the Appeal Committee of the LFF (the “Appeal Committee”), requesting it to cancel the sanction imposed on them (“Petition 1”).
22. On 14 September 2015, the Appeal Committee set a deadline to the above- mentioned

appellants until 18 September 2015 to pay the appellate fee of EUR 600 for each of them in accordance with Art. 88.9 of the LFF Disciplinary Code, in the edition adopted on 30 July 2015 (the “New Disciplinary Code”). Eventually, each of those appellants paid the appellate fee within an extended deadline.

23. On 18 September 2015, also the Club filed an appeal against the DC Decision to the Appeal Committee on its behalf and on behalf of Diogo Gouveia Miranda, Taras Michailiuk and C.H. Alexandru, seeking the cancellation of the sanctions imposed upon the Club, Diogo Gouveia Miranda, Taras Michailiuk and C.H. Alexandru (“Petition 2”).

24. On 22 September 2015, the Appeal Committee set a deadline to the Club until 25 September 2015 to pay the appellate fee of EUR 600 for each the Players concerned by Petition 2. Such fees were not paid.

25. On 7 October 2015, the Appeal Committee rendered a decision (the “AC Decision”). The English translation of its operative part indicates that the Appeal Committee had decided:

- *to leave the part of the decision of the Disciplinary Committee of the LFF No. 294 dated 03 September 2015, according to which Darius Jankeauskas, Donatas Strockis have been imposed sanctions of omitting 4 (four) matches (disqualification), Arnas Mikaitis, Sigitas Olberskis have been imposed sanctions of omitting six (6) matches (disqualification), Valdas Pocevicius has been imposed a sanction of omitting 8 (eight) matches (disqualification), Alfredas Skroblas has been imposed sanctions of omitting 12 (twelve) matches (disqualification) unchanged;*
- *to change the part of the decision of the Disciplinary Committee of the LFF No. 294 dated 03 September 2015 in respect of imposition of the fine on PI Pakruojis Football Club and impose the fine of EUR 9 000 on PI Pakruojis Football Club.*
- *to return EUR 150 (one hundred fifty Euros) of the fee paid for the appeal petition are subject to return to PI Pakruojis Football Club”.*

26. In essence, the Appeal Committee noted that the Club had failed to pay the required appellate fee before 25 September 2015 regarding the individual Players concerned by Petition 2. Therefore, it only accepted to consider Petition 2 with regard to the sanction imposed upon the Club and declared the rest of Petition 2 inadmissible. On the merits, the Appeal Committee noted that the New Disciplinary Code, in force since 30 July 2015, applied to the Players’ conduct at Match 2, while the preceding version of the Disciplinary Code of the LFF (the “Old Code”, referred to as the “Code” in the AC Decision) applied to Match 1. Then, in support of its conclusions, the Appeal Committee addressed the issues raised by Petition 1 and Petition 2 (to the extent this was considered admissible) in the following terms:

“1. whether the decision has been made based on the Code and the Part 1 of the Article of the New Code version:

The appellars dispute both in the Petition 1 and Petition 2 that the Disciplinary Committee has had no ground to decide that certain Club players could perform actions, which have determined a violation of the Code and the Part 1 of the Article 44 of the New Code version, so purportedly there has not been any ground to impose sanctions on the in accordance with the Part 3 of the Article 44 of the Code and the Part 5 of the Article 44 of

the New Code version.

This appellers' argument is subject to rejection.

Firstly, it should be noted that the sanctions have been imposed on certain Club players by the Decision not in accordance with the Part 1 of the Article 44 of the Code and the New Code version, but in accordance with the Part 3 of the Article 44 of the Code and the Part 5 of the Article 44 of the Code respectively.

Following the Part 10 of the Article 44 of the Code, the Part 3 of the Article 44 of the Code is applied in case if is not established whether an infringement of the Part 1 of the Article 44 of the Code has been committed.

Meanwhile, following the Part 9 of the Article 44 of the New Code version, the Part 5 of the Article 44 of the New Code version is only applied if it is not established that an infringement specified in the Part 1 of the Article of the New Code version has been committed.

Though the Disciplinary Committee has not expressly specified that evidence gathered by it is not sufficient to apply the Part 1 of the Article 44 of the Code and the New Code version, however, considering that to make the decision namely the Part 3 of the Article 44 of the Code and the Part 5 of the Article 44 of the New Code version have been applied, but not the Part 1 of the Article 44 of the Code and the New Code version, the conclusion can be made that the Disciplinary Committee has decided that the Part 1 of the Article of the Code and the New Code version may not be applied in this case, i.e. there is no sufficient evidence to apply them.

It should be noted that the appellers both in the Petition 1 and the Petition 2 have noted and agreed with the circumstance that evidence available in the case is not sufficient for the conclusion that infringements established in the Part 1 of the Article 44 of the Code and the New Code version could have been committed.

Considering that it should be stated that when making the Decision in this case the Disciplinary Committee has had no ground to apply the Part 1 of the Article 44 of the Code and the New Code version, so the Disciplinary Committee has not applied them.

Thus, considering that the Disciplinary Committee has not established by its Decision that there has been the ground to apply the Part 1 of the Article 44 of the Code and the New Code version, and the sanctions in this case have not been imposed on the appellers for infringement of the Part 1 of the Article 44 of the Code and the New Code version, all arguments set forth by the appellers in the Petition 1 and the Petition 2, related to application of the Part 1 of the Article 44 of the Code and the New Code version and establishment of the infringement established in them, are subject to rejection.

In this aspect it should also be added that the Club's arguments stating that the Part 2 of the Article 44 of the Code and the Part 4 of the Article 44 of the New Code version respectively could have been applied in respect of the Club in this case are also unreasonable.

It should be noted that the Part 2 of the Article 44 of the Code would applicable if it was established that the infringement of the Part 1 of the Article 44 of the Code has been committed, and the Part 4 of the Article 44 of the New Code version would be applicable if the Part 1 and 2 of the Article 44 of the New Code version were infringed.

As specified above there were no ground to establish and accordingly it was not established that the infringement of the Part 1 of the Article 44 of the Code and the Part 1 of the Article 44 of the New Code version has been committed by actions of the Club players. If was not also established that the Part 2 of the Article 44 of the New Code version has been infringed.

Thus, arguments specified in the Petition 2 of the Club that purportedly there were no conditions stipulated in the Part 11 of the Article 44 of the Code and the Part 10 of the Article 44 of the New Code version are rejected as unreasonable.

2. whether all conditions necessary for imposition of sanctions on Club players have been established:

It is stipulated in the Part 3 of the Article 44 of the Code that if it is established that a match has been fixed, a participant of the match, whose behavior during the match upon performance of match analysis provides assumptions to make a conclusion that such participant of the match could have made an infringement stipulated in the Part 1 of the Article 44 of the Code, may be sanctioned with omission of up to 8 (eight) matches (disqualification) and/or a ban to participate in a certain or any football-related activity for up to 3 (three) months.

Considering wording of the Part 3 of the Article 44 of the Code the conditions providing the basis to apply sanctions stipulated in it to a particular match participant are emphasized:

- a) it must be established that the match has been fixed;*
- b) upon performance of match analysis it must be established that behavior of a particular match participant provides assumptions to make a conclusion that he could have made an infringement stipulated in the Part 1 of the Article 44 of the Code.*

Meanwhile, it is stipulated in the Part 5 of the Article 44 of the New Code version that if there is adequate data to think that a match could be fixed, a participant of the match, whose behavior during the match upon performance of match analysis provides assumptions to make a conclusion that such participant of the match could have made an infringement stipulated in the Part 1 of the Article 44 of the New Code version, may be sanctioned with omission of up to 12 (twelve) matches (disqualification) and/or a ban to participate in a certain or any football-related activity for up to 6 (six) months.

Considering wording of the Part 5 of the Article 44 of the New Code version the conditions providing the basis to apply sanctions stipulated in it to a particular match participant are emphasized:

- a) it must be established that the match might have been fixed;*
- b) upon performance of match analysis it must be established that behavior of a particular match participant provides assumptions to make a conclusion that he could have made an infringement stipulated in the Part 1 of the Article 44 of the New Code version.*

It should be noted that the Part 3 of the Article 44 of the Code and the Part 5 of the Article 44 of the New Code version by their nature and purposes are more preventive than typical disciplinary provisions, intended to LFF fight against infringement of prohibition against illegal influence and fixed matches. Establishment of such provisions is in essence grounded by necessity to fight mentioned infringements, which cause a huge damage to football and all sports and significant lack of tools, which might be used by the LFF to efficiently investigate and fight against such infringements.

So, accordingly, in order to apply the Part 3 of the Article 44 of the Code and the Part 5 of the Article 44 of the New Code version it is not necessary to establish that the infringement stipulated in the Part 1 of the Article 44 of the Code and the New Code version respectively has been committed, but in essence a suspicion that a particular match participant could have committed such infringement is enough.

It should be noted that in all cases, where a fact of match-fixing is established, there is a match participant, who takes part in a respective agreement and has a purpose to influence a result of a course of a match in one or another way in order to achieve the purpose of the agreement.

It is obvious that behavior of a match participant in a certain match is a significant indicator when making a decision with regard to his possible participation in the agreement on prohibited influence of a result of a course of a match.

So, even just behavior of a match participant in the match that is found fixed may provide assumptions to state,

i.e. to suspect in essence, that he might have influenced the result or the course of the Match in a way infringing sport ethics and/or game principles, in other words, to commit the infringement stipulated in the Part 1 of the Article 44 of the applicable Code (New Code version).

Whether the Match 1 has been fixed:

The circumstances that the Match 1 was fixed has been established by the Investigative Committee of the LFF and established in a protocol of the Investigative Committee of the LFF No. 23 dated 12/08/2015.

Competence of the Investigative Committee of the LFF is established in the Part 1 of the Article 56 of the Code and regulation of the Investigative Committee of the LFF. According to them, the Investigative Committee of the LFF, inter alia, provides conclusions on matters related to infringements established in the Article 44 of the Code.

Considering that it should be stated that the conclusion with regard to fixing of the Match 1 has been made by the Investigative Committee of the LFF within its competence.

The appellars do not question validity of the conclusion of the Investigative Committee of the LFF that the Match 1 has been fixed.

In the opinion of the Appeal Committee the report of UEFA BFDS in the case proves that the Match 1 has been fixed.

So, the Appeal Committee considers that this circumstance has been proved in the case.

Whether behavior of A. Skrobilas, D. Jankauskas and D. Strockis during the Match 1 has provided assumptions to make a conclusion that they might have committed the infringement stipulated in the Part 1 of the Article 44 of the Code:

The conclusion that behavior of A. Skrobilas, D. Jankauskas and D. Strockis during the Match 1 has provided assumptions to make a conclusion that they might have committed the infringement stipulated in the Part 1 of the Article 44 of the Code has been made by the Group of match investigation experts that has reviewed the video record on the Match 1 and based on it has evaluated the Match 1 and behavior of players, who have taken part in it.

Competence of the Group of match investigation experts is established in the Part 6 of the Article 56 of the Code, where it is noted that the Group of match investigation experts performs analysis of a match and behavior of its participants and provides conclusions of behavior of a match participant during a particular match and existence of assumptions that such match participant might have committed the infringement stipulated in the Part 1 of the Article 44 of the Code.

It should be considered that evidential force of the respective Group of match investigation experts when making a decision on application of the provision of the Part 3 of the Article 44 of the Code is established in the Part 7 of the Article 56 of the Code.

It is stipulated in the Part 7 of the Article 56 of the Code that the conclusion of the Group of match investigation experts that behavior of a match participant during the match provides assumptions to think that such match participant might have committed the infringement stipulated in the Part 1 of the Article 44 of the Code is the ground for application of sanctions stipulated in the Part. 3 of the Article 44 of the Code to the match participant.

It should be noted that the Group of match investigation experts consists of members known to the Appeal Committee and appointed by the resolution of the Executive Committee of the LFF. Upon evaluation of motives provided by the appellars the Appeal Committee has no ground to doubt experience and competence in evaluation of behavior of match participants during a particular match.

Upon familiarization with the conclusion of the Group of match investigation experts and moments of the Match

1 specified in it the Appeal Committee notes that there is no ground to state that the conclusion of the Group of match investigation experts that behavior of A. Skroblas, D. Jankauskas and D. Strockis during the Match 1 provides assumptions to think they might have committed the infringement stipulated in the Part 1 of the Article 44 of the Code is unreasonable.

It should be added that the appellers have not also presented to the Appeal Committee any evidence having identical or stronger evidential force than the conclusion of the Group of match investigation experts that would contradict validity of the conclusion of the mentioned Group of match investigation experts, but have contradicted it by just their own considerations and their own situation assessment.

Considering all the aforementioned, the Appeal Committee makes a conclusion that the Disciplinary Committee has had the ground to consider that behavior of A. Skroblas, D. Jankauskas and D. Strockis during the Match 1 provides assumptions to think they might have committed the infringement stipulated in the Part 1 of the Article 44 of the Code.

Whether the Match 2 has been fixed:

The circumstances that the Match 2 was fixed has been established by the Investigative Committee of the LFF and established in a protocol of the Investigative Committee of the LFF No. 24 dated 31/08/2015.

The appellers do not also question validity of the conclusion of the Investigative Committee of the LFF that the Match 2 has been fixed.

In the opinion of the Appeal Committee the report of UEFA BFDS in the case proves that the Match 2 has been fixed.

So, the Appeal Committee considers that this circumstance has been proven in the case.

Whether behavior of A. Skroblas, V. Pocevičius, S. Olberkis, and A. Mikaitis during the Match 2 has provided assumptions to make a conclusion that they might have committed the infringement stipulated in the Part 1 of the Article 44 of the Code:

The conclusion that behavior of A. Skroblas, V. Pocevičius, S. Olberkis, and A. Mikaitis during the Match 2 has provided assumptions to make a conclusion that they might have committed the infringement stipulated in the Part 1 of the Article 44 of the Code has been made by the Group of match investigation experts that has reviewed the video record on the Match 2 and based on its has evaluated the Match 2 and behavior of players, who have taken part in it.

Upon familiarization with the conclusion of the Group of match investigation experts and moments of the Match 2 specified in it the Appeal Committee notes that there is no ground to state that the conclusion of the Group of match investigation experts that behavior of A. Skroblas, V. Pocevičius, S. Olberkis, and A. Mikaitis during the Match 2 provides assumptions to think they might have committed the infringement stipulated in the Part 1 of the Article 44 of the Code is unreasonable.

In this aspect it should be added that the appellers have not also presented to the Appeal Committee any evidence having identical or stronger evidential force than the conclusion of the Group of match investigation experts that would contradict validity of the conclusion of the mentioned Group of match investigation experts, but have contradicted it by just their own considerations and their own situation assessment.

Considering all the aforementioned evidential force given to the conclusion of the Group of match investigation experts by the Part 7 of the Article 56 of the New Code version, the Appeal Committee makes a conclusion that the Disciplinary Committee has had the ground to consider the behavior of A. Skroblas, V. Pocevičius, S. Olberkis, and A. Mikaitis during the Match 2 provides assumptions to think they might have committed the infringement stipulated in the Part 1 of the Article 44 of the New Code version.

3. whether there has been the ground for imposition of the sanction on the Club:

The sanction has been imposed on the Club following the Part 6 of the Article 44 of the Code and the Part 7 of the Article 44 of the New Code version.

It is stipulated in the Part 6 of the Article 44 of the Code that if any players belonging to a club/team and/or officials are punished in accordance with the Part 3 and/or 4 of the Article 44 of the Code with regard to two different matches in the same season, such club/team may be sanctioned with up to 6 (six) points' deduction and/or a fine up to 6 000 EUR (six thousand Euros).

Meanwhile, it is established in the Part 7 of the Article 44 of the New Code version that if a player of an official is sanctioned in accordance with the Part 5 of the Article 44 of the New Code version, the club/team that the player or the official belongs to may be sanctioned with up to 10 (ten) points' deduction and/or a fine up to 6 000 EUR (six thousand Euros).

It should be emphasized that strict responsibility of clubs is established both in the Part 6 of the Article 44 of the Code and the Part 7 of the Article 44 of the New Code version. For such responsibility to occur it is sufficient to establish the fact that the club player and/or official has been sanctioned in accordance with the Part 3 and/or 4 of the Article 44 of the Code and the Part 5 of the Article 44 of the New Code version respectively.

Considering the aforementioned, upon imposition of sanctions on Club players by the Decision of the Disciplinary Committee being appealed in accordance with the Part 3 of the Article 44 of the Code and the Part 5 of the Article 44 of the New Code version strict responsibility could have been applied to the Club and sanctions could have been imposed on it in accordance with the Part 6 of the Article 44 of the Code and the Part 7 of the Article 44 of the New Code version.

4. whether sanctions have been imposed following principles established in the Code (New Code version):

It should be noted that the appellers do not dispute fairness of amount of imposed sanctions in the Petition 1 and the Petition 2.

Still, despite of that, the Appeal Committee has decided to check whether principles and rules of application of sanctions established in the Code have been properly applied to the appellers when imposing sanctions.

The Appeal Committee notes that it has not established any infringements of principles and rules of application of sanctions established in the Code with regard to sanctions imposed on A. Skroblas, D. Jankauskas and D. Strockis in accordance with the Part 3 of the Article 44 of the Code.

The Appeal Committee also notes that it has not established any infringements of principles and rules of application of sanctions established in the New Code version with regard to sanctions imposed on A. Skroblas, V. Pocevičius, S. Olberkis, and A. Mikaitis in accordance with the Part 5 of the Article 44 of the New Code version.

However, in the opinion of the Appeal Committee, the Disciplinary Committee when making a decision on responsibility of the Club in accordance with the Part 6 of the Article 44 of the Code and the Part 7 of the Article 44 of the New Code version has unreasonably imposed maximum sanctions stipulated in them, i.e. the fine of 6 000 EUR (six thousand Euros).

Considering the established circumstances and more preventive than disciplinary nature of the Part 6 of the Article 44 of the Code and the Part 7 of the Article 44 of the New Code version, the Appeal Committee resolves that in this particular case the fine of 4 500 EUR (for thousand five hundred Euros) in accordance with the Part 6 of the Article 44 of the Code and 4 500 EUR (for thousand five hundred Euros) in accordance with the Part 7 of the Article 44 of the New Code version is proportionate and sufficient to achieve purposes of application of

sanctions established in the Part 6 of the Article 44 of the Code and the Part 7 of the Article 44 of the New Code version.

Thus, the Decision is subject to change in the part of imposition of sanctions of the Club by imposing a total fine of 9 000 EUR (nine thousand Euros) of the Club instead of the fine of 12 000 EUR (twelve thousand Euros) that had been imposed.

5. whether procedural infractions of the Code (New Code version) have been made and what is their significance for validity of the decision:

The appellars have specified in their submitted Petition 1 and Petition 2 that their rights to a fair process and defense have been infringed when making the decision.

The Appeal Committee partly agrees with arguments set forth in the Petition 1 and 2 that the Disciplinary Committee could infringe Code (New Code version) provisions regulating respective procedural matters specified in the Petition of the appellars.

Still, it should be noted that the appellars failed to ground that the Disciplinary Committee would make another decision if respective procedural infringements were not committed.

Nevertheless, the Appeal Committee notes that procedural infringements possibly committed by the Disciplinary Committee have been eliminated during examination of the case by the Appeal Committee, i.e. the appellars have been provided a possibility to familiarize themselves with materials of the case. The appellars were also able to set forth their position and explanations in detail in appeal petitions lodged by them before the decision was made by the Appeal Committee.

So, in the opinion of the Appeal Committee, there is no ground to cancel the Decision that is correct in essence and grounded by evidence only because of possible of procedural infractions committed by the Disciplinary Committee.

In the opinion of the Appeal Committee, other arguments in respect of possible procedural infractions set forth by the appellars in the Petition 1 and the Petition 2 do not contradict validity of the Decision”.

2. THE ARBITRAL PROCEEDINGS

2.1 The CAS Proceedings

27. On 17 December 2015, the Appellants filed an appeal with the Court of Arbitration for Sport (the “CAS”), pursuant to Articles R47 and R48 of the Code of Sports-related Arbitration (the “Code”), against the Respondent to challenge the AC Decision as well as the DC Decision (the “Appealed Decisions”). In their statement of appeal the Appellants requested that the case be submitted to a sole arbitrator.
28. In a letter of 30 December 2015, the Respondent informed the CAS Court Office of its opinion that the dispute be submitted to a panel of three arbitrators, in light of its complexity.
29. On 30 December 2015, the Appellants filed their appeal brief, pursuant to Article R51 of the Code.
30. On 31 December 2015 the CAS Court Office informed the parties that the number of the arbitrators would be decided by the President of the CAS Arbitration Division or her Deputy.

31. On 8 January 2016, then, the CAS Court Office advised the parties that the President of the CAS Arbitration Division had decided that the dispute be submitted to a panel of three arbitrators.
32. In a letter of 13 January 2016, the Appellants jointly nominated Mr Sofoklis Pilavios as arbitrator.
33. On 19 January 2016, the Respondent nominated Mr José Juan Pintó as arbitrator.
34. By letter dated 10 February 2016, the CAS Court Office informed the parties that, pursuant to Article R54 of the Code, the Panel to deal with this matter had been constituted as follows: Prof. Luigi Fumagalli, President, Mr Sofoklis Pilavios and Mr José Juan Pintó, Arbitrators.
35. On 29 February 2016, the Appellants lodged with CAS an application for a stay of the Appealed Decisions, pursuant to Article R37 of the Code, seeking the following relief:

“To issue an order suspending the effects of the Appealed Decisions, i.e. Decision n° 294 of the Lithuanian Football Federation (LFF) Disciplinary Committee dated 3 September 2015, imposing disqualification sanctions on the Appellants – the Players and monetary penalty on the Appellant – the Club (which was upheld by the Decision of LFF Appellate Committee dated 7 October 2015), until the final award on the merits”.
36. On the same date, the CAS Court Office invited the Respondent to provide its positions with respect to the Appellants’ application for a stay of the Appealed Decisions. At the same time, the parties were informed that the Panel had noted that the power of attorney granted by Mr Alexandru, one of the Appellants, concerned the “internal appeal” before the LFF disciplinary bodies and did not include any reference to an appeal before CAS. Therefore, counsel for the Appellants were invited to provide written confirmation and evidence of the power to file an appeal on behalf of Mr Alexandru.
37. On 3 March 2016, the Respondent stated that it agreed to the stay of execution of the Appealed Decisions until the CAS final award.
38. On 4 March 2016, counsel for the Appellants provided written confirmation and evidence of the power to file an appeal to CAS on behalf of Mr Alexandru.
39. On 11 March 2016, the Respondent lodged with CAS its answer in accordance with Article R55 of the Code.
40. On 23 March 2016, the CAS Court Office issued on behalf of the President of the Panel an order of procedure (hereinafter referred to as the “Order of Procedure”), which was accepted and signed by the parties.
41. On 24 March 2016, the Panel issued an order on the Appellants’ request for provisional measures as follows:
 - “1. *The request for a stay of the decision rendered on 7 October 2015 by the Appeal Committee of the Lithuanian Football Federation filed on 29 February 2016 by Vsl Pakruojis FK, Mr Darius*

Jankauskas, Mr Arnas Mikaitis, Mr Sigitas Olberkis, Mr Valdas Pocevicus, Mr Alfredas Skroblas, Mr Donatas Strockis, Mr Diogo Gouveia Miranda, Mr C.H. Alexandru and Mr Taras Michailiuk in the matter CAS 2015/A/4351 Vsl Pakruojis FK & Darius Jankauskas & Arnas Mikaitis & Sigitas Olberkis & Valdas Pocevicus & Alfredas Skroblas & Donatas Strockis & Diogo Gouveia Miranda & C.H. Alexandru & Taras Michailiuk v. Lithuanian Football Federation is granted.

2. *The costs deriving from the present order will be determined in the final award or in any other final disposition of this arbitration”.*
42. On 22 April 2016, the Appellants filed with the CAS Court Office some additional evidence, asking the Panel to admit it in the file of the arbitration.
43. On 25 and 26 April 2016, pursuant to notice given to the parties in a letter of the CAS Court Office dated 23 March 2016, a hearing was held in Lausanne. The Panel was assisted at the hearing by Mr Brent Nowicki, Counsel to CAS, on 25 April 2016, and by Mr Antonio De Quesada, Counsel to CAS, on 26 April 2016. The following persons attended the hearing:
- i. for the Appellants: Ms Indrė Butvilė and Ms Jolanta Spakauskaitė, counsel;
 - ii. for the Respondent: Mr Marius Devyis, Mr Martynas Kalvelis, Mr Yannick Steinmann and Mr Jorge Ibarrola, counsel.
44. At the opening of the hearing, the parties confirmed that they had no objections to the composition of the Panel, and discussed the admissibility of the filing by the Appellants of new evidence, as requested in the letter of 22 April 2016 (§ 42 above). The Panel, having considered the parties’ submissions, accepted the filing of exhibits 3 (copy of a report of the UEFA Ethics and Disciplinary Inspector dated 10 June 2015), 4 (written declaration of Mr Pocevicus), 5 (written declaration of Mr Mikaitis), 6 (written declaration of Mr Jankauskas), 7 (written declaration of Mr Strockis) and 8 (written declaration of Mr Skroblas) to the letter of 22 April 2016, and discarded the others. Then, after introductory statements by counsel, the Panel heard the declarations rendered by Mr Emilijus Junevicius (video), Mr Arnas Mikaitis (video), Mr Sigitas Olberkis (video), Mr Valdas Pocevicus (video), Mr Alfredas Skroblas (video), Mr Donatas Strockis (video), Mr Darius Jankauskas (phone), Mr Diogo Gouveia Miranda (phone), Mr C.H. Alexandru (phone), Mr Taras Michailiuk, Mr Graham Peaker, Mr Tom Mace and Mr Gerhardas Dunauskas (video). During the depositions of the Players, the Panel was also guided in the review of the video of the Matches to consider their respective actions.
45. The declarations heard by the Panel can be summarized as follows:⁴
- i. Mr Junevicius, Director of the Club, explained the reasons of the Club’s decision to withdraw from the Lithuanian league competitions, underlining that it was caused by the LFF’s resolution not to allow the registration of new players. With respect to the Matches, Mr Junevicius stated that their course was affected by the improper and unprofessional interference of Mr Dunauskas, and indicated that in his opinion it is not possible to say

⁴ The summary which follows is intended to give an indication of only a few key points touched at the hearing. The Panel emphasises that it considered the entirety of the declarations made at the hearing and/or contained in the relevant witness statements.

- that their result was manipulated: in fact, it may happen that weaker teams win matches against stronger teams. In Match 2, in addition, several players of the Club were injured. Finally, Mr Junevicius underlined that the LFF did not conduct a proper investigation into the Matches: the LFF's actions were biased against the Club;
- ii. Mr Mikaitis mentioned that in his opinion he did not commit big mistakes at the Matches, and underlined that he is used to playing in various positions;
 - iii. Mr Olberkis indicated to be a young and inexperienced player, and stressed that the LFF's actions had influenced the course of the Matches;
 - iv. Mr Pocevicus maintained that he had played in a satisfactory way, and that the Club's coach congratulated with him for this;
 - v. Mr Skroblas emphasized that he gave his 100% and that in any case it is not possible to avoid mistakes;
 - vi. Mr Strockis stressed to be a fair player, much devoted to the Club;
 - vii. Mr Darius Jankauskas declared that he was not in the best shape from a physical point of view, having suffered from injuries;
 - viii. Mr Gouveia Miranda observed that, as confirmed by a review of Match 1, he had not committed the foul for which a penalty was awarded: this was a mistake of the referee;
 - ix. Mr Alexandru outlined in frank words that he has always in his life played fairly;
 - x. Mr Michailiuk denied any responsibility and confirmed that what he saw were only normal mistakes and no suspicious actions;
 - xi. Mr Dunauskas, Integrity Officer of the LFF and Secretary of the Investigative Committee, explained his actions at the Matches. With respect to Match 1, he confirmed that prior to it, he had a meeting with the coaches of the two teams, during which he requested that steps be taken in order to avoid violations; as a result, Match 1 was delayed for about 30 minutes, when he noticed that the betting market had calmed down. With respect to Match 2, Mr Dunauskas explained that during the match he was following the fluctuations in the betting market, which were showing an anomalous pattern, since bettors appeared to favour the weaker team, which was losing 0-2. Overall, Mr Dunauskas indicated that he has no doubts that the Matches were fixed, even though he is not in a position to evaluate the behaviour of the various Club's players, since he is not an expert;
 - xii. Mr Peaker, UEFA Intelligence Coordinator, explained the procedure in which BFDS works: it receives a report from Sportradar, reviews it and then forwards such report to the concerned national federation for their consideration: not all reports forwarded to national federations, however, lead to sanctions. Mr Peaker, then, explained in general terms the functioning of the betting market, highlighted the main features showing abnormalities, and underlined that a link can be established between irregular betting patterns and a match fixing, as this is the only possible explanation for some betting attitudes;
 - xiii. Mr Mace, Director of Global Operations at Sportradar, described the procedures followed in the analysis of the betting activities in any match controlled by his

organization.

46. Mr Raimondas Statkevicius, one of the Experts, was also made available by the Respondent for examination at the hearing. The Appellants' counsel, however, renounced to this possibility, since the Players were no longer attending the hearing to assist in the examination of Mr Statkevicius.
47. The parties next, by their counsel, made submissions in support of their respective cases and answered the questions asked by the Panel. In this connection, *inter alia*, the Respondent indicated the reasons for the different sanctions imposed on the Players, depending on their involvement in suspicious actions in one of, or both, the Matches, their participation in the Matches, and their precedents. At the conclusion of the hearing, finally, the parties, while insisting in their claims, expressly stated that their right to be heard and to be treated equally in the CAS arbitration proceedings had been fully respected.
48. After the hearing, on the basis of the Panel's directions, the parties timely lodged with the CAS Court Office the quantification of their respective cost claims.

2.2 The Position of the Parties

49. The following outline of the parties' positions is illustrative only and does not necessarily comprise every submission advanced by the Appellants and the Respondent. The Panel has nonetheless carefully considered all the submissions made by the parties, whether or not there is specific reference to them in the following summary.

a. *The Position of the Appellants*

50. In their statement of appeal, the Appellants requested that CAS:
 - (a) *Accepts this Appeal against the Decisions;*
 - (b) *The Decisions and sanctions imposed on Appellants are annulled;*
 - (c) *Grant the Appellants a contribution from Respondent towards arbitration costs, legal fees and all other expenses incurred in connection with the proceedings before CAS and LFF Appellate committee*".
51. Such request for relief was confirmed in the appeal brief.
52. In essence, the Appellants criticize the Appealed Decisions for a number of reasons, and request them to be set aside. In support of such conclusion, the Appellants submit that:
 - i. *"the Appellate Committee of LFF admitted that there was insufficient evidence to prove that the players committed the breach of the Disciplinary Code of LFF, for which they were suspected; nevertheless, it decided that sanctions should anyway be imposed on them for the sake of prevention of match fixing".* The rules of the Old Disciplinary Code and of the New Disciplinary Code, which allow the imposition of sanctions on a sole presumption basis and consider that it is sufficient to suspect illegal conduct and it is not necessary to prove it, *"are against the fundamental legal*

principles and a largely recognized system of values” as expressed in the European Convention on Human Rights (the “ECHR”) and recognized in Lithuanian law. Any interpretation of the rules that allow the imposition of sanctions without proof of guilt is against public policy;

- ii. *“the argument of the Appellate Committee of LFF that when a match is fixed, it is enough to suspect illegal conduct of the players from the sole factor – players’ performance during the match ... does not withstand criticism”*, because:
 - sanctions can only be imposed for proved illegal conduct, not for a suspicion of illegal conduct;
 - it is not sufficient to suspect the Players of match-fixing on the basis of the mistakes they made during the Matches. Even though suspicious betting patterns were observed, it was necessary to establish a *“causational link”* between the mistakes of the suspected Players and the observed indications of betting related manipulations. Such link was not established: the statistic betting related data were not connected to particular players and their performance;
 - the Appellants do not agree with the conclusions of the reports submitted by the Experts and doubt their validity, because they were anonymous, not signed, and undated, and were disclosed to the Appellants only when they so requested after the DC Decision had been adopted;
 - the reports issued by BFDS and by the Experts are, in the absence of any other evidence of the Players’ involvement in match fixing, *“too few factors to be comfortably satisfied that the appellants could be involved or attempted to influence the outcome of the Matches”*;
 - in summary, the Appellants were sanctioned without a legal ground;
- iii. *“the conclusion that Matches were fixed lacked evidence”*. The reports of BFDS only show betting related manipulations: they do not reveal a link between the Players and/or the Club and such manipulations; and betting related manipulations do not mean that the match is fixed;
- iv. *“sanctions were imposed ... in breach of Article 44 of the Disciplinary Code of LFF”*. In fact:
 - as to Match 1, the provisions of the Old Disciplinary Code apply, which provide that in order to apply its Article 44.3 two conditions need to be satisfied: (i) it must be established that a particular match had been fixed; and (ii) the participant must be suspected of an illegal conduct under Article 44.1, prohibiting *“match-fixing”*. That notwithstanding, as recognized in the AC Decision, insufficient evidence was collected to conclude that Mr Gouveia Miranda, Mr Skroblas, Mr Jankauskas, Mr Strockis and Mr Alexandru committed an illegal conduct under Article 44.1, and *“it is clearly incompatible with the provisions of Article 44 paragraph 3 of the [Old] Disciplinary Code of LFF to apply sanctions ... if there is insufficient evidence to suspect and accuse the players with commitment of illegal conduct as per Article 44 paragraph 1 of the [Old] Disciplinary Code”*;
 - as to Match 2, the provisions of the New Disciplinary Code apply, which provide that in order to apply its Article 44.5 two conditions need to be satisfied: (i) it must be established that a particular match had been fixed; and (ii) the participant must be suspected of an illegal conduct under Article 44.1, prohibiting *“match-fixing”*.

However, Mr Skroblas, Mr Pocevicius, Mr Olberkis, Mr Michailiuk and Mr Mikaitis were sanctioned even though the AC Decision confirms that insufficient evidence had been collected to allow a conclusion that they had committed a violation under Article 44.1. Therefore, no sanction could be imposed;

v. *“there were serious defects in the process of investigation of the suspected breach, which lead to incorrect Decision of the Disciplinary Committee and the Appellate Committee of the LFF”*. The reports on which the Appealed Decisions are based cannot be treated as convincing evidence, because:

- *“as to the UEFA BFDS reports”*,
 - √ it is not clear on what basis the *“suspicious”* history of the Club was established, and was probably mentioned on information provided by the LFF: the BFDS reports, therefore, are not an objective source of evidence;
 - √ they give only an indication of betting related manipulations and not of match-fixing, which requires an involvement of the players, of which there is no evidence;
 - √ anomalous betting patterns can be explained by other reasons;
 - √ it remains unexplained why the behaviour of the opponent players (of FK Siauliai) was not considered;
- *“as to the reports of experts”*,
 - √ they were anonymous, not signed, and undated, and were disclosed to the Appellants only when they so requested after the DC Decision had been adopted
 - √ explanations can be offered for the Players’ conduct at the Matches, which the Appeal Committee did not consider;
- as to the *“conduct of LFF officials before Match 2 and disregard of presumption of innocence”*, nervousness and confusion were created by Mr Dunauskas and his indication that the match had been fixed, which interfered with the Player’s sporting performance. In addition, the actions of Mr Dunauskas, who is a member of the Investigative Committee, show that a prejudice existed *a priori*, affecting the disciplinary proceedings;
- as to the *“infringement of appellants’ right to fair trial”*, the Players only found out of the disciplinary proceedings from the Club after the DC Decision had been issued: they were therefore not allowed to state their case. In addition, the dismissal of Petition 2, in the portion concerning the Players for whom it had been submitted, was illegal, because no provision requires the payment of separate appeal fees.

b. *The Position of the Respondent*

53. In its answer, the Respondent sought from the CAS the following relief:

I. *The appeal is dismissed.*

II. *The decision of the Appeal Committee of the Lithuanian Football Federation f 17 October 2015 is*

confirmed.

- III. *The Appellants shall bear all the arbitration costs, if any, and shall be ordered to reimburse the Respondent any amounts of advances paid to the CAS, if any.*
- IV. *The Appellants shall be ordered to pay the Respondent a contribution towards the legal and other costs incurred by the latter in the framework of these proceedings, in an amount to be determined at the discretion of the Panel”.*

54. In summary, in the Respondent’s opinion, the AC Decision complies with the LFF regulations, with the CAS jurisprudence on the standard of proof in match-fixing cases and with fundamental principles of Lithuanian and international law. Therefore, the AC Decision should be confirmed and the appeal dismissed.
55. In support of such request, the Respondent preliminarily outlines, *inter alia*, some factual aspects relating to the Club’s “*history regarding match-fixing*”, the betting patterns which preceded the Matches and the Club’s decision to withdraw from competitions, as follows:
- i. even before May 2015, the Club and some of its players had been highlighted by the BFDS as suspected of match-fixing activities:
 - in a game played between the Club and FK Siauliai on 9 November 2013, highly suspicious betting predicting a heavy FK Siauliai defeat was observed;
 - on 28 April 2015, the Club was scrutinised by the BFDS in a league match against FK Suduva, which saw suspicious pre-match and live betting for the Club to lose heavily the match. Indeed, the Club lost this match 0-3, as a result of the highly suspicious behaviour of some of its players on the pitch. Following this match, some of the Club’s players and coaches were sanctioned with suspensions of up to three months and a fine of EUR 2,000 was imposed upon the Club by a decision of the Disciplinary Committee, confirmed by the Appeal Committee. One of the players sanctioned was Mr Valdas Pocevicius, one of the Appellants;
 - ii. shortly before kick-off of Match 1, there was strong initial betting for the Club not to win, followed by more severe and suspicious betting for them to lose the match. The betting on Match 1 reflected a strong and suspicious confidence in FK Siauliai winning the match. This appeared to be very illogical, given that FK Siauliai had not won a single league game during the 2015 season. Indeed, FK Siauliai was firmly considered to be pre-match underdogs on the betting market. This seemed fair given the two clubs’ respective league positions and recent head-to-head, both of which considerably favoured the Club. However, in the hours leading up to Match 1, FK Siauliai’s odds to win decreased substantially, resulting in them going from significant underdogs to strong favourites prior to kick-off. For instance, a large odds change was observed at BetClic, with FK Siauliai’s odds decreasing from an opening high of 2.40 to a low of 1.62 at closing, thus representing a 233% net win change. A 147% deviation from the statistical bet coefficients betting that FK Siauliai would win with a little advantage was also recorded. These suspicious betting patterns demonstrate that the betting participants knew the outcome of Match 1 in advance. The suspicious betting patterns even led to 22 out of 65 (33.84%) bookmakers offering Match 1 to prematurely remove it from the betting market,

- indicating their own concerns regarding the betting observed. Furthermore, Match 1 generated a turnover of EUR 66,974 at the betting exchange Betfair, vastly higher than the league's match average of EUR 6,446. The particular betting interest in Match 1, with over 10 times the turnover compared to a typical game of the Lithuanian 1st league, further demonstrates a manipulation for betting purposes;
- iii. with respect to Match 2, again, there was strong and suspicious pre-match betting observed for the Club not to win and to lose the match. For example, odds for FK Siauliai decreased from a high of 5.10 to a closing low of 2.00, thus representing a 252% net win change at the betting exchange 188Bet. Similarly, odds for FK Siauliai decreased from a high of 2.13 to a low of 1.30, *i.e.* a 219 % net win change, on the AHC line at MaxBet. This betting preference appeared illogical given that FK Siauliai had lost 8 of their 10 away games during the season with just 2 wins out of 22 matches overall, and were occupying the sole relegation position. However, bettors displayed one-sided betting support of FK Siauliai in the pre-match markets, which resulted in FK Siauliai being considered as the favourites at a number of prominent bookmakers after having been initially considered the clear underdogs. The live markets also saw a betting preference for the Club to lose Match 2. During the early stages of the second half (with the score at 2:2), bettors displayed a suspicious confidence in the Club losing the match as odds for this outcome reached unjustifiably low levels. For instance, in the 62nd minute, when the score was tied at 2:2, the bookmaker Bet365 offered FK Siauliai at odds of 1.73 compared to calculated odds of 2.87, thus representing a 121% net win deviation. Similarly, in the 61st minute, FK Siauliai's odds to win Match 2 were of 1.18 compared to calculated odds of 1.75 on the level ball AHC line, corresponding to a 241% net win deviation. Yet, Match 2's video shows that during this period, neither team was controlling the game, with relatively few attacking opportunities created prior to FK Siauliai's third goal. Such a strong betting preference displayed over a notably short timeframe cannot be reasonably explained under the circumstances, and indicates that bettors likely had prior knowledge that the Club would ultimately lose the game. Furthermore, 12 of the 66 bookmakers (18%) to offer a pre-match market for Match 2 ceased trading prematurely, most likely as a result of the strong betting witnessed for FK Siauliai. This observation was even more obvious in the market for live trading, as 6 of the 10 bookmakers offering Match 2 for live betting ceased trading prematurely, all between the 51st and 60th minutes, when the strongest betting transpired. This strongly suggests that these bookmakers harboured their own concerns regarding the integrity of Match 2. Finally, Match 2 generated a turnover of EUR 11,529 at the betting exchange Betfair, which is higher than the league average of EUR 6,970. The particular betting interest in Match 2, with almost two times the turnover compared to a typical game of the Lithuanian 1st league, further demonstrates a manipulation for betting purposes;
- iv. on 25 August 2015, the Club withdrew from the Lithuanian first division. This withdrawal was due to the repeated fraudulent behaviour by some of its players regarding match-fixing. Thereafter, the Club submitted a licence request to the Respondent to be allowed to participate in the Lithuanian second division (I Lyga or League One). This request was dismissed by a decision of the License Appeal Committee of the LFF of 2 March 2016, on the ground that the Club had failed to fully meet the League One criteria in terms of

personnel, sporting and infrastructure as set forth in the Club Licensing Regulations of the LFF. Therefore, the Club currently does not perform any football activity.

56. The Respondent, then, with respect to the conduct of the Players at the Matches, and in order to rebut the Appellants' submissions, relies on a declaration signed by the Experts who had issued the reports considered by the Investigative Committee (§§ 10-11 and 17 above):

"The Match Investigation Expert Team takes several directions of investigations when analyzing situations where the actions of the players could have influenced the result of the match:

- *individual investigation of a player's actions in the respective game situation is carried out, and individual actions by the player with subsequent consequences to that particular moment in the game as well as further course of the match are analyzed;*
- *investigation of the actions by a group of players is carried out, and the interaction among several players in respect to the opponent as well as the influence of such actions of the course of the match are analyzed;*
- *investigation of general offensive and defensive actions by the whole team is carried out with the purpose to determine the number of players possibly influencing the results of the match.*

Please note that when carrying out an analysis of the behavior of the players during a respective match, the Match Investigation Expert Team always raises the question whether the dubious actions of a player were just an error made by the player, or there is a factor of the opponent's higher level of proficiency, or if the player acted deliberately aiming to grant an advantage to the opponent.

The opinions of all the Match Investigation Expert Team members must coincide in each investigated situation. This ensures that the probability of mistakes when analyzing separate situations is minimized.

In case of each analyzed situation, an investigation is carried out aimed at determining the level of proficiency of the players present in the allegedly fraudulent situation. The behavior of each suspected player is analogue situations during the entire match is carefully analyzed. Frequently, the behavior of each suspected player in analogue situation in previously played matches is also analyzed.

Regarding the LFF A League match of Šiauliai F.C. (Šiauliai) vs Kruojis F.C. (Pakruojis) played on 27-MAY-2015:

It should be noted that in the 60th minute of the match there was an occurrence in which Šiauliai F.C. scored a goal and it was determined that "the players Skroblas, Jankauskas and Strockis one after another let the right-back of Šiauliai F.C. pass them by across half the pitch with the ball and make a key pass to his team member situated at the corner, who crossed the ball into the penalty area freely and under no pressure". This situation was analyzed on the basis of the behavior and actions of these players in similar situations during other matches. The results of the analysis showed that A. Skroblas, D. Jankauskas, and D. Strockis possessed excellent skills necessary to carry out the required defensive actions, e.g., aggressive attempts to dispossess an opponent of the ball, recovering position and space after failed man-to-man defense, assisting team members, interplay in the game situations, disciplined actions and striving to defend their goal line from the opponents trying to score. The level of proficiency of the said players complies with the standards applicable to the athletes playing in the LFF A League. The level of proficiency of the opponent participating in the situation did not exceed that of the said players, thus, the assumption that the successful dribbling of the opponent was conditioned by the difference in the skilfulness was rejected. In this particular case, the actions by the players were truly inadequate to the game situation and also did not correspond to the proficiency level possessed by the players. Moreover, based on the positions of the players and the requirements of the game situation, the players had to watch out for each other while the opponent was in possession of the ball, to pressure the opponent and to attempt to dispossess him of the

ball aggressively, and, in case of failure, to fall back immediately and restore the balanced defensive position of the team.

Regarding the LFF A League match of Krouja F.C. (Pakruojis) vs Šiauliai F.C. (Šiauliai) played on 16-AUG-2015:

For the purpose of analysis of these match situations that might have influenced the final result, it is important to note that A. Skroblas is a universal player and can play well in several positions (A. Skroblas started his football player career in the position of goalkeeper). The analysis of A. Skroblas' performance in previously played matches revealed that the player played best when placed in the position of full-back or midfielder. Thus, the player's position in the match in question was usual and proper in terms of his ability to fulfil the functions required of the players playing in such a position. The situation occurring in the 34th minute of the match required A. Skroblas to immediately fall back to defense and take a balanced defensive position which would have prevented any further attacks by the opponent. The investigation also revealed that A. Skroblas was in excellent general physical condition and was capable of high level of physical exertion and physical loads when performing exceedingly demanding actions during the entire match. Thus, the reasoning that A. Skroblas was passive, especially in the first part of the match, due to his physical condition was rejected, and any excuses regarding the passive play by A. Skroblas cannot be deemed reasonable.

In the same situation, where V. Pocivičius simulated defense by turning his back to the opponent, the difference in height or weight of the players had no significance because rather than failing in a man-to-man defense for he ball and position on the pitch, V. Pocivičius avoided the situation entirely by simply turning his back to the opponent (turning away from the opponent). Such an action in professional football is viewed as the player's failure to carry out his defensive functions.

In the analysis of the match situation where Krouja F.C. failed to defend against the third goal, the respective actions carried out by the players S. Olberkis, A. Skroblas and A. Mikaitis were investigated for the purpose determining if they had been coordinated in the situation in question. Hence, this particular investigation involved an analysis of players interacting as a group rather than individually. This allowed making the assumption that the said players could have coordinated their actions in order to influence the final result of the match.

When analyzing the play of S. Olberkis as midfielder placed on the defense, it should be noted that the goalkeeper and defenders are not the only players responsible for and participating in the defense. The midfielders and forwards also perform defensive actions. Even though he played as center midfielder in this match, this did not exempt S. Olberkis from taking defensive actions. Based on the requirements applicable to this position, S. Olberkis had to collaborate with A. Skroblas and A. Mikaitis when defending near the penalty area. Thus, their passive actions in respect to each other could have possibly influenced the final result of the match".

57. With respect to the Appellants' claims, then, the Respondent submits the following:
- i. *the appeal against the DC Decision is inadmissible.* The Respondent notes that only the AC Decision is subject to an appeal to the CAS. Indeed, Article 92 of the New Disciplinary Code provides that only the decisions of the Appeal Committee can be appealed against to the CAS, thus excluding an appeal to the CAS against a decision of the Disciplinary Committee. Such a decision shall first be appealed against to the Appeal Committee pursuant to Article 88.1 of the New Disciplinary Code. This is consistent with Article R47 of the CAS Code. The Appellants have decided to aim their appeals both against the DC Decision and against the AC Decision. Yet, the appeal aimed at the DC Decision is inadmissible, given that it was not rendered by the highest disciplinary body of the LFF. In practice, however, this does not have any impact, as the DC Decision was first appealed

to the Appeal Committee and as the CAS has full power to review the facts and the law relating to the case under Article R57 of the CAS Code;

ii. *the rules of the Disciplinary Code comply with the standard of proof in match-fixing cases defined by the CAS jurisprudence.* The CAS decided for the first time on the standard of proof to be applied in match-fixing cases in CAS 2009/A/1920, *Pobeda*. In this case, the CAS decided to apply the comfortable satisfaction standard. In the *Pobeda* case, however, the applicable regulations of UEFA at the time did not provide for any specific standard of proof. Since then, the CAS jurisprudence has made a clear distinction between evaluating the standard of proof to be applied in cases where the applicable regulatory framework provides for a specific standard, and the situation in which such a prescribed standard is absent. When the standard of proof to be applied is specifically specified in the applicable regulations, the CAS has always refused to deviate from such standard. In the present case, the Disciplinary Code expressly states that when match-fixing is established, the players or team officials may be sanctioned to a penalty of disqualification based on a mere presumption of illegal conduct as defined under Article 44.1. Therefore, the standard of proof applied by the Respondent to sanction the Appellants is compatible with the CAS jurisprudence;

iii. *the Respondent fully complied with the provisions of the Disciplinary Code.* In fact:

a. with respect to the sanctions imposed upon the Players:

Two conditions must be met in order to impose sanctions on a player who is suspected of arranging the outcome of a game, according to either the New or the Old Disciplinary Code, *i.e.*:

- there are sufficient data to confirm match-fixing, and
- the behaviour of the player during the match, as shown by the analysis of the match made by the group of match investigation experts, allows presuming that he could have committed the infringements specified in Article 44.1.

As to the first condition, the Respondent contends that it has duly demonstrated that both Match 1 and Match 2 were arranged for fraudulent betting purposes. The betting patterns highlighted in the BFDS Reports demonstrate beyond any doubt that the outcome of these two games was determined in advance for the purpose of making corrupt betting profits: the suspicious betting patterns observed exceed the acceptable threshold to conclude that Match 1 and Match 2 were manipulated for betting purposes. The first condition set by Article 44.5 of the New Disciplinary Code and Article 44.3 of the Old Disciplinary Code to impose sanctions upon the Appellant Players is thus fulfilled.

As to the second condition, the Respondent, then, maintains that there are sufficient elements to suspect the Players of illegal conduct under Article 44.1 of both the Old and the New Disciplinary Code, *i.e.*, of the behaviour of a player who deliberately tries to make his team lose. After analysing the videos of Match 1 and Match 2, the Experts noticed several failures of the Players, including two fouls made in their team's penalty area without any reason, which resulted in FK Siauliai winning both matches. Such failures are so gross and numerous that it seems almost impossible that they were not deliberate. The reports of the Experts are fully

relevant in this respect. In fact, Article 56.7 of both the Old and the New Disciplinary Code provides that when the Experts conclude that the behaviour of a player allows to make the assumption that he could have infringed Article 44.1, their conclusions shall be the basis for applying the sanctions established in Article 44.5 and 44.6 of the New Disciplinary Code, respectively Article 44.3 and 44.4 of the Old Disciplinary Code. Article 44.3 of the Old Disciplinary Code and Article 44.5 of the New Disciplinary Code also expressly allow the disciplinary bodies of the LFF to establish a presumption of breach of Article 44.1 based on the behaviour of the player on the pitch “*as shown by the analysis of the Match*”.

The Appeal Committee correctly stated in the AC Decision that since there was no formal proof that the Players had infringed Article 44.1 of the Disciplinary Code, sanctions could only be imposed on the ground of a suspicion of breach, in accordance with Article 44.5 of the New Disciplinary Code, respectively Article 44.3 of the Old Disciplinary Code. As a matter of fact, each of them appears to have deliberately attempted, by his behaviour on the pitch, to influence the results or the course of either Match 1 or Match 2 at some point, thereby infringing the sport ethics and/or principles of fairness. The second condition set by Article 44.5 of the New Disciplinary Code and Article 44.3 of the Old Disciplinary Code is thus also fulfilled. Consequently, the Disciplinary Committee and the Appeal Committee fully complied with these provisions, by imposing sanctions upon the Players going from 4 to 8 matches suspensions;

- b. with respect to the sanction imposed upon the Club:

The fine of EUR 9,000 imposed by the Appeal Committee was set in accordance with Article 44.6 of the Old Disciplinary Code and Article 44.7 of the New Disciplinary Code. The Appeal Committee ruled that, after Match 1, the Club had to be sanctioned to a first fine of EUR 4,500 under Article 44.6 of the Old Disciplinary Code, given that some of its players had infringed Article 44.3 of the Old Disciplinary Code twice during the same season. The Appeal Committee then imposed a second fine of EUR 4,500 upon the Club under Article 44.7 of the New Disciplinary Code, following the suspicious illegal conduct of some of its players during Match 2. The reasoning of the Appeal Committee in this respect is correct and must be upheld. The liability of the Club arises solely from its players’ liability during the match of 28 April 2015, Match 1 and Match 2, irrespective of any fault. Furthermore, the fines imposed upon the Club stay within the limit of EUR 6,000 per breach set by the Respondent’s regulations;

- iv. *the AC Decision is lawful*, and none of the arguments raised by the Appellants is grounded, since:

- a. there is no breach of the standard of proof. In the present case, the Disciplinary Code was applied, which expressly states that when match-fixing is established, the players or team officials may be sanctioned with a penalty of disqualification based on a presumption of illegal conduct as defined under Article 44.1;
- b. there is no breach of Article 6.2 ECHR (everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law) and/or of Article

31 of the Lithuanian Constitution (a person shall be presumed innocent until proved guilty according to the procedure established by law and declared guilty by an effective court judgment). However, the principle of presumption of innocence is applicable in criminal procedures only and should not be applied in the current arbitration nor should have been applied in the disciplinary proceedings at the LFF level. In its consistent jurisprudence, CAS underlined that, even in disciplinary procedures, the legal relationship between an athlete, the club and the association is civil, and not criminal, in nature. Therefore, the principles of criminal law, including the principle of presumption of innocence, are not applied. This was also recognized by the Swiss Federal Tribunal (judgement of 31 March 1999, 5P.83/1999, consid. E 3.d). Furthermore, the laws of Lithuania and the jurisprudence of Lithuanian courts follow a similar approach. In any case, the question of the validity of Article 44.3 of the Old Disciplinary Code and of Article 44.5 of the New Disciplinary Code falls out of the scope of the current arbitration, since no request in this respect has been raised by the Appellants. Moreover, at the moment of their application, these rules were valid, as they still are;

- c. there is no breach of the Lithuanian public policy. According to the case law of the Supreme Court of Lithuania, the public order includes the basic principles which are the ground of the State's legal system and such principles are provided by the Constitution of the Republic of Lithuania and other legal acts. Thus, in order to determine the infringement of public order, it is important to establish the breach of mandatory rules provided by Lithuanian law. However, it is important to notice that the Appellants failed to provide reasons and explanations on how exactly did the Respondent breach the public policy. Neither did Appellants specify which laws were violated by the Respondent. The arguments of the Appellants are abstract and unspecific and therefore have no relevance and therefore do not constitute any ground to annul the AC Decision;
- v. *there was no infringement of the Appellants' right to a fair trial.* In fact:
 - a. the Appellants were duly informed in advance that a hearing would be held by the Appeal Committee on 7 October 2015. Although they were not summoned to this hearing, they had the possibility to attend it. In any event, the Appellants' right to be heard was respected, since they were given the opportunity to file written submissions and to produce pieces of evidence before the decision was rendered, as set forth by the Disciplinary Code;
 - b. the Appeal Committee was right to refuse to consider Petition 2 to the extent that it concerned the players, since the Club had failed to pay the required fee of EUR 600 for each of them within the prescribed deadline in accordance with Article 88.9 of the Disciplinary Code;
 - c. the assertion that Mr Dunauskas' intervention with the coaches before Match 1 and Match 2 would have breached the Appellants' presumption of innocence is incomprehensible. Mr Dunauskas came to talk to the coaches before Match 1 after receiving serious information that the match was fixed. Before Match 2, he decided to intervene after noticing huge and irregular pre-match betting activity. His intention was to prevent the Club and its players from infringing the LFF's

regulations and to save them from disciplinary proceedings. It is hard to see in this context how his intervention, which was made for preventive purposes in the interest of the Appellants, could have breached their presumption of innocence;

- d. even if there had been procedural flaws during the course of the proceedings before the Disciplinary Committee and the Appeal Committee, *quod non*, such flaws would in any event be cured as part of the present appeal proceedings.

3. LEGAL ANALYSIS

3.1 Jurisdiction

58. CAS has jurisdiction to decide the present dispute between the parties.

59. In fact, the jurisdiction of CAS is not disputed by the parties, has been confirmed by the Order of Procedure, and is contemplated by Article 92 of the New Disciplinary Code, as follows:

“The decisions of the Appeal Committee, except for the decisions specified in the LFF Statutes can be appealed against within 30 (thirty) days from the day of delivery of the respective decision to the Court of Arbitration for Sport located at Lausanne, Switzerland pursuant to the order set forth in the procedure rules of the Court of Arbitration for Sport”.

60. An issue, indeed, was raised with respect to the appeal to CAS brought by the Appellants against the DC Decision, *i.e.* with respect to the decision of the Disciplinary Committee which was challenged before the Appeal Committee and confirmed by the AC Decision, with the sole exception of the portion regarding the Club, which saw the fine reduced from EUR 12,000 to EUR 9,000. The Respondent, in fact, submits that the appeal against the DC Decision is not admissible, since it was directed against a decision that was not rendered by the highest disciplinary body within the LFF.

61. However termed as relating to admissibility, the question raised with respect to the appeal brought against the DC Decision concerns the existence of the CAS jurisdiction. As made clear by Article 92 of the New Disciplinary Code, in fact, jurisdiction is granted to CAS only with respect to the decisions rendered by the Appeal Committee. In addition, the CAS jurisprudence, based on the wording of Article R47 of the Code, made it clear that the exhaustion of internal remedies is one of conditions for the CAS jurisdiction to exist (CAS 2014/A/3775, award of 29 April 2015, § 37, making reference to CAS 2011/A/2436, award of 25 May 2012, and to CAS 2009/A/1919, award of 7 May 2010; but see also CAS 2008/A/1513, award of 26 January 2009).

62. In that regard, the Panel agrees with the Respondent that it would not have jurisdiction to hear an appeal (therefore to be deemed inadmissible) brought against the DC Decision *alone*. In this case, however, the DC Decision was challenged *together* with the AC Decision, which dealt with the same issues and to a large extent confirmed the findings of the DC Decision. Therefore, the question raised by the Respondent has little relevance: the Panel has jurisdiction to hear the dispute concerning the disciplinary infringements for which the Appellants were sanctioned, as

defined by the Appealed Decisions. Consequently, the objection raised by the Respondent needs not be entertained.

3.2 Appeal Proceedings

63. As these proceedings involve an appeal against decisions rendered by a national federation, brought on the basis of rules providing for an appeal to the CAS, they are considered and treated as appeal arbitration proceedings in a disciplinary case of domestic nature, within the meaning, and for the purposes, of the Code.

3.3 Admissibility

64. The statement of appeal was filed within the deadline set in Article 92 of the New Disciplinary Code. Accordingly, the appeal is admissible.

3.4 Scope of the Panel's Review

65. According to Article R57 of the Code,

“the Panel shall have full power to review the facts and the law. It may issue a new decision which replaces the decision challenged or annul the decision and refer the case back to the previous instance. [...]”

3.5 Applicable Law

66. The question of what law is applicable in the present arbitration is to be decided by the Panel in accordance with the provisions of Chapter 12 of the PIL, the arbitration bodies appointed on the basis of the Code being international arbitral tribunals having their seat in Switzerland within the meaning of Article 176 of the PIL.

67. Pursuant to Article 187.1 of the PIL,

“The arbitral tribunal shall decide the dispute according to the rules of law chosen by the parties or, in the absence of such a choice, according to the law with which the case is most closely connected”.

68. Article 187.1 of the PIL constitutes the entire conflict-of-law system applicable to arbitral tribunals, which have their seat in Switzerland: the other specific conflict-of-laws rules contained in Swiss private international law are not applicable to the determination of the applicable substantive law in Swiss international arbitration proceedings (KAUFMANN-KOHLER/STUCKI, *International Arbitration in Switzerland*, Zurich 2004, p. 116; RIGOZZI A., *L'arbitrage international en matière de sport*, Basle 2005, § 1166 et seq).

69. With respect to Article 187.1 of the PIL, it is to be underlined (i) that it recognizes the traditional principle of the freedom of the parties to choose the law that the arbitral tribunal has to apply to the merits of the dispute, and (ii) that the choice of law it allows can be made also indirectly, through the reference to the rules governing the procedure set in regulation of an arbitral

institution, where they contain a “choice-of-law” provision (KAUFMANN-KOHLER/RIGOZZI, *Arbitrage International. Droit et pratique à la lumière de la LDIP*, 2^a ed., Berne 2010, p. 400).

70. As a result, the law applicable in the present arbitration is identified by the Panel in accordance with Article R58 of the Code.

71. Pursuant to Article R58 of the Code, this Panel is required to decide the dispute

“... according to the applicable regulations and 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 application of which the Panel deems appropriate. In the latter case, the Panel shall give reasons for its decision”.

72. In the present case the “*applicable regulations*” for the purposes of Article R58 of the Code are, indisputably, the regulations of LFF, because the appeal is directed against decisions issued by LFF, which were passed applying LFF’s rules and regulations. More specifically, the Panel agrees with the parties that the particular regulations concerned are the Old Disciplinary Code (with respect to the events concerning Match 1) and the New Disciplinary Code (with respect to the events concerning Match 2).

73. The Panel identifies, in fact, the applicable substantive rules by reference to the principle “*tempus regit actum*”: in order to determine whether an act constitutes a disciplinary infringement, the Panel applies the law in force at the time the act was committed. In other words, new regulations, unless they are more favourable for the athlete (the *lex mitior* principle referenced in advisory opinion CAS 94/128, rendered on 5 January 1995), do not apply retroactively to facts that occurred prior to their entry into force, but only for the future (CAS 2000/A/274, award of 19 October 2000).

74. In addition to the LFF regulations, the laws of Lithuania apply subsidiarily, pursuant to Article R58 of the Code, since LFF, which rendered the Appealed Decisions, has its seat in Lithuania.

75. The provisions within the LFF regulations that are relevant in this arbitration include the following:

i. from the Old Disciplinary Code:

Article 44 “Illegal Influence and Prohibition of Match-Fixing”

“1. Direct or indirect taking of, asking, request, suggestion, supply, agreeing to supply or agreeing to take any type of a reward, which could be perceived as a tool to influence the result or the course of the Match, or any such attempt to influence the results or the course of the Match by way of infringing the sport ethics and/or principles of fairness is considered to be a highly serious illegal conduct that breaches the Disciplinary Code and the integrity of football (however, official promotional and encouraging actions of Club’s players and Officials is not deemed as illegal conduct). The Participant who has committed such illegal action may be sanctioned with disqualification and/or a fine and/ or a ban to participate in a certain or any football-related activity or other sanctions indicated in the Disciplinary Code might be applied. [...]

3. *In the case when match-fixing is confirmed, the Participant of the Match, the behavior of whom during the Match (as shown by the analysis of the Match) allows presuming that such a Participant could have committed the infringements specified in Clause 1 of this Article, shall be sanctioned with Match suspension (disqualification) in up to 8 (eight) Matches and/or a ban from taking part in a particular or any football-related activity up to 3 (three) months. [...]*
 6. *In the case when the sanctions specified under Clause 3 and/or Clause 4 of this Article are applied to any players and/or Officials of the Club/ Team for committing infringements during two different Matches during the same season, the Club/ Team to which the said players or Officials belong to may be sanctioned with point deduction of up to 6 (six) points and/or a fine of up to EUR 6,000 (six thousand euro). [...]*
 10. *Clauses 3 and 4 of this Article of the Disciplinary Code shall apply only in cases when the fact of infringement under Clause 1 of this Article of the Disciplinary Code has not been established”;*
- ii. from the New Disciplinary Code:

Article 44 “*Illegal Influence and Prohibition of Match-Fixing*”

- “1. *The Participants shall refrain from any type of behavior damaging or possibly causing damage to the integrity (fair play) of the Competition and/or Matches, including but not limited to infringement of the principles of sports ethics, and behavior influencing or possibly impacting the results and/ or the course of the Competition and/ or Matches. The Participant who has committed such illegal action may be sanctioned by any sanctions indicated in the Disciplinary Code. [...]*
5. *In the case when there are sufficient data to confirm match-fixing, the Participant of the Match, the behavior of whom during the Match (as shown by the analysis of the Match) allows presuming that such a Participant could have committed the infringements specified in Clause 1 of this Article, shall be sanctioned with Match suspension (disqualification) in up to 12 (twelve) Matches and/ or a ban from taking part in a particular or any football-related activity for up to 6 (six) months. [...]*
7. *In the case when the sanction specified under Clause 5 of this Article is applied to a player or an Official, the Club/ Team to which the player or the Official belongs to may be sanctioned with point deduction of up to 10 (ten) points and/ or a fine of up to EUR 6,000 (six thousand euro). [...]*
9. *Clauses 5 and 6 of this Article of the Disciplinary Code shall apply only in cases when the fact of infringement under Clause 1 of this Article of the Disciplinary Code has not been established”;*

Article 56 “*Investigations Committee*”

- “1. *Upon the decision of the Executive Committee, Investigations Committee may be established to investigate certain infringements of the Disciplinary Code.*
2. *Jurisdiction of the Investigations Committee:*
 - a) *investigating the infringements of the Disciplinary Code stipulated in the Committee’s Regulations and presenting conclusions on the said infringements to the Disciplinary Committee;*
 - b) *performing other functions set forth in the Regulations of the Investigations Committee.*
3. *When investigating cases, the Investigations Committee shall have all the rights and authorizations pertaining to the Disciplinary Committee for the purpose of investigating breaches of the*

Disciplinary Code.

4. *A Match Investigation Expert Team shall be assigned to investigate a Match and evaluate the behavior of the Participants of the respective Match as set forth in Clauses 5 and 6 of Article 44 hereof.*
5. *The Match Investigation Expert Team shall consist of 3 (three) members assigned by the decision of the Investigations Committee.*
6. *The Match Investigation Expert Team analyzes the Match and the behavior of its Participants and then presents conclusions on the behavior of an investigated Participant during the respective Match and on assumptions of the said Participant possibly committing the infringements laid out in Clause 1 of Article 44 hereof.*
7. *The conclusion of the Match Investigation Expert Team that the behavior of the Participant of the Match during the respective Match allows making the assumptions that such a Participant could have committed the infringement specified in Clause 1 of Article 44 hereof shall constitute the basis for applying the sanctions established in Clauses 5 and 6 of Article 44 hereof”;*

Article 66 “Proof”

- “1. *The circumstances related to the analysed issue and/or dispute can be proven using any type of means of proof, including but not limited to Match protocol, reports from referee, Match commissioner and Match delegate, testimonies and explanations of the procedure parties and witnesses, conclusions by specialists, audio and video material, other written and material evidence. [...]*
6. *Disciplinary bodies have the absolute discretion over the assessment of proof and evaluate the evidence according to your personal conviction. When assessing the proof the Bodies may regard the behaviour of the procedure parties during the hearing of the respective issue and/or dispute, especially the fact how the parties cooperates with the Disciplinary Bodies and carried out other responsibilities indicated in the Disciplinary Code”;*

Article 67 “Burden of Proof”

- “1. *The LFF and Disciplinary Bodies must prove the infringement, for which sanctions specified in the Disciplinary Code are imposed [...]*”

Article 88 “Lodging an Appeal regarding the Decisions of the Disciplinary Committee”

- “4. *Appeals regarding the decisions of the Disciplinary Committee can be submitted by the respective procedure party. Appeals regarding the decisions of the Disciplinary Committee, which imposed certain sanctions on the Club players, coaches and Officials, can be lodged by the respective Club after receiving a written consent from the respective player, coach or Official. [...]*
9. *A fee for the appeal shall be paid in the amount of EUR 600 (six hundred euro)”.*

3.6 The Dispute

76. These proceedings concern the decisions rendered by the disciplinary bodies of the LFF, which found the Players responsible (and sanctioned them) for the violations described at Article 44.3 of the Old Disciplinary Code (with respect to Match 1) and at Article 44.5 of the New Disciplinary Code (with respect to Match 2), and drew for the Club the consequences

established respectively by Article 44.6 of the Old Disciplinary Code and Article 44.7 of the New Disciplinary Code. The Appealed Decisions, in fact, are challenged by the Appellants and defended by the Respondent: the former seek to have them set aside; the latter requests the Panel to confirm them.

77. In relation to such dispute, a number of issues have been raised by the parties. In essence, the Appellants (i) dispute in general terms the rules under which they were sanctioned, (ii) submit that such rules were not properly applied in their specific case, and (iii) contend that violations of their rights were committed in the disciplinary proceedings at LFF level.
78. The Panel shall examine all those issues.
79. Preliminarily, however, the Panel finds it crucial to identify the proper meaning and function of the rules contemplated by Article 44 of both versions of the Disciplinary Code, under which the Appellants were sanctioned. Such exercise, in fact, appears to be essential for a correct evaluation of the Appellants' claims, and eventually for the correct application of the rules at stake.
80. In that regard, the Panel notes that even though the wording of the rules somehow evolved from the Old Disciplinary Code to the New Disciplinary Code, their substance remained unchanged, both with respect to the description of the infringements relevant in this arbitration and, to a large extent, with regard to the sanctions to be applied in their regard. As a result, the meaning and the function of the rules contemplated by Article 44 in the two versions of the Disciplinary Code remained the same.
81. Those rules, in the Panel's opinion, contemplate two distinct disciplinary infringements:
 - i. the first is provided by Article 44.1 of the Old Disciplinary Code and of the New Disciplinary Code, and consists in the actual commission of match-fixing, *i.e.* of the "*direct or indirect taking of, asking, request, suggestion, supply, agreeing to supply or agreeing to take any type of a reward, which could be perceived as a tool to influence the result or the course of the Match, or any such attempt to influence the results or the course of the Match by way of infringing the sport ethics and/or principles of fairness*" (Old Disciplinary Code) or of "*any type of behavior damaging or possibly causing damage to the integrity (fair play) of the Competition and/or Matches, including but not limited to infringement of the principles of sports ethics, and behavior influencing or possibly impacting the results and/or the course of the Competition and/or Matches*" (New Disciplinary Code). Such infringement is described to be a very serious disciplinary violation in both versions of the Disciplinary Code, and allows the imposition of a wide range of sanctions, *i.e.* of "*any sanctions indicated in the Disciplinary Code*";
 - ii. the second is provided by Article 44.3 of the Old Disciplinary Code and by Article 44.5 of the New Disciplinary Code, and consists in the presumed commission of match-fixing. For such infringement to be found on the part of a player, two factual conditions need to be satisfied: (a) match-fixing is established; and (b) a behaviour of the player in question during the match is identified, which allows the presumption that such player could be responsible of match-fixing. In such a case, the sanctions of suspension for a given number of matches or of a ban to take part in football-related activities of a limited period

of time are contemplated.

82. The fact that two distinct disciplinary infringements are contemplated is confirmed, in the Panel's view, by Article 44.10 of the Old Disciplinary Code and by Article 44.9 of the New Disciplinary Code: Article 44.3 of the Old Disciplinary Code and Article 44.5 of the New Disciplinary Code can apply only if the conditions for the application of Article 44.1 of the Old Disciplinary Code and of the New Disciplinary Code are not satisfied.
83. In other words, the Panel does not consider Article 44.1 of the Old Disciplinary Code and of the New Disciplinary Code, on one side, as describing the same infringement (match-fixing) as Article 44.3 of the Old Disciplinary Code and Article 44.5 of the New Disciplinary Code, on the other side. More specifically, the Panel does not consider that those provisions describe the same violation, sanctioned however in a different measure depending on the degree of evidence available as to the involvement of the player in question: a larger sanction, if there is evidence that the player actually committed the violation, a reduced sanction, if the evidence allows only a presumption of commission of that violation. Such conclusion, in the Panel's opinion, would be absurd: either a violation is established or it is not – and it is not possible to sanction a player, even with a lower sanction, only because the hearing body is not entirely convinced of the player's responsibility.
84. As mentioned, the two distinct infringements are subject to different conditions: while in both cases the manipulation of the match is required, Article 44.1 of the Old Disciplinary Code and of the New Disciplinary Code requires the direct involvement in the manipulation of the player in question, whereas Article 44.3 of the Old Disciplinary Code and Article 44.5 of the New Disciplinary Code is subject to the finding of a "suspicious" conduct of that player during the match in question. However, no different standards of evidence apply: in both cases, the hearing body (the disciplinary bodies of the LFF and the CAS) must evaluate the available evidence according to the "*personal conviction*", *i.e.* must be reasonably satisfied that the factual elements of the infringement are proved. What is different is the circumstance to be proved: a direct involvement in the first case, an "anomalous" behaviour in the second case.
85. From the evidentiary point of view, in addition, the Panel notes some peculiarities of the infringement contemplated by Article 44.3 of the Old Disciplinary Code and by Article 44.5 of the New Disciplinary Code:
 - i. it is for the LFF to prove that the elements of the infringement are met (Article 67.1 of both versions of the Disciplinary Code). However, the "suspicious" conduct of a player during a manipulated match (which gives rise to the player's responsibility for presumed match-fixing) can be proved on the basis of "*the analysis of the Match*". In fact, as made clear by Article 56.7 of the Old and of the New Disciplinary Code, the conclusions of the Experts that the behaviour of a player during a match allows the assumption that such a player could have committed the infringement of match-fixing constitutes the basis for applying the sanctions established for presumed match-fixing;
 - ii. once the presumption is established, it is for the player in question to rebut it, by offering contrary evidence proving that his behaviour cannot ground the conclusion that he committed the infringement contemplated by Article 44.3 of the Old Disciplinary Code

and by Article 44.5 of the New Disciplinary Code.

86. In light of the foregoing, the Panel can now examine the Appellants' submissions.
87. The first question, raised by the Appellants, concerns the compatibility of the infringement contemplated by Article 44.3 of the Old Disciplinary Code and by Article 44.5 of the New Disciplinary Code with some fundamental principles, as expressed by the ECHR, the Lithuanian Constitution and the Lithuanian public policy. More specifically, according to the Appellants, it would be inconsistent with the presumption of innocence to punish an individual only for a suspicious conduct, and without evidence of illegal conduct.
88. In the Panel's opinion, however, such criticism is based on the assumption that actual manipulation and presumed manipulation are the same infringement, proved to two different levels. Such assumption, though, cannot be admitted (see § 83 above): the Players were sanctioned because they were found guilty of the infringement contemplated by Article 44.3 of the Old Disciplinary Code and by Article 44.5 of the New Disciplinary Code on the basis of the evidence which under the Disciplinary Code allows such conclusion (the reports of the Experts and of BFDS); they were not sanctioned for the infringement of actual manipulation of the basis of a mere suspicion.
89. In any case, the Panel notes that the rules in question (Article 44.3 of the Old Disciplinary Code and Article 44.5 of the New Disciplinary Code) allow the player to offer contrary evidence, disproving the commission of the infringement of presumed manipulation. Therefore, they cannot be said to provide for a sanction on the basis of a mere suspicion: evidence has to be offered by the LFF to ground the finding of an infringement; and evidence can be brought by the accused player to contradict the LFF's submissions. Such mechanism appears to the Panel to be in perfect line with the fundamental principles invoked by the Appellants, however (i) doubtful, in the Panel's opinion, is the application of principles of criminal law to disciplinary proceedings in sports-related matters, and (ii) unsubstantiated is the Appellants' reference to Lithuanian public policy.
90. The second group of issues raised by the Appellants concerns the application of Article 44.3 of the Old Disciplinary Code and of Article 44.5 of the New Disciplinary Code to the case at stake. In essence, the Appellants submit in fact that there is no evidence that the Matches were fixed; that there are no elements justifying the conclusion that their conduct at the Matches allows the presumption of the commission of match-fixing by them; and that it was not possible to sanction the Players under Article 44.3 of the Old Disciplinary Code and Article 44.5 of the New Disciplinary Code because the conditions therein established are not met.
91. Contrary to the Appellants' submissions, the Panel notes that it is entirely in line with the Disciplinary Code (and it is more specifically expressly consistent with Article 44.10 of the Old Disciplinary Code and with Article 44.9 of the New Disciplinary Code) to hold a player responsible for presumed match manipulation when the finding of actual match manipulation is not possible: in other words, the LFF's disciplinary bodies were perfectly entitled to sanction the Players under Article 44.3 of the Old Disciplinary Code and Article 44.5 of the New Disciplinary Code in the absence of evidence of their responsibility under Article 44.1 of both

versions of the Disciplinary Code. Actually, the Appealed Decisions found that the Matches had been fixed for betting purposes, and that the Player's conduct was such as to allow the finding of presumed match-fixing, in the absence of evidence of actual match-fixing. Therefore, the conditions indicated by Article 44.3 of the Old Disciplinary Code and by Article 44.5 of the New Disciplinary Code were considered to be satisfied, and the Players (and the Club) could be sanctioned.

92. In that respect, the Panel agrees with the conclusions of the Appealed Decisions and, contrary to the Appellants' contentions, notes that the conditions for the application of Article 44.3 of the Old Disciplinary Code and of Article 44.5 of the New Disciplinary Code were satisfied. In fact, in the Panel's opinion, it is established that:
- i. the Matches had been manipulated. The evidence adduced by the LFF in fact shows, to the satisfaction of the Panel, that suspicious betting activities took place with regard to the Matches. For the reasons stated by BFDS in its reports, and most convincingly explained by Mr Peaker in his deposition at the hearing, the anomalies in the betting patterns were abundant and inexplicable – if not by the reason that the punters knew in advance the result of the Matches. In that regard, the Panel notes that the abnormality of the movements in the betting markets (pre-match and live, with respect to Match 2) is not disputed as such by the Appellants, that only challenge the link between betting anomalies and match manipulation, but offer no alternative plausible explanation of the suspicious betting patterns;
 - ii. a behaviour of the Players during the Matches was identified, which allows the presumption that the Players could be responsible of match-fixing. In that regard, the Panel finds convincing the explanations given by the Experts, which were not contradicted by the Players beyond their own words. Actually, the Players did not offer any other opinion and/or evidence to disprove the Experts' conclusions. The fact that no player of FK Siauliai was investigated is in that context irrelevant, since it is obvious that in order to fix a match the involvement of the losing team's players is necessary, and the potential liability of the players of FK Siauliai would not exclude anomalies in the behaviour of the Club's players. In any case, the Panel had the opportunity to review the video of the matches and agrees with the Experts conclusions for each of the Players. As a result, the fact that the reports of the Experts were undated and (initially) did not indicate the names of the Experts is irrelevant: indeed, when the identity of the Experts was eventually disclosed, the Appellants did not challenge their qualification and expertise.
93. The finding that infringements under Article 44.3 of the Old Disciplinary Code and under Article 44.5 of the New Disciplinary Code were committed implies the finding of a responsibility of the Club in accordance with Article 44.6 of the Old Disciplinary Code and Article 44.7 of the New Disciplinary Code.
94. The third group of issues raised by the Appellants concerns the LFF disciplinary proceeding, affected, according to the Appellants, by "*serious defects*", by a prejudice against the Club and the Players and by the disregard of the Appellants' rights.

95. In this respect, the Panel notes that, according to Article R57 of the Code, the Panel has full power to review the facts and the law. The Panel consequently hears the case *de novo* and is not limited to considerations of the evidence that was adduced before the Disciplinary Commission: the Panel can consider all new evidence produced before it. This implies that, even if a violation of the principle of due process occurred in prior proceedings, it may be cured by a full appeal to the CAS (CAS 94/129; CAS 98/211; CAS 2000/A/274; CAS 2000/A/281; CAS 2000/A/317; CAS 2002/A/378). In fact, the virtue of an appeal system which allows for a full rehearing before an appellate body is that issues relating to the fairness of the hearing before the tribunal of first instance “*jude to the periphery*” (CAS 98/211, citing Swiss doctrine and case law).

96. The Appellants have had (and used) the opportunity to bring the case before CAS, where all of the Appellants’ fundamental rights have been duly respected. At the end of the hearing, the Appellants’ counsel expressly confirmed that the Appellants had no objections in respect of their right to be heard and to be treated equally in the arbitration proceedings. Accordingly, even if any of the Appellants’ rights had been infringed upon by the LFF – but without conceding that they had actually been infringed – the *de novo* proceedings before CAS would be deemed to have cured any such infringements.

97. As a result, the Panel finds that the procedural violations alleged by the Appellants (including those alleged with respect to the reports of BFDS and of the Experts, the conduct of Mr Dunauskas, the procedures before the disciplinary bodies and the issue of the payment of the appeal fee concerning Petition 2) are not suitable to lead to the setting aside of the Appealed Decisions.

98. A final note can be made by the Panel with regard to the measure of the sanctions imposed on the Players and the Club. Even though the point was not specifically challenged by the Appellants, the Panel remarks that the sanctions were imposed in a measure consistent with the provisions of the Disciplinary Code and appear to respect the principle of proportionality, having in mind the different degree of responsibility of each of the Players.

99. In any case, this CAS Panel notes and accepts the *dictum* in the award of 21 May 2010, CAS 2009/A/1870, at para. 125, under which “*the measure of the sanction imposed by a disciplinary body in the exercise of the discretion allowed by the relevant rules can be reviewed only when the sanction is evidently and grossly disproportionate to the offence (see TAS 2004/A/547, §§ 66, 124; CAS 2004/A/690, § 86; CAS 2005/A/830, § 10.26; CAS 2005/C/976 & 986, § 143; 2006/A/1175, § 90; CAS 2007/A/1217, § 12.4)*”. However, such jurisprudence, confirmed in several other CAS awards, far from excluding or limiting the power of a CAS Panel to review the facts and the law involved in the dispute heard (pursuant to Article R57 of the Code), only means that a CAS Panel “*would not easily ‘tinker’ with a well-reasoned sanction, i.e. to substitute a sanction of 17 or 19 months’ suspension for one of 18*” (award of 10 November 2011, CAS 2011/A/2518, § 10.7, with reference to CAS 2010/A/2283, § 14.36). As a result, this Panel would find it improper to substitute, for instance, a suspension of 5 matches for one of 6 matches. The measures dictated by the disciplinary bodies of the LFF have to be left standing.

3.7 Conclusion

100. In light of the foregoing, the Panel holds that the appeal brought by the Club and the Players is to be dismissed.

ON THESE GROUNDS

The Court of Arbitration for Sport rules that:

1. The appeal filed on 17 December 2015 by Vsl Pakruojis FK, Darius Jankauskas, Arnas Mikaitis, Sigitas Olberkis, Valdas Pocevicius, Alfredas Skroblas, Donatas Strockis, Diogo Gouveia Miranda, C.H. Alexandru and Taras Michailiuk against the decisions taken on 3 September 2015 by the Disciplinary Committee of the Lithuanian Football Federation and on 7 October 2015 by the Appeal Committee of the Lithuanian Football Federation is dismissed.
2. (...).
3. (...).
4. All other motions or prayers for relief are dismissed.