



Arbitration CAS 2021/A/7957 Club Villarreal CF v. Union of European Football Associations (UEFA), award of 13 January 2022

Panel: Mr Fabio Iudica (Italy), Sole Arbitrator

Football

Disciplinary sanction for late kick-off

Need to set up a specific timing for the kick-off in a football match

Breach of UEFA Disciplinary Regulations by a club and/or a coach

Mitigating circumstances

Aggravating circumstances

- 1. The specific timing for a kick-off in a football match is not only related to the need to ensure equal rest time for the teams concerned, but involves a broad spectrum of converging interests, such as TV, advertising, organizational requirements, technical/sporting reasons.**
- 2. A club that does not adhere to the timing of the kick-off after half-time, without compelling reasons, is guilty of a breach of article 11(2) of the UEFA Disciplinary Regulations. The same is true for a coach who, as the highest authority in the dressing room, must ensure that these regulations are complied with.**
- 3. The peculiar structure of a stadium and the location of the dressing rooms, combined with the fear not to comply with new sanitary requirements, cannot serve as an excuse for not being on the pitch in time for the kick-off, nor do they constitute mitigating circumstances.**
- 4. Recidivism may be considered as an aggravating circumstance and justify the imposition of a fine and/or suspension.**

I. INTRODUCTION

- 1. This appeal is brought by Club Villarreal CF against the decision rendered by the Appeals Body of the Union of the European Football Associations (“UEFA”) on 27 April 2021 (the “Appealed Decision”), confirming the Decision issued by the UEFA Control, Ethics and Disciplinary Body (the “CEDB”) on 13 April 2021, regarding the application of disciplinary measures in relation to the findings of infringement of Article 11 (2)(h) of the UEFA Disciplinary Regulations (the “DR”), as a consequence of a delayed kick-off during a UEFA Europa League match.**

II. PARTIES

2. Club Villarreal CF (also referred to as “the Club” or the “Appellant”) is a professional football club, based in Vila-real, Spain, competing in the First League (Primera División) of the Spanish Football Championship. It is a member of the Royal Spanish Football Federation (the “RFEF”) which in turn is affiliated with UEFA.
3. UEFA (or the “Respondent”) is a union of associations, incorporated under Swiss law, having its headquarters in Nyon, Switzerland. It is the governing body of European Football. It exercises regulatory, supervisory and disciplinary functions over national federations, clubs, officials and players in Europe.

The Appellant and the Respondent are hereinafter jointly referred to as the “Parties”.

III. FACTUAL BACKGROUND

4. Below is a summary of the main relevant facts and allegations based on the Parties’ oral and written submissions on the file and relevant documentation produced in this appeal. Additional facts and allegations may be set out, where relevant, in connection with the further legal discussion. While the Sole Arbitrator has considered all the facts, allegations, legal arguments and evidence submitted by the Parties in the present proceedings, it refers in this award only to the submissions and evidence it considers necessary to explain its reasoning.
5. On 8 April 2021, the Club participated in the 2020/21 UEFA Europa League quarter final match against GNK Dinamo (the “Match”) at the Stadion Maksimir in Zagreb, Croatia (the “Stadium”).
6. Pursuant to the match schedule provided in the “*Countdown to Kick-off*” sheet, the kick-off of the Match was scheduled at 21:00 CET. Moreover, both teams were expected to leave their dressing rooms for the second half of the game at 11 minutes after the end of the first half and to be back to the pitch at the latest by 14 minutes and 30 seconds after the end of the first half, with the kick-off for the second half being expected after exactly 15 minutes break.
7. According to the UEFA Match Delegate Report (the “Match Report”), “*There was a late restart of the second half. Home team respected the countdown. However, the away team, Villarreal CF, was late on the pitch for the second half. As a result, the second half started 2’43” late. All the Villarreal CF players entered the pitch after more than 15’, the last Villarreal player arrived 1’38” late. The last Villarreal CF player was 3’05” late coming out of his dressing room*”.
8. On 9 April 2021, UEFA informed the Club that disciplinary proceedings had been opened against the latter before the UEFA CEDB in accordance with Article 55 of the UEFA DR because of the potential infringement of Article 11 (2)(h) DR being reported by the UEFA officials in the Match Report.
9. The Club was invited to provide its position and relevant documentation in the CEDB proceedings within 12 April 2021.

10. Basically, in its statements of defence, the Club admitted there was a 2'43" delay in the restart of the second half of the Match because the Club's team was late on the pitch after the halftime. However, the delay was not attributable to the Club, but to the unfavourable location of the away team dressing room because of the long distance between the latter and the pitch, compared to the home team dressing room. Therefore, according to the Club, the away team objectively needed a significantly higher amount of time to reach the dressing room from the pitch (and vice-versa), in comparison to the home team and therefore, the Club could not be held responsible for not complying with the relevant timings.
11. On 15 April 2021, the UEFA CEDB rendered its decision (the "CEDB Decision") by which a fine of EUR 10,000 was imposed on the Club for being responsible for the late kick-off and the Club's Coach was suspended for one UEFA club competition match, for being responsible as well. Such suspension was deferred for a probationary period of one year starting from the date of the said decision.
12. The operative part of the CEDB Decision reads as follows:

"To fine Villarreal CF € 10,000 for being responsible for the late kick-off.

The above fine must be paid into the bank account indicated below within 90 days of communication of this decision.

To suspend Villarreal FC coach, Mr. Unai Emery, for one (1) UEFA club competition match in which he would otherwise participate, for being responsible for the late kick-off. Said suspension is deferred for a probationary period of one (1) year, starting from the date of the present decision.

Villarreal CF ensures that its coach is personally informed of this decision".
13. The CEDB Decision with grounds was notified to the Parties on 15 April 2021.
14. On 19 April 2021, the Club announced its intention to lodge an appeal against the CEDB Decision and further filed its grounds for appeal on 23 April 2021.
15. In its statement, the Club basically reiterated the arguments already put forward before the CEDB: that, due to the long distance between the pitch and the away team dressing room, the team needed at least 3 or 4 minutes to go back to the dressing room after the halftime and the same amount of time to go back to the pitch; in addition, according to the UEFA Return to Play Protocol (the "RTPP"), the Club was instructed to let the home team leave their dressing room first, in order to avoid congregating in the tunnel because of the Covid-19 measures; therefore, the compliance with such instruction prevented the Club to arrive on time on the pitch after the break.
16. On 27 April 2021, the UEFA Appeals Body rendered the Appealed Decision by which the appeal was rejected and the CEDB Decision was confirmed.
17. On 3 May 2021, the grounds of the Appealed Decision were served by facsimile to the Parties.

IV. GROUNDS OF THE APPEALED DECISION

18. The grounds of the Appealed Decision can be summarized as follows:

- Firstly, the Appeals Body considered that it was competent to deal with the present case based on Article 30(3) DR.
- With regard to the legal framework, the following provisions were considered to be relevant to the present matter:

Article 11 DR, according to which “[...] clubs, as well as their players, officials and members, [...] must respect the Laws of the Game, as well as UEFA’s Statutes, regulations, directives and decisions, and comply with the principle of ethical conduct, loyalty, integrity and sportsmanship. For example, a breach of these principles is committed by anyone: [...] (h) who [...] is responsible for a late kick-off [...]”.

Article 45 DR, establishing that “[f]acts contained in official UEFA reports are presumed to be accurate. Proof of their inaccuracy may, however, be provided”.

Article 23 DR, according to which “[t]he competent disciplinary body determines the type and extent of the disciplinary measures to be imposed in accordance with the objective and subjective elements of the offence, taking account of both aggravating and mitigating circumstances. [...] Disciplinary measures can be reduced or increased by the competent disciplinary body on the basis of the circumstances of the specific case. [...]”; in combination with Article 6(5) DR, providing for the application of standard disciplinary measures for certain offences.

Article 15.6 RTPP, which establishes that “At half-time and before the second half the teams should again avoid congregating in the tunnel and must instead exit directly to the pitch according to the timings indicated in the match countdown”.

The Court also considered Article 25 DR in relation to recidivism as an aggravating circumstance, and Article 26 DR which establishes the possibility to suspend disciplinary measures with the application of the probationary period.

- For the purpose of deciding the present case, the Appeals Body addressed the issue whether the Club and the Coach should be considered responsible for the late kick-off and whether the sanction imposed by the CEDB was adequate in relation to the offence.
- Based on the Match Report, the Appeals Body deemed that the delayed kick-off was solely caused by the Appellant’s team, noting that the Club itself admitted that its players arrived late on the pitch after half time.
- With regard to the Appellant’s arguments that the Club was a victim of various adverse circumstances in connection with the location of the away team dressing room at the Stadium, the Appeals Body recognized that GNK Dinamo had modified its approach to the Match due to the sanitary crisis and that, for this reason, while the home team dressing room was located on the ground floor of the Stadium, the away team dressing room had

been relocated on the first floor. As a consequence, the Appellant team had a longer way that the home team towards their respective dressing room.

- The Appeals Body recalled that, due to the pandemic emergency, many clubs had to readjust their facilities in order to comply with the UEFA RTTP, giving priority to the health of all participants in UEFA competitions. In such context, every team participating in UEFA competitions already knows prior to every match the particular situation of their dressing room within the relevant stadium and has to accept the specific measure adopted by the match organizer due to the Covid-19 pandemic.
- With regard to the instructions set forth under Article 15.6 RTTP, the Appeals Body was not persuaded by the Appellant's argument that the team "*was waiting at the entrance of the passage for the members of the Home team to come out first to avoid congregating in the corridors...*", since this circumstance is not consistent with the fact that "*the last Villarreal CF player was 3'05" late coming out of his dressing room*", also considering that the home team did not report late on the pitch after half time, even if they had to walk the same tunnel.
- In this regard, "*The Appeals Body is truly convinced that waiting for the home team to arrive (on time) on the pitch does not take longer than 3 minutes. The Appeals Body also considers that in order to avoid congregating in the tunnel, the Appellant team could have perfectly exited the dressing room on time, and wait before the entrance of the tunnel leading to the field of play*".
- Moreover, the court noted that the delayed kick-off occurred in the second half when the team already knew the distance between the dressing room and the pitch, therefore, the location of the away team dressing room was not considered as a mitigating circumstance in the present matter. In addition, both teams were believed to have the same amount of time to rest during the break.
- With regard to the consequences of the offence, the Appeals Body recalled that a late kick-off has an impact not only on the players, but on the match itself, and on all the stakeholders involved in the smooth running of the match which is the reason why the tight timing and relevant deadlines are of essence.
- Concerning the responsibility of Mr Unai Emery, the Appeals Body concurred with the CEDB that it was up to the Appellant's Coach to decide on the half-time timing, being the highest authority in the dressing room, and that he should have adapted the team half time behaviour in order to avoid a late kick-off, in view of the specific circumstances of the Stadium infrastructure, which was known by the Appellant.
- Further, the Club and its Coach had already been sanctioned before for the same offence and, therefore, they were perfectly aware of the UEFA regulations on this matter.
- As a consequence, it was concluded that both the Club and its Coach were responsible for breaching Article 11(2)(h) DR.

- With regard to the sanctions imposed by the CEDB, the Appeals Body recalled that the case at hand represents the second late kick-off committed by the Club in the last three years and the second one committed by its Coach within the last year which represents an aggravating circumstance according to Article 25(2) DR. Moreover, the Appeals Body deemed that there was no particular reason in the present case that could justify the imposition of other sanctions than those applied by the CEDB in accordance with its longstanding practice.

V. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT

19. On 12 May 2021, the Appellant filed its Statement of Appeal with the Court of Arbitration for Sport (the “CAS”) against the Respondent with respect to the Appealed Decision, in accordance with Articles R47 and R48 of the Code of Sports-related Arbitration, 2020 edition (the “CAS Code”). The Appellant nominated Mr Fabio Iudica, Attorney-at-law in Milan, Italy, as an arbitrator.
20. On 26 May 2021, the Respondent proposed that the present matter be submitted to a sole arbitrator and suggested the appointment of Mr Fabio Iudica as such. The Appellant agreed with this suggestion.
21. On 28 May 2021, the CAS Court Office informed the Parties that Mr Fabio Iudica, Attorney-at-law in Milan, Italy, had been appointed as a sole arbitrator in the present proceedings.
22. On 2 June 2021, the Appellant filed its Appeal Brief on 2 June 2021, pursuant to Article R51 of the CAS Code.
23. On 30 June 2021, the Respondent filed its Answer, pursuant to Article R55 of the CAS Code.
24. On 9 July 2021, after having consulted the Parties, the CAS Court Office informed them that the Sole Arbitrator had decided to hold a hearing in this matter.
25. On 27 July 2021 the CAS Court Office forwarded the Order of Procedure to the Parties; which was returned in duly signed copy by the Appellant and the Respondent respectively on 28 July 2021.
26. On 8 September 2021 a hearing took place in these proceedings, with the participation of the following persons, in addition to the Sole Arbitrator and Mr Antonio De Quesada, CAS Head of Arbitration, all attending remotely via videoconference:
 - For the Appellant: Mr Juan de Dios Crespo Pérez and Mr Gytis Račkauskas, Counsels, Mr José Javier Jiménez Orzáez, Team Manager; Mr Unai Emery, the Club’s Coach, as a witness.
 - For the Respondent: Mr William McAuliffe, Senior Legal Counsel; Paul-Antoine Dumond, Disciplinary Lawyer.

27. At the outset of the hearing, the Parties confirmed that they had no objection in relation to the composition of the Arbitral Tribunal and that the Sole Arbitrator has jurisdiction over the present dispute. In their opening statements, the Parties reiterated the arguments already put forward in their respective written submissions.
28. The Club's Coach, Mr Unai Emery, was heard by the Sole Arbitrator and insisted that Villarreal's squad had to wait until the home team had made their entrance onto the pitch before exiting the dressing room, in turn, and that there was no strategy in returning late on the pitch after the first half. Mr Emery also specified that it is up to the Team Manager to decide the timings, although it is the Coach who has the final responsibility in case of delay. Answering a question by the Sole Arbitrator, Mr Emery affirmed he did not remember whether there was a specific reason why the last player of Villarreal was 1'38" late on the pitch after half time. The Club's Team Manager, Mr José Javier Jiménez Orzáez, confirmed that the team's delay was caused by the longest distance between the pitch and the away team dressing room. In addition, the Appellant contended that there is no certainty as to the moment in which the UEFA Official gave the instruction to the teams to return on the pitch after the first half, as there is no written evidence about this "*starting moment*".
29. The Respondent insisted that, with regard to the order to leave the dressing room after the first half, the Match Report, which was not challenged by the Appellant, and is therefore presumed to be accurate, says that there was a late restart of the second half and that the Appellant's team was late on the pitch. Besides, in the Coach written statement submitted by the Appellant with the Appeal Brief, there is no reference to any UEFA Official who was allegedly in charge of giving the instruction to leave the dressing room and return onto the pitch. Had both teams left their dressing room at +11' after half time, they would have not congregated and would have both returned on the pitch on time. In this regard, the Respondent affirmed that the plausible time needed to walk the distance between the dressing room and the pitch is about 2' and 3", considering the timing of Villarreal's last player to return on the pitch. With regard to the further delay in the restart of the Match, UEFA explained that it was due to a player's substitution.
30. Before the hearing was concluded, the Parties expressly stated that they did not have any objection to the procedure adopted by the Sole Arbitrator and that their rights to be heard and to be treated equally had been duly respected.

VI. SUBMISSIONS OF THE PARTIES

31. The following outline is a summary of the Parties' arguments and submissions which the Sole Arbitrator considers relevant to decide the present dispute and does not comprise each and every contention advanced by the Parties. The Sole Arbitrator has nonetheless carefully considered all the submissions made by the Parties, even if no explicit reference has been made in this summary. The Parties' written and oral submissions, documentary evidence and the content of the Appealed Decision were all taken into consideration.

A. The Appellant's Submissions and Requests for Relief

32. The Appellant's submissions in its Statement of Appeal and in its Appeal Brief, may be summarized as follows.
33. Although the Appellant does not challenge the findings of the Match Report and the Referee Report with regard to the late restart of the second half by 2'43", UEFA judicial bodies have failed to assess some key facts which were nevertheless exhaustively presented by the Appellant, demonstrating that neither the Club nor its Coach can be held responsible for the late kick-off during the Match.
34. In fact, the reasons for the delay are not attributable to the Appellant or its Coach, as the Club took all the required measures to return on the pitch in due course, but it was victim of some adverse circumstances which acted independently from the Club's conduct in causing the late kick-off.
35. The different location between the dressing room of the away team (on the first floor, above the tunnel) and the home team (on the ground floor) played a crucial role. In fact, it was impossible to respect the timing after the half time without avoiding congregation with the other team in the technical areas of the Stadium, which would result in the violation of the RTPP; therefore, the return of the Club's team on the pitch was dependant on the return of the home team. Pursuant to the RTPP, at half time, the Club was instructed to allow the home team to leave their dressing room and return on the pitch first; however, the Club's team *"was not able to return on the pitch after the half-time at the same time as the member of the <Home team> without having congregating with them in the technical area of the stadium. Therefore, our squad was completely dependent on the halftime behaviour of the <Home Team> which had to return first"* (witness statement of the Appellant's Coach, Annex 8 to the Appeal Brief).
36. Since the away team dressing room is located on the first floor above the tunnel, while the home team dressing room is positioned on the ground floor, the Club's team had *"to pass a long corridor through the <Home team> dressing room, go downstairs and then continue through extremely long tunnel, leading to the pitch. The entrance to the tunnel is designed behind the goal"*; in such context, although the Club's team was ready to return on the pitch in due course after half-time, it was obliged to wait at the entrance of the corridor for the players of the home team to exit first, to avoid congregating in the technical areas and ensure the compliance with the RTPP.
37. As a consequence, due to the different positioning of the dressing room of the away team and the home team, the Appellant argued the following: a) the impossibility to return to the pitch after the half-time earlier without congregating with the home team in the technical area of the Stadium; b) the disparity between the two squads in terms of the amount of time necessary to reach the pitch.
38. Therefore, the late return on the pitch is merely attributable to the specificities of the Stadium facilities combined with the need to comply with the provisions of the RTPP: *"In other words, Villarreal FC had to choose whether to wait for the Home Team to return on the pitch first (and accordingly arrive late); or congregate with the Home Team squad in the corridors of the stadium and tunnel and arrive on*

time, but violate the UEFA Return to Play Protocol instead, thus putting at risk the health of all the participants in the competition in light of the pandemic” (Appeal Brief, para 29).

39. In any event, the short delay did not result in the away team resting longer than the home team, due to the long distance between the pitch and the dressing room of the away team. Considering that the bench of the away team was situated in the furthest part from the entrance of the tunnel, the team of the Appellant needed at least 3-4 minutes to go back to the dressing room after the half-time and the same amount of time to return to the pitch. Therefore, the away team objectively needed a significantly higher amount of time to reach the dressing room from the pitch and vice-versa, in comparison to the home team. As a consequence, the principle of equal treatment and opportunities with respect to the time of preparation, has not been violated.
40. In addition, both the CEDB and the Appeals Body have failed to consider that, while the last Villarreal player arrived on the pitch 1’38” late, the second half of the Match started 2’43”, without the UEFA Match Delegate specifying the reasons of the additional delay in the Match Report.
41. Furthermore, the last Villarreal player’s 3’05” delay in coming out of the dressing room was not the reason why the Club’s team returned late on the pitch after the half-time, since the squad had to wait for the home team doing that first, in order to avoid congregating; for the same reason, the Appellant’s team could not have left the dressing room earlier and waited for the home team before the entrance of the tunnel. Since the last Villarreal’s player arrived on the pitch 1’38” after the half-time, *“This was the time needed for the full squad of Villarreal CF to get back on the pitch after the last member of the Home Team returned on the pitch after the Half-time”* (Appeal Brief, para 54).
42. In view of the above, there is no culpable conduct attributable to the Appellant corresponding to a breach within the meaning of Article 11(2)(h) DR. On the contrary, the Club was penalized *“for an attempt to comply with the Return to play regulations, issued in order to secure the health of all the participants of the competitions”*.
43. In case any culpable conduct is established on the Appellant in relation to the late kick-off after the half-time, all the above circumstances should be considered as mitigating factor in favour of the reduction to the minimum of any otherwise applicable sanctions (such as a warning).
44. In its Appeal Brief, the Appellant submitted the following requests for relief:
 1. *To order the UEFA to produce a copy of the complete UEFA Appeals Body case file related to the Decision;*
 2. *To accept this Statement of appeal against the Decision;*
 3. *to call José Javier Jiménez Orzáez and Unai Emery as witnesses to the hearing;*
 4. *to annul the Decision and to issue the new decision, which replaces the Decision, i.e.*

- (i) *to overturn the decision of the UEFA Control, Ethics and Disciplinary Body with the Ref. Nr. 34336/pdu5 - UEL – 2020/21, passed on the 13th of April 2021 and notified with grounds to Villarreal CF on the 15th of April 2021;*
 - (ii) *to declare that the Appellant and its Head Coach Mr Unai Emery did not infringe the Article 11(2)(b) of the UEFA Disciplinary Regulations;*
or alternatively,
 - (iii) *to reduce any otherwise applicable sanction to minimum in accordance with the provisions of the Annex A of the UEFA DR, i.e. : a warning*
- 5. *to determine any other relief the Panel may deem appropriate.*
 - 6. *to fix a sum to be paid by the Respondent, in order to contribute to the payment of the Appellant's legal fees and costs; and*
 - 7. *to condemn the Respondent to the payment of the whole CAS administration costs and arbitration fees”.*

B. The Respondent's Submissions and Requests for Relief

45. The position of the Respondent is set forth in its Answer and can be summarized as follows.

1. As to the relevant facts

- 46. Sports competitions, like many other aspects of life, have been heavily affected by Covid-19 pandemic and UEFA had to assess the new circumstances and define rules to ensure the safe running of its competitions, as the top priority was to protect the health and safety of all the stakeholders. As a result, UEFA developed the RTPP in cooperation with a group of specialists in all concerned fields, which is a set of rules outlining the framework of medical, sanitary and hygiene procedures, together with operational protocols to be applied when staging UEFA competition matches in the context of the on-going Covid 19 pandemic.
- 47. At the time of the Match, version 3 of the RTPP was in force.
- 48. In accordance with the RTPP, many clubs had to adapt their stadium facilities, and, in particular, had to modify the location of the dressing rooms and even transform their buildings outside the stadium into dressing room in order to comply with the Protocol.
- 49. In this context, pursuant to para 14.6.1 of the RTPP, GNK Dinamo as well had to find temporary solutions for the dressing rooms, and, as a consequence, the away team dressing room, which was once on the ground floor like the home team dressing room, was relocated to the first floor.

50. All the UEFA Club competition matches played in the Stadium during the season 2020/2021 were played in the new configuration, with the home team and referees dressing room on the ground floor, and the away team dressing room on the first floor.
51. On the morning of the Match, the representatives of both teams attended the Match Day Official Meeting, during which, *inter alia*, the “*Countdown to Kick-off*” was presented, according to which it was clear that both teams were to leave their dressing rooms for the second half at exactly 11 minutes after the end of the first half, to be back to the pitch “*at the latest*” by 14’30” after the end of the first half.
52. The facts reported by the UEFA Match Delegate in the Match Report with regard to the Appellant’s team delay are undisputed.

2. *As to factual inaccuracies/peculiarities in the Appeal Brief*

53. Although the Appellant contends that the team was instructed to wait for the exit of the home team before leaving the dressing room (Appeal Brief, para 22.1), it should be clarified that the only person who gave such instruction was the Club’s Coach, as it is also confirmed by the Coach’s written statement attached to the Appeal Brief under Exhibit 8. Likewise, the team had no need to “*wait at the entrance of the corridor for the members of the <Home team> to come out first*” since this assumption is denied by the Protocol and the “*Countdown to Kick-off*” (Appeal Brief para 22.4). By giving the instruction to wait until after the home team players “*had left their dressing room and return to the pitch first*”, the Appellant’s Coach instructed the team to disregard the “*Countdown to Kick-off*”. In addition, the allegation that if the Club’s team had left the dressing room at an earlier stage, both teams would have congregated in the corridors, is contradicted by the Appellant’s argument that there was a significant distance between the away team dressing room and the home team dressing room. As it is undisputed that the home team respected the countdown and left their dressing room on time, there would have been no congregation had the Appellant’s team left their dressing room at the same time as the home team.
54. The allegation according to which the Club’s team was “*objectively prevented*” from returning on the pitch at the same time as the home team without congregating in the technical areas of the Stadium (Appeal Brief para 22.2), is unfounded since there is no ceremonial procession (where the teams exit one at a time) for the start of the second half, as opposed to the kick-off for the first half. In fact, the clear instruction under the RTPP is that the teams “*must instead exit directly to the pitch according to the timings in the match countdown*” and “*avoid congregating in the tunnel*”. Moreover, such an allegation is not compatible with the Appellant’s admission that “*the [home team] returned on the pitch precisely on time*” (Appeal Brief, para 27).
55. It is not disputed that the away team dressing room is located on the first floor and, therefore, there is a slightly longer distance for the away team to walk than the home team. However, the home team has also to pass through the same stairs and tunnel as the away team. Anyway, the additional distance was by no means as significant as the Appellant suggests and, in any case, the Appellant could have raised the issue before the Match at the Match Day Official Meeting but failed to do so.

56. Likewise, UEFA disputed that the Appellant's team needed at least 3-4 minutes to go back to the dressing room after the half time and the same amount of time to return onto the pitch.
57. The allegation that the away team did not have the same time to rest after the first half as the home team is rejected, since both teams benefited from 17'42" between the end of the first half and the start of the second half.

3. *The breach of Article 11(2)(h) DR*

58. The Appellant's argument according to which violation of Article 11 (2)(h) only occurs in case of "culpable conduct" is not in accordance with the applicable interpretation of the provision which in fact provides for two distinct possibilities, where culpability is only involved in connection with the late arrival (or failure to arrive) for a match; while, on the other side, the wording "responsibility" is used in connection with a late kick-off. As a consequence, there is no necessity for "culpability" in establishing "responsibility" for a late kick-off, or, in other words, there is a sort of "strict liability" (or responsibility without fault) as provided for in Article 8 DR. The current version of the provision in question dates back to 2013 when the responsibility for a late kick-off was introduced in addition to the "culpability" which is solely connected to the fact of reporting late - or not at all - for a match.
59. In any event, there is no doubt that the conduct/omission of the Appellant caused the late kick-off, resulting in the duration of 17'42" of the half-time, as reported in the Match Report.
60. The facts described in the Match Report are presumed to be accurate according to Article 45 DR and, moreover, they were not contested, but instead endorsed, by the Appellant in the Appeal Brief.
61. The Club participated in the Match Day Official Meeting and was aware of the "*Countdown to Kick-off*" and knew that each team had to exit the dressing room precisely 11 minutes after the end of first half. The direction for the second half, which is basically unchanged from the normal procedure even in Covid-19 times, requires that players leave the dressing room at the appointed time and not congregate in the tunnel.
62. Therefore, had the Appellant's team complied with the timings of the "*Countdown to Kick-off*" and the Protocol, there would have been no risk of a late start of the second half. In this regard, it is quite telling that the Appellant is the only away team having played in the Stadium in the 2020/21 season that was sanctioned for the violation of the kick-off provision.
63. It is also to be noted that due to the positioning of the home team dressing room and the away team dressing room on different floors, the likelihood of the teams congregating in the tunnel was limited if the "*Countdown to Kick-off*" was respected and the teams left their dressing room at the appropriate times.
64. Furthermore, the contention that "*Villarreal CF squad was waiting at the entrance of the passage for the members of the <Home team> to come out first to avoid congregating in the corridors of the stadium and*

the tunnel” is incompatible with the description in the Match Report that the last Villarreal CF player was 3’05” late coming out of the dressing room.

65. Regarding the argument that the Appellant allegedly needed “*at least 3-4 minutes*” to get to the dressing room due to the longer distance to walk than the home team, is inconsistent with the Stadium infrastructure as well as with the development of the events according to the Match Report from which it results that the Appellant’s team left the dressing room 14 minutes and 5 seconds after the half-time whistle and arrived on the pitch 16 minutes and 38 seconds after the half-time whistle. “*This simply means that the Appellant’s team had (at most) a 2-minute travel from its dressing room towards the field of play*” (Answer, para 98).
66. As a further consideration, the specific timing for a kick-off in a football match is not only related to the need to ensure equal rest time to the teams concerned, but involves a broad spectrum of converging interests, such as TV, advertising, organizational requirements, technical/sporting reasons.
67. In view of the evidence above, the responsibility for the late kick-off lies entirely with the Appellant.
68. With regard to the sanctions imposed on the Appellant, the Respondent noted that according to CAS jurisprudence, the measure of a sanction imposed by a disciplinary body in the exercise of its discretion, can only be reviewed when the sanction is evidently and grossly disproportionate to the offence. In this context, the present case represents a repeated infringement according to Article 25 DR; which, in the specific case, implies the application of a standard sanction according to Article 6(5) DR in combination with Annex (AI). Therefore, the Appealed Decision is fully consistent with the applicable UEFA regulations as well as Swiss law and with the longstanding jurisprudence of UEFA’s disciplinary bodies.
69. In its Answer, the Respondent submitted the following requests for relief:
 - (a) *Dismissing the appeal filed on behalf of Villarreal CF.*
 - (b) *Confirming the Decision of the UEFA Appeals Body of 27 April 2021.*
 - (c) *Ordering Villarreal CF to pay the arbitration costs to the extent they may be applied in these proceedings.*
 - (d) *Ordering Villarreal CF to make a contribution to the legal costs and other expenses incurred by UEFA in connection with these proceedings”.*

VII. JURISDICTION

70. Article R47 of the CAS Code provides as follows:

“An appeal against the decision of a federation, association or sports-related body may be filed with CAS if the statutes or regulations of the said body so provide or if the parties have concluded a specific arbitration

agreement and if the Appellant has exhausted the legal remedies available to it prior to the appeal, in accordance with the statutes or regulations of that body”.

71. In its Statement of Appeal, the Appellant relies on Articles 62 of UEFA Statutes, as conferring jurisdiction to the CAS.
72. Article 62(1) of UEFA Statutes provides that *“Any decision taken by a UEFA organ may be disputed exclusively before the CAS in its capacity as appeals arbitration body, to the exclusion of any ordinary court or any other court of arbitration”*, while Article 62(4) provides that *“An appeal before the CAS may only be brought after the UEFA’s internal procedures and remedies have been exhausted”*.
73. The jurisdiction of the CAS was not contested by the Respondent.
74. The signature of the Order of Procedure confirmed that the jurisdiction of the CAS in the present case was not disputed. Moreover, at the hearing, the Parties confirmed they had no objection to the jurisdiction of CAS.
75. Accordingly, the Sole Arbitrator is satisfied that CAS has jurisdiction to hear the present case.

VIII. ADMISSIBILITY OF THE APPEAL

76. Article R49 of the CAS Code provides the following:
77. *“In the absence of a time limit set in the statutes or regulations of the federation, association or sports-related body concerned, or of a previous agreement, the time limit for appeal shall be twenty-one days from the receipt of the decision appealed against”*.
78. According to Article 62(3) of the UEFA Statutes *“[t]he time limit for appeal to the CAS shall be ten days from the receipt of the decision in question”*.
79. The Sole Arbitrator notes that the UEFA Appeals Body rendered the Appealed Decision on 27 April 2021 and that the grounds of the Appealed Decision were notified to the Parties on 3 May 2021. Considering that the Appellant filed its Statement of Appeal on 12 May 2021, *i.e.* within the deadline of 10 days set in the UEFA Statutes, the Sole Arbitrator is satisfied that the present appeal was filed timeously.
80. The admissibility of the appeal is not disputed by the Respondent.
81. Accordingly, the Sole Arbitrator is satisfied that the appeal is admissible.

IX. APPLICABLE LAW

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

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

83. A to the applicable law, the Appellant refers to Article 5 of the UEFA DR, which establishes that *“the disciplinary bodies base their decisions: a. primarily on UEFA’s Statutes, regulations, directives and decisions, and the Laws of the Game; and b. subsidiarily on Swiss law and any other law that the competent disciplinary body deems applicable”.*
84. In consideration of the above and pursuant to Article R58 of the CAS Code, the Sole Arbitrator holds that the present dispute shall be decided principally according to UEFA rules and regulations, in particular, the UEFA DR Edition 2020, with Swiss law applying subsidiarily.

X. LEGAL ANALYSIS

85. With regard to the merits of the present case, the Sole Arbitrator observes that the facts described in the Match Report with respect to the late kick-off in the second half of the Match has remained undisputed by the Parties.
86. In fact, the following circumstances are not contested by the Appellant:
- a) that the last Villarreal player was 3’05” late coming out of the dressing room; b) that the last Villarreal player arrived on the pitch 1’38” late; c) that the Club was late on the pitch for the second half since all the Club’s players entered the pitch after more than 15’; d) that there was a late restart of the second half (by 2’ 43”).
87. It is also undisputed that, on the contrary, the home team respected the timing provided in the *“Countdown to Kick-off”*.
88. As a consequence, and in consideration of Article 45 DR, the Sole Arbitrator considers the fact-finding established by the Match Report to be accurate and of crucial importance in view of deciding the present case.
89. On the other side, the Sole Arbitrator notes that what is disputed in the present case is whether the Club should be considered liable for the late kick-off pursuant to Article 11(2)(h) DR and whether the sanctions imposed by the Appealed Decision are appropriate, which is contested by the Appellant.
90. The Sole Arbitrator recalls that, according to the Appellant, there is no culpability in the late return of the Club’s team on the pitch after the first half causing the late kick-off, because there was no objective possibility for the team to return in due course without congregating with the home team in the technical areas of the Stadium, in violation of the requirements of the RTPP V3, namely, Para 15.6. According to the Appellant, such impossibility resides in the different positioning of the dressing room of the two squads resulting from the reorganization

of the Stadium facilities due to Covid-19 measures. In addition, the Appellant maintains that, in view of the RTPP, during half-time, the team was instructed to wait at the entrance of the corridor in order to allow the home team leaving their dressing room and return on the pitch first, before doing the same, which allegedly caused the late-kick-off.

91. In short, the Appellant objects that it was prevented from being on the pitch on time after half-time of the Match because of the following adverse circumstances: a) the specific structure of the Stadium and the location of its dressing room with respect to the home team dressing room, combined with b) the requirements of the RTPP with regard to the need to avoid congregation in the tunnel.
92. On the other side, the Respondent objects that the specificity of the Stadium infrastructure cannot justify the failure by the Club to comply with the Match timings according to the *“Countdown to Kick-off”*; that the Club was already aware of the location of its dressing room compared to the home team dressing room and of the distance between the dressing room and the pitch; that, had the Club respected the indicated timings, there would have been no congregations of the two squads in the technical areas of the Stadium and no delayed kick-off; that, the additional distance between the away team dressing room than the home team dressing room is not as significant as the Appellant suggests and that the Club’s team did not need 3-4 minute to walk the distance from the dressing room to the pitch (and vice-versa).
93. In this framework, the Sole Arbitrator notes that, according to the provision of para 15.6 of the RTPP V3, match operations with regard to the entrance of the squads onto the pitch have been modified as follows: *“Teams will not line up together in the tunnel as usual before the opening ceremony to avoid congestion in the tunnel area. Teams must therefore exit the dressing room directly to the pitch one team at a time for the on-field pre-match line-up”* and also: *“At half-time and before the second half the teams should again avoid congregating in the tunnel and must instead exit directly to the pitch according to the timings indicated in the match countdown”*.
94. It is hereby recalled that, according to the *“Countdown to Kick-off”*, both teams had to leave their dressing room for second half 11 minutes after the half time and return to the pitch 14’30” after the half time, at the latest, as the kick-off of the second half was scheduled after exactly 15 minutes break, in accordance with Article 13.01 of the Regulations of the UEFA Europa League 2018-21 Cycle, 2021/21 Season (the *“Europa League Regulations”*).
95. The Club was aware of such timings, of the location of the away team dressing room and distance from the pitch and did not raise any objections thereto. In this regard, the Sole Arbitrator observes that, pursuant to Article 24.01 of the Europa League Regulations, clubs must submit to UEFA administration any doubt that may arise with regard to a match schedule, in view of any change that could be made to the match schedule, also concerning the kick-off time.
96. Therefore, the Sole Arbitrator first considers that, although the Club claims having been prevented from complying with the Match timings without breaching the RTPP, it has failed to meet its burden to notifying the UEFA administration thereof.

97. Regardless of the foregoing, the Appellant did not provide any convincing evidence of the *“impossibility to return on the pitch after the half time earlier without having congregating with the squad of the <Home Team> in the technical area of the Stadium”*.
98. In this regard, the Sole Arbitrator notes that, in consideration of the positioning of the dressing room of the away team (on the first floor) and the home team (on the ground floor), if both teams had left their dressing room at 11 minutes after half time pursuant to the *“Countdown to Kick-off”*, or at least at the same time, it could have been hardly possible for the two squads to congregate in the tunnel or in the technical area of the Stadium.
99. On the contrary, there was no need to allow the home team returning to the pitch first, as alleged by the Appellant, besides the fact that the relevant instruction given by the Coach was contrary to the prescribed timings according to the *“Countdown to Kick-off”*. Incidentally, the Sole Arbitration clarifies that according to the evidence on file, the instruction to wait for the home team to reach the pitch first, before exiting the dressing room was an exclusive initiative of the Club’s Coach, which finds no support in any indication by any UEFA officials.
100. Since the home team dressing room was apparently nearer the entrance of the tunnel, and since the Club’s team had to walk downstairs to reach the entrance of the tunnel, it would have sufficed for the Club’s team to leave the dressing room as soon as (or shortly after) the home team had exited their dressing room in order to arrive on time onto the pitch without violating the provisions of the RTPP.
101. As a consequence, the 3’05”-minute delay in leaving the dressing room is completely unjustified.
102. With regard to the Appellant’s responsibility for the late kick-off, UEFA maintains that there would be no need of a *“culpable conduct”* in contrast with the Appellant’s allegation, since the *“responsibility”* invoked by Article 11(2) DR in connection with a late kick-off implies the concept of *“strict liability”* (or responsibility without fault).
103. The Sole Arbitrator recalls that the relevant provision reads as follows:

“(1) Member associations and clubs, as well as their players, officials and members, and all persons assigned by UEFA to exercise a function, must respect the Laws of the Game, as well as UEFA’s Statutes, regulations, directives and decisions, and comply with the principles of ethical conduct, loyalty, integrity and sportsmanship. (2) For example, a breach of these principles is committed by anyone: ... (b) who culpably reports late – or not at all – for a match, or is responsible for a late kick-off”.
104. As a matter of fact, the Sole Arbitrator notes that the wording is far from being unequivocal and could be subject to different interpretations. According to the literal interpretation, the first type of offence (reporting late, or not at all, for a match), would entail the necessary investigation of the subjective element of the conduct and, therefore, UEFA would have the burden to prove that the offence was committed with fault or negligence. On the contrary, with regard to a late kick-off, the wording of the provision suggests that the violation occurs irrespective of such investigation and therefore liability would be presumed, while the club (or

other subject) would have the burden to rebut such presumption and prove that it has taken all the possible measures to avoid the offence.

105. Notwithstanding the above, the Sole Arbitrator believes that establishing the correct interpretation of Article 11(2)(h) is not necessary for the purpose of deciding the present case since the facts at stake are clear enough to establish that the late kick-off occurred due to the Club's conduct which deliberately decided to not adhere to the requested timings after half time and moreover there is no evidence on file that the Club was objectively prevented from returning on the pitch in due time after half-time, in consideration of all the circumstances of the present case.
106. The Sole Arbitrator abides by the UEFA Appeals Body's reasoning in the Appealed Decision that *"the Appellant's coach should have adapted the team's half time behaviour in order to avoid a late kick-off, in view of the specific circumstances of the stadium infrastructure, which was known by the Appellant. It is of paramount importance that, especially given the pandemic crisis, the teams and the staff participating in UEFA competitions show ability to adapt to new and unknown situations. The coach is to be considered as the highest authority in the dressing room and, as such, is ultimately responsible for his players finishing their preparations and leaving the dressing room on time, which did not occur in the present case. In this sense, the Appeals Body is convinced that the coach should have given the relevant directions to his team to leave the dressing room on time, particularly in consideration of the fact that, as it was already established above, the late kick-off occurred in the second half, i.e. when the distance between the dressing room and the pitch have already been known to the club and its coach"* (Appealed Decision, para 28).
107. In addition, considering that there was a delay of 3'05" in leaving the away team dressing room, while the last Villarreal player arrived on the pitch 1'38" late after half-time, the Club showed that even less than 2 minutes were enough to walk the distance between the dressing room and the pitch.
108. As a consequence of the foregoing, the Sole Arbitrator is satisfied that there are no reasons in the present case that would justify the Club's conduct with respect to the late restart of the second half of the Match, in consideration of all the circumstances of the present case.
109. With regard to the sanctions imposed by the Appealed Decision, the Sole Arbitrator recalls that the present case represents the second offence committed by the Club and its Coach in breach of Article 11(2)(h), as the UEFA CEDB already sanctioned both with a warning for a late kick-off on 16 March 2021 and that, according to Article 25(2) recidivism counts as an aggravating circumstance.
110. UEFA Appeals Body correctly applied Article 6(5) in combination with Annex A(I) DR imposing the standard sanction of 10,000 EUR fine on the Club and the suspension of one year under a probationary period on the Coach in accordance with Article 26 DR.
111. Those disciplinary measures not only correspond to the standard sanctions under the provisions of the UEFA DR, but they are also considered by the Sole Arbitrator to be adequate and proportionate to the case at hand and are therefore confirmed.

112. As a consequence, the Sole Arbitrator has reached the conclusion that the Appeal filed by the Club shall be rejected in its entirety and the Appealed Decision shall be confirmed.
113. Any other issue and all other motions or prayers for relief are dismissed.

ON THESE GROUNDS

The Court of Arbitration for Sport rules that:

1. The appeal filed by Club Villarreal FC against the decision issued by the UEFA Appeals Body on 27 April 2021 is dismissed.
2. The decision issued by the UEFA Appeals Body on 27 April 2021 is confirmed.
3. (...).
4. (...).
5. All other motions or prayers for relief are dismissed.