



**Arbitration CAS 2014/A/3703 Legia Warszawa SA v. Union des Associations Européennes de Football (UEFA), award of 28 April 2015**

Panel: Mr Manfred Nan (The Netherlands), President; Mr Ulrich Haas (Germany); Mr Fabio Iudica (Italy)

*Football*

*Sanctions against a club for fielding an ineligible player*

*Interpretation of rules of an association in relation to (indirect) members that did not participate in drafting them*

*Eligibility needed to serve a suspension*

*Ratio legis of the rule*

*Excessive formalism*

*Appropriateness to suspend a sanction of forfeit*

*Nature of Art. 21.2 of the UEFA Disciplinary Regulations*

- 1. Rules and regulations of an association must be construed in an objective way in case their application is at stake in relation to (indirect) members that did not participate in drafting them. In the absence of a clear and unequivocal wording, the question is how the (indirect) member should have reasonably understood the rules and regulations considering the facts and information that it reasonably had at its disposal. An objective interpretation of rules and regulations, according to Swiss law, include the general practice in relation to a certain rule, *i.e.* if a rule is applied over a longer period of time in a certain manner this might establish a common understanding, and it is permissible to make recourse to facts and circumstances outside the concrete rules but that facilitate an objective interpretation of the rules.**
- 2. The UEFA regulations make a distinction between a player's "eligibility to play" in an UEFA competition in general and a player's "eligibility to be fielded" in a specific match of an UEFA competition. As such, even if a player is not "eligible to be fielded" in a specific match because of a pending suspension, he still needs to be registered with UEFA by means of the A or B list in order to be "eligible to play" in the UEFA competition in general, for him to serve his suspension.**
- 3. A player without club, or a player employed by a club not qualified for the UEFA Champions League or the UEFA Europa League, cannot serve a suspension in matches of the European competitions of UEFA. This is why a player, in order to indeed serve a UEFA sanction, must be registered on the respective player list of a club qualified for and participating in an UEFA competition. Indeed, the administrative task of UEFA to ensure that suspensions are properly served is clearly aided by the fact that only eligible players (*i.e.* players that are registered with UEFA by means of List A or B) can serve pending suspensions.**

4. Excessive formalism exists only where there are rigorous formalities without any objective reason, where formal requirements are applied with exaggerated severity or where excessive prerequisites are applied to party submissions, thereby preventing access to justice in an undue manner. The requirement of UEFA that suspended players need to be registered with UEFA by means of List A is no excessive formalism.
5. Although it is true that article 20.1 UEFA Disciplinary Regulations (DR) determines otherwise, it is not appropriate to suspend a sanction to declare a match lost by forfeit. Article 21.2 UEFA DR, according to which a match is declared forfeit if a player who has been suspended following a disciplinary decision participates in the match, in itself does not provide the decision-making body with any latitude as to the severity of the sanction to be imposed. Furthermore, if the sanction would be suspended, the result of the match would remain unaffected and it is not the club having suffered the direct consequences from the illegal fielding but another random team that would potentially benefit from the forfeit, in case the club at fault would commit a subsequent disciplinary offence.
6. It is a general principle in the context of sports law that sporting results should, in principle, be left unturned, *i.e.* the sporting result shall be determined on the field and not by a court after the particular match or competition. In this respect, CAS has consistently applied a restrictive approach. As a regulatory exception to the sanctity of the match result, *i.e.* the rule contemplates that the match result is amended in case an ineligible player is fielded, article 21.2 UEFA DR is akin to a “rule of the game” and a restrictive approach of CAS in overturning such rule is appropriate.

## I. PARTIES

1. Legia Warszawa SA (hereinafter: the “Appellant” or the “Club”) is a professional football club with its registered headquarters in Warsaw, Poland. The Club is registered with the Polish Football Association (*Polski Związek Piłki Nożnej* – hereinafter: the “PZPN”), which in turn is affiliated to the Union Européenne de Football Association and the Fédération Internationale de Football Association (FIFA).
2. The Union Européenne de Football Association (hereinafter: the “Respondent” or “UEFA”) is an association under Swiss law and has its registered office in Nyon, Switzerland. UEFA is the governing body of football at European level. It exercises regulatory, supervisory and disciplinary functions over national federations, clubs, officials and players in Europe.

## **II. FACTUAL BACKGROUND**

### **A. Background Facts**

3. Below is a summary of the main relevant facts, as established on the basis of the parties' written and oral submissions and the evidence examined in the course of the present appeals arbitration proceedings and the hearing. This background is made for the sole purpose of providing a synopsis of the matter in dispute. Additional facts may be set out, where relevant, in connection with the legal discussion.
4. On 13 February 2014, following disciplinary proceedings instigated against Mr Bereszynski Bartosz (hereinafter: the "Player"), a professional football player of Polish nationality playing for the Club, the UEFA Control and Disciplinary Body issued a decision with the following operative part:
  - “1. *To suspend the Legia Warszawa player Bereszynski Bartosz for the next three (3) UEFA competition matches for which he would be otherwise eligible.*
  2. *The club ensures the player is informed personally of this decision”.*
5. At the end of the 2013/2014 football season, the Club qualified for the second qualifying round of the UEFA Champions League in the 2014/2015 season.
6. On 9 July 2014, the Club provided UEFA with the list of players participating in the second qualifying round of the UEFA Champions League, listing only 23 of the possible 25 players, thus leaving two places empty. The Player was not listed.
7. On 16 and 23 July 2014, the Club played its home and away ties against St. Patrick's Athletic FC in the second qualifying round of the UEFA Champions League. The Player did not participate in either of these matches.
8. On 24 July 2014, the Club provided UEFA with the list of players participating in the third qualifying round of the UEFA Champions League. The Player was one of the players listed.
9. On 30 July 2014, the Club played its home tie against Celtic FC in the third qualifying round of the UEFA Champions League. The Player did not participate in this match.
10. On 6 August 2014, the Club played its away tie against Celtic FC. The Player did participate in this match, entering the pitch as a substitute in the 86<sup>th</sup> minute.

### **B. Proceedings before the Control, Ethics and Disciplinary Body of UEFA**

11. On 7 August 2014, UEFA Control, Ethics and Disciplinary Body (hereinafter: the "UEFA CEDB") opened disciplinary proceedings against the Club for allegedly having fielded a player serving a disciplinary suspension during the second leg match of the third qualifying round of

the UEFA Champions League against Celtic FC, *i.e.* for violating article 18 of the UEFA Champions League Regulations (hereinafter: the “UEFA CLR”) and article 21 of the UEFA Disciplinary Regulations (hereinafter: the “UEFA DR”).

12. On 7 August 2014, the Club filed a written statement to the UEFA CEDB regarding these accusations.
13. On 8 August 2014, the UEFA CEDB rendered its decision with the following operative part:
  - “1. To declare the UEFA Champions League match Celtic FC vs. Legia Warszawa played on 6 August 2014 as forfeit. Legia Warszawa SA is deemed to have lost the match 3:0.
  2. To suspend the Legia Warszawa SA player Bartosz Bereszynski for one additional UEFA competition match for which he would be otherwise eligible. This suspension shall be added to the remaining two matches suspensions which the player still has to serve in accordance with the Control and Disciplinary Body decision of 13 February 2014.
  3. The club ensures the player is informed personally of this decision”.
14. On 11 August 2014, the grounds of the UEFA CEDB’s decision were notified to the parties.

### **C. Proceedings before the Appeals Body of UEFA**

15. On 12 August 2014, the Club lodged an appeal against the decision of the UEFA CEDB with the UEFA Appeals Body.
16. On 13 August 2014, a hearing was held at UEFA’s headquarters.
17. On 14 August 2014, the UEFA Appeals Body rendered its decision (hereinafter: the “Appealed Decision”), with, *inter alia*, the following operative part:
  - “1. The appeal lodged by Legia Warszawa SA is dismissed. Consequently, the UEFA Control, Ethics and Disciplinary Body’s decision of 8 August 2014 is upheld”.
18. On 14 August 2014, the grounds of the Appealed Decision were communicated to the parties. The grounds of the Appealed Decision contain, *inter alia*, the following relevant considerations:
  - “It seems clear for the Chairman of the Appeals Body, as it was for the Control, Ethics and Disciplinary Body, that the legislator’s will was to make a clear distinction between those cases involving players not registered with UEFA, but participating in UEFA matches, and players still serving match suspensions, but participating in UEFA matches. Since the entry into force of DR (edition 2011), concerning the first case, the match may be declared forfeit, allowing the decision makers some room of manoeuvre, whilst for the cases of still serving a disciplinary decision there is no margin (see, “is”) and, subsequently, even without any previous protest, the match is declared forfeit”.

- As to the Club's violation of article 18.01 of the UEFA CLR, the Appeals Body, found that “[a]s regards to the above considerations, the Chairman of the Appeals Body would like to point out that the interpretation of Article 18 UCL Regulations must be made as a whole, taking also into consideration the spirit and the aim of the general provisions to be applied as regards the eligibility of the players. The analysis of the said article cannot be made following own interpretations taking out a different meaning based on the context.
- In the opinion of the Chairman of the Appeals Body, the rule is clear: only eligible players can serve pending suspensions. In the eyes of the Appeals Body, this general provision is directly linked with the concept of “registered players”. That means that in order to serve pending suspensions the players are to be registered according to the regulations of the UCL, irrespective of the fact that the preliminary aim of the list of players (A or B) is to include “fielded players”. This general rule has to be interpreted in the light of Article 18.01 UCL Regulations in fine: only eligible players can serve pending suspensions”.
- As to the proportionality of the sanction, the Appeals Body found that “[a]fter having examined the arguments of the parties and all the relevant documents of this case, the Chairman of the Appeals Body is of the opinion that Article 21.2 DR is strict and straightforward on match forfeiture. There is no room of manoeuvre, once a team has been found guilty of fielding an ineligible player. Once the facts are established the legal consequences are automatic, irrespective of the circumstances of the case. In the eyes of this disciplinary body, the mere fact that the [Club] fielded a player serving a disciplinary suspension leads to the imposition of the specific sanction of Article 21.2 DR.
- Moreover, in the case at hand, the Appeals Body notes that, in this particular case, the level of negligence showed by the [Club's] conduct is remarkably evident. First, [the Club], is highly [sic] experienced club at UEFA level, and, therefore, should have been aware of the conditions for players on how to serve their pending disciplinary suspensions. Second, the current content of the UEFA regulations has remained steady during the past seasons. Finally, UEFA has implemented different methods to inform clubs about questions regarding the eligibility of suspended players, as it was accepted by the [Club] at the hearing.
- Concerning the [Player], this disciplinary committee deems that the standard on match suspension contemplated in Article 15.1.a) DR for cases of suspended players participating in a match, shall be deemed as the appropriate disciplinary measure.
- The Chairman of the Appeals Body is of the opinion that the Control, Ethics and Disciplinary Body neither abused nor exceeded its broad powers of discretion. Its decision complies with the principles of legality – to the extent of its power of appreciation – and proportionality.
- On the basis of the above, the Chairman of the Appeals Body has no option but to uphold the initial decision and reject the appeal”.

### III. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT

19. Immediately upon notification of the Appealed Decision, the Club contacted UEFA in order to organise fast-track proceedings before CAS, and although, after consultation with the CAS Secretary General, it appeared possible for CAS to issue a final decision on 18 August 2014, *i.e.*

two days before the first match in the play-offs of the UEFA Champions League, UEFA decided to refuse to submit itself to expedited proceedings.

20. On 15 August 2014, the Club filed a combined Statement of Appeal/Application for Provisional Measures, pursuant to Article R48 of the Code of Sports-related Arbitration (hereinafter: the “CAS Code”) with the Court of Arbitration for Sport (hereinafter: the “CAS”). The Club nominated Mr Ulrich Haas, Professor in Zurich, Switzerland, as arbitrator. The Club referred to UEFA and Celtic FC as respondents in this procedure. By means of this document, the Club applied for the following provisional measures:

- “1. Order UEFA to allow LEGIA WARSZAWA SA to participate in the next round games (Play-offs) of the 2014/2015 UEFA Champions League scheduled on 20 and 26 August 2014;
2. Order UEFA to allow LEGIA WARSZAWA SA to participate in the next rounds of UEFA Champions League 2014/2015 for which it will qualify, until CAS has issued a final award on the merits;
3. UEFA shall bear all the costs of the CAS Order on Provisional Measures and shall be ordered to pay compensation towards the legal fees and other expenses incurred by the Appellant in connection with these Provisional Measures”.

21. On 18 August 2014, UEFA and Celtic FC filed their answers concerning the Club’s request for provisional measures.

22. Later on 18 August 2014, the Deputy President of the CAS Appeals Arbitration Division issued an Order on Request for Provisional Measures, with the following operative part:

- “1. The application for provisional measures filed by Legia Warszawa SA on 15 August 2014, in the matter CAS 2014/A/3703 Legia Warszawa SA v. UEFA & Celtic Football Club, is dismissed.
2. The costs of the present order shall be determined in the final award or in any other final disposition of this arbitration”.

23. On 25 August 2014, UEFA nominated Mr Fabio Iudica, Attorney-at-law in Milan, Italy, as arbitrator.

24. On 25 August 2014, Celtic FC agreed to the nomination of Mr Iudica, as jointly appointed arbitrator for the respondents.

25. On 1 September 2014, pursuant to Article R54 of the CAS Code, and on behalf of the President of the CAS Appeals Arbitration Division, the CAS Court Office informed the parties that the Panel appointed to decide the present matter was constituted by:

- Mr Manfred Nan, Attorney-at-law in Arnhem, the Netherlands, as President;
- Mr Ulrich Haas, Professor in Zurich, Switzerland; and
- Mr Fabio Iudica, Attorney-at-law in Milan, Italy, as arbitrators

26. On 3 September 2014, the Club filed its Appeal Brief, pursuant to Article R51 of the CAS Code. In the accompanying letter thereto, the Club informed the CAS Court Office that “[f]ollowing the CAS’s Order on provisional measures, the present proceedings no longer concern the composition of the Champions League competition and the CELTIC FC therefore does not have an interest in (and is not affected by) the Club’s current prayers for relief. Accordingly, the Appellant hereby withdraws its appeal against the CELTIC FC (only)”. This Appeal Brief contained a statement of the facts and legal arguments. The Club challenged the Appealed Decision taken by the UEFA Appeals Body on 14 August 2014, submitting the following requests for relief:

- “1. Set aside the Decision rendered by UEFA Appeal Body on 13 August;
2. Declare that the sanction – a match lost by forfeiture – imposed on LEGIA WARSZAWA SA was unlawful;
3. Declare that no sanction shall have been imposed on LEGIA WARSZAWA SA by UEFA;
4. Declare that no sanction shall have been imposed on the Player BARTOSZ BERESZYNSKI by UEFA<sup>1</sup>.

*Alternatively:*

5. Declare that the sanction imposed on LEGIA WARSZAWA SA – a match lost by forfeiture – was disproportionate;
6. Declare that any sanction imposed on LEGIA WARSZAWA SA should have been suspended in accordance with art. 20 UEFA Disciplinary Regulations;

*In any event:*

7. Order UEFA to pay to LEGIA WARSZAWA SA the amount of EUR 1,854,385 plus interest at 5% as of 5 September 2014;
8. Order UEFA to bear all the costs of this arbitration and to pay all the legal fees and other expenses incurred by the Appellant in connection with these proceedings”.

27. On 29 September 2014, UEFA filed its Answer, pursuant to Article R55 of the CAS Code, requesting CAS to decide as follows:

*“Declaring inadmissible the Appeal of Legia Warszawa, insofar as the claim for damages against UEFA is concerned.*

*In any case, rejecting the reliefs sought by Legia Warszawa and confirm the Appealed Decision.*

*In any case, ordering Legia Warszawa to pay all of the costs of this arbitration and a significant contribution towards the legal fees and other expenses incurred by UEFA in connection with these proceedings, especially bearing in mind the purely economic nature of the present arbitration procedure”.*

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<sup>1</sup> This specific request for relief was ultimately voluntarily withdrawn by the Club at the occasion of the hearing.

28. On 7 October 2014, UEFA informed the CAS Court Office that it found that the holding of a hearing was not necessary, whereas the Club informed the CAS Court Office that it would prefer a hearing to be held.
29. By fax letter dated 16 October 2014, the CAS Court Office informed the parties that the Panel had decided to hold a hearing in the present case.
30. On 27 October 2014, further to an invitation from the Panel, the Club filed its Answer to UEFA's objection to the admissibility of the claim for damages.
31. On 3 November 2014, following a request to this effect from UEFA, to which the Club agreed, the CAS Court Office informed the parties on behalf of the Panel that the parties were granted an opportunity to file a second round of submissions strictly limited to the question of the claim for damages filed by the Club.
32. On 18 November 2014, the Club informed the CAS Court Office that it would not file additional observations with respect to its claim for damages.
33. By fax letter of the CAS Court Office to the parties on 19 November 2014, UEFA was granted a deadline of 20 days to file additional submissions with respect to the Club's claim for damages.
34. On 12 December 2014, in the absence of an answer from UEFA, the CAS Court Office informed the parties that it understood that UEFA had no more observations to file towards the claim for damages raised by the Club.
35. On 7 and 9 January 2015 respectively, the Club and UEFA returned duly signed copies of the Order of Procedure to the CAS Court Office.
36. On 28 January 2015, a hearing was held in Lausanne, Switzerland. At the outset of the hearing both parties confirmed not to have any objection as to the constitution and composition of the Panel.
37. In addition to the Panel, Mr Fabien Cagneux, Counsel to the CAS, and Mr Dennis Koolaard, *ad hoc* Clerk, the following persons attended the hearing:
  - a) For the Club:
    - 1) Mr Alexis Schoeb, Counsel;
    - 2) Mr Marc Baumgartner, Counsel;
    - 3) Mr Dariusz Mloduski, Chairman;
    - 4) Mr Szymon Kaczmarek, In-house Counsel
  - b) For UEFA:
    - 1) Dr. Emilio García, UEFA's Head of Disciplinary and Integrity;
    - 2) Mr Carlos Schneider, UEFA's Disciplinary Lawyer;

- 3) Dr. Jan Kleiner, Counsel
38. No witnesses or experts were heard. The parties were afforded ample opportunity to present their case, submit their arguments and answer the questions posed by the Panel.
39. Before the hearing was concluded, both parties expressly stated that they did not have any objection with the procedure adopted by the Panel and that their right to be heard had been respected.
40. The Panel confirms that it carefully heard and took into account in its discussion and subsequent deliberations all of the submissions, evidence, and arguments presented by the parties, even if they have not been specifically summarized or referred to in the present award.

#### **IV. SUBMISSIONS OF THE PARTIES**

41. The submissions of the Club, in essence, may be summarized as follows:
- The Club argues that the proceedings before the UEFA bodies confirmed that the only reproach made against the Club was the alleged failure to include the suspended player on the A list, submitted to UEFA on 10 July 2014 for the second qualifying round of the UEFA Champions League.
  - In this respect, the Club maintains that the Player did not have to be included in the A list and therefore served his three match suspension. The Club bases this argument on an alleged contradiction between article 18.1 and 18.4 of the UEFA CLR. Because of this contradiction and because the UEFA CLR does not expressly mention that a suspended player shall be included in the A list in order for him to serve his suspension, the rules shall be interpreted in favour of the Club on the basis of the *contra proferentem* principle.
  - Furthermore, the Club finds that the formal requirement of UEFA to include the Player in the A list shall be considered as excessive formalism. This conclusion is substantiated by the arguments that the Club only listed 23 instead of 25 players for the second qualifying round of the UEFA Champions League and that the Club did not experience any advantage whatsoever by not listing the Player. The Club submits that it remained undisputed that the Player, in practice, served his 3 match ban and that the strict application *in concreto* of this provision is neither justified nor appropriate.
  - In continuation, the Club argues that the sanction is clearly disproportionate. There is no reasonable balance between the type of misconduct and the sanction imposed. UEFA should have suspended the sanction and have imposed an appropriate, necessary and adequate sanction.
  - The Club finally submits that because of the unlawful sanction imposed on it, it was eliminated from the third qualifying round of the UEFA Champions League. If the Club would have qualified for the play-offs of the UEFA Champions League, it would have

received a minimum amount of EUR 2,100,000. If the amounts that the Club earned from the play-offs of the UEFA Europa League are deducted, a damage of EUR 1,854,385 remains. The Club claims compensation for this damage on the basis of article 97 to 109 of the Swiss Code of Obligations (hereinafter: the “SCO”) for a breach of the contractual relationship between the Club and UEFA and on the basis of article 41 of the SCO because UEFA unlawfully caused loss or damage to the Club.

42. The submissions of UEFA, in essence, may be summarised as follows:

- Article 18 of the UEFA CLR is already in force since the 2004/2005 season and UEFA believes that no different interpretation is possible than that a player must be listed in order to serve his suspension. UEFA argues that the Club is highly experienced in European football and that it handled a similar situation correctly in the past. UEFA’s interpretation of article 18 of the UEFA CLR is confirmed by an UEFA Circular letter of 17 April 2014. UEFA also finds that, in the absence of any additional evidence being presented by the Club, the decision of the Deputy President of the CAS Appeals Arbitration Division on the chances of success on the merits is important. UEFA further maintains that there is no room for application of the *contra proferentem* principle in the matter at hand. Finally, UEFA submits that the lack of knowledge of the relevant regulations of an employee of the Club is not a valid argument to violate such rules.
- As to the *ratio legis* of the rule that only eligible and registered players can serve pending suspensions, UEFA maintains that a player without club, for instance, or a player employed by a club not qualified for the UEFA Champions League or the UEFA Europa League, cannot serve a UEFA disciplinary decision previously imposed on him. This is why a player, in order to indeed serve a UEFA sanction, must be registered on the respective player list of a club qualified and participating in an UEFA competition.
- CAS panels have dealt with the fielding of ineligible players before and has consistently rejected arguments that sanctions deriving from the fielding of ineligible players were illegal or disproportionate due to excessive formalism. According to the Swiss Federal Tribunal (hereinafter: the “SFT”) excessive formalism exists only where there are rigorous formalities without any objective reason, where formal requirements are applied with exaggerated severity or where excessive prerequisites are applied to party submissions, thereby preventing access to justice in an undue manner. UEFA finds that the principle of legal certainty is to be taken into account in analysing why players need to be registered in order to serve their suspension.
- As to the sanction imposed, UEFA submits that CAS has confirmed in the past that there is no room to apply the principle of proportionality once the rules applicable to a case foresee a specific sanction. CAS panels do not have any other possibility rather than to declare the match lost by forfeit.
- UEFA finds that the Club’s claim for damages is inadmissible since it is brought forward for the first time in its appeal before CAS and could therefore not have been considered by the disciplinary bodies of UEFA. As such, this claim shall be declared inadmissible. As

to the merits of the monetary claim, UEFA rejects to have caused any damage to the Club, that if the Club suffered damages, such damage was caused exclusively or at least mainly by the Club itself and that UEFA at no time acted faulty. Furthermore, for the liability of a court, it does not suffice that an act or a decision turns out to be wrong. A liability only exists where the competent person makes inexcusable mistakes or where grave violations of the respective duties occur. Finally, with regard to the Club's claim based on tort law, UEFA avers that under Swiss law, a violation of a regulatory provision cannot serve as a basis for the unlawfulness of any alleged patrimonial damage.

## V. JURISDICTION

43. The jurisdiction of CAS, which is not disputed, derives from articles 62 and 63 of the UEFA Statutes as it determines that “[a]ny decision taken by a UEFA organ may be disputed exclusively before the CAS in its capacity as an appeals arbitration body, to the exclusion of any ordinary court or any other court of arbitration” and Article R47 of the CAS Code.
44. The jurisdiction of CAS is further confirmed by the Order of Procedure duly signed by the parties.
45. It follows that CAS has jurisdiction to decide on the present dispute.

## VI. ADMISSIBILITY

46. The appeal was filed within the deadline of ten days set by Article 62(3) of the UEFA Statutes (2014 edition). The appeal complied with all other requirements of Article R48 of the CAS Code, including the payment of the CAS Court Office fee.
47. The Club maintains that since it must be determined that the Player was validly and legally fielded in the second match against Celtic FC it was unlawfully eliminated from the UEFA Champions League. Additionally, the Club argues that UEFA should have cooperated in the fast-track proceedings before CAS as suggested by the Club and that UEFA's failure to do so caused damages to the Club in the amount of EUR 1,854,385.
48. The Club avers that UEFA recognised the principle of compensation and the right of the Club to claim damages in its Answer to the Club's request for provisional measures, by stating that “[...] any potential damages (*quod non*) caused to [the Club] may be remedied by means of financial compensation which [the Club] will be entitled to claim against UEFA” and that “[...] even admitting, just for the argument's sake, that a further decision of the CAS was to overturn the decision rendered by the UEFA Appeal Body of 13 August 2014 (*quod non*), any damages hypothetically caused to [the Club] may be remedied by means of financial compensation”.
49. In addition, the Club also submits that it is entitled to be compensated by UEFA on the basis of UEFA's liability for breach of obligation (articles 97-109 of the SCO) and UEFA's liability for tort (article 41 of the SCO).

50. UEFA however objects to the admissibility of the appeal insofar the Club claims damages from UEFA.
51. UEFA finds that the scope of the present appeal has been limited by the Club itself and that it now before CAS “*suddenly raises a claim for damages which it had never raised in front of the UEFA disciplinary bodies*”. UEFA maintains that pursuant to CAS jurisprudence, the object of an appeal with CAS cannot be extended beyond the scope of the challenged decision.
52. UEFA maintains that it did by no means agree to any compensation or “principle of compensation”. UEFA argues that it merely acknowledged that “*assuming [the Club] had suffered because of UEFA a damage (quod non!), [the Club] could at a later stage, and obviously in different proceedings, lodge a claim for compensation*”.
53. The Panel observes that UEFA’s argument is two-fold. On the one hand it argues that the Club’s claim shall be dismissed because the claim for damages was not a part of the matter in dispute in the Appealed Decision. On the other hand, UEFA maintains that the Club would have to lodge a claim for compensation against UEFA in ulterior proceedings.
54. As to the first argument, the Panel finds that the Club could not have claimed compensation from UEFA before the start of the proceedings before CAS since at that time the damage was not yet incurred. The damage arguably arose because UEFA sanctioned the Club, but did not agree to conduct expedited proceedings before CAS, thereby preventing the Club from being reinstated in the 2014/2015 UEFA Champions League, should CAS have concluded in favour of the Club. Against this background, the Panel finds that the Club should not be prevented from submitting a claim for damages for the sole reason that this claim was not yet included within the scope of the dispute before the UEFA CEDB and the UEFA Appeals Body.
55. As to the second argument, the Panel finds that whereas the alleged fielding of an ineligible player is a disciplinary offence, the claim for damages is not. The latter issue is merely a civil dispute between the Club and UEFA and the Panel finds that it could not be required from the Club to first file such claim for damages with UEFA only to exhaust the internal remedies available to it in order to prevent its claim to be deemed inadmissible in the subsequent proceedings before CAS, since it is obvious that UEFA would deny such claim.
56. Consequently, the Panel finds that it is competent to adjudicate the Club’s claim for damages and that the Club’s claim is therefore admissible.

## VII. APPLICABLE LAW

57. Article 4 of the UEFA DR provides as follows:

*“In the absence of specific provisions in these and other regulations, the competent disciplinary body shall take a decision on the basis of recognised legal principles and in accordance with justice and fairness. The disciplinary body shall base its decision on customary UEFA rules or, where this is not possible, on the rules it would establish were it to legislate”.*

58. Article 63(3) of the UEFA Statutes stipulates the following:

*“Moreover, proceedings before the CAS shall take place in accordance with the Code of Sports-related Arbitration of the CAS”.*

59. 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”.*

60. The Panel observes that the parties agreed to the primary application of the various regulations of UEFA and subsidiary to the application of Swiss law. The Panel is therefore satisfied to accept the subsidiary application of Swiss law should the need arise to fill a possible gap in the various regulations of UEFA.

## VIII. MERITS

### A. The Main Issues

61. In view of the above, the main issues to be resolved by the Panel are:

- i. Was it compulsory for the Club to list the Player in order for him to serve his suspension?
- ii. If so, should the Club be sanctioned for failing to do so?
- iii. Is the sanction imposed on the Club disproportionate?

#### *i. Was it compulsory for the Club to list the Player in order for him to serve his suspension?*

62. The Panel observes that the factual background of the present matter is not in dispute between the parties. It is clear that the Club did not mention the Player on the list that it submitted to UEFA on 9 July 2014 in preparation for the home and away ties against St. Patrick’s Athletic FC in the second qualifying round of the UEFA Champions League. It is equally undisputed that the Player was listed in the third qualifying round and that he did not play in the first three matches of the Club in UEFA competitions (*i.e.* the two matches against St. Patrick’s Athletic FC and the first match against Celtic FC).

63. The Panel observes that the dispute between the parties mainly centres around the question whether it was compulsory for the Club to list the Player on “List A” that had to be submitted to UEFA before the home and away ties in the second qualifying round of the UEFA Champions League in order to duly serve the suspension. Whereas the Club maintains that the Player did not have to be included in the A list and therefore served his three-match suspension, UEFA argues that the Player had to be listed in order to serve his suspension and that since the Club failed to do so, the Player did not serve his suspension in the matches against St. Patrick’s

Athletic FC and had therefore not fully served his suspension when he participated in the second match against Celtic FC on 6 August 2014.

64. More specifically, the Club bases its conclusion on an alleged contradiction between article 18.01 and 18.04 of the UEFA CLR. Because of this contradiction and as the UEFA CLR does not expressly mention that a suspended player shall be included in the A list in order for him to serve his suspension, the Club submits that because of this uncertainty, the rules, which lack clarity, shall be interpreted in favour of the Club on the basis of the *contra proferentem* principle.
65. UEFA purports that Article 18 of the UEFA CLR is already in force since the 2004/2005 season and UEFA believes that no different interpretation is possible than that a player must be listed in order to serve his suspension. UEFA argues that the Club is highly experienced in European football and that it handled a similar situation correctly in the past. UEFA's interpretation of article 18 of the UEFA CLR is confirmed by an UEFA Circular letter of 17 April 2014. UEFA also finds that, in the absence of any additional evidence being presented by the Club, the decision of the President of the CAS Appeals Arbitration Division on the chances of success on the merits is important. UEFA further maintains that there is no room for application of the *contra proferentem* principle in the matter at hand. Finally, UEFA submits that the lack of knowledge of the relevant regulations of an employee of the Club is not a valid argument to violate such rules.
66. The Panel observes that article 18 of the UEFA CLR determines as follows:
- “18.01 In order to be eligible to participate in the UEFA club competitions, players **must be registered with UEFA** within the requested deadlines to play for a club and fulfil all the conditions set out in the following provisions. **Only eligible players can serve pending suspensions** [emphasis added by the Panel].*
- 18.02 Players must be duly registered with the association concerned in accordance with the association's own rules and those of FIFA, notably the FIFA Regulations on the Status and Transfer of Players.*
- 18.03 All players must undergo a medical examination to the extent provided for by the UEFA Medical Regulations.*
- 18.04 Each club is responsible for submitting an A list of players (List A) and a B list (List B), duly signed, to its association for verification, validation, signature and forwarding to UEFA. **These lists must include the name, date of birth, shirt number and name, nationality and national registration date of all players to be fielded in the UEFA club competition in question** [emphasis added by the Panel], as well as the surname and first name of the head coach. In addition, the lists must include the confirmation by the club's doctor that all players have undergone the requested medical examination; the club's doctor is solely responsible for ensuring that the requested players' medical examination has been duly performed.*

18.05 *The club bears the legal consequences for fielding a player who is not named on list A or B, **or who is otherwise not eligible to play** [emphasis added by the Panel].*

[...].”

67. The Panel further observes that UEFA Circular letter no. 13/2014 (dated 17 April 2014) determines, *inter alia*, as follows:

*“Before the beginning of the season, the UEFA administration will send each national association a list of players and coaches who have pending suspensions to be served during the 2014/2015 season. This list should be consulted if players or coaches are transferred, and UEFA’s disciplinary services will be happy to provide you with additional information on this matter if required. **Please also note that only players that are duly registered with the UEFA administration can serve pending UEFA suspensions** [emphasis added by the Panel].”*

68. The Panel finds that UEFA’s regulatory framework governing the serving of suspensions does not excel in clarity. First, it is to be noted that there is no clear and unequivocal provision determining that suspended players need to be included in the A list in order to serve suspensions. Secondly, while article 18.1 of the UEFA CLR states that there is no eligibility without registration with UEFA, article 18.05 of the UEFA CLR appears to say that a player – even though registered with UEFA – might still not be eligible. Because of the lack of clarity, the Panel adheres with the Club that the regulatory framework of UEFA needs to be interpreted.

69. In interpreting the regulatory framework established by UEFA, the Panel takes note of the following considerations of another CAS panel to which reference was made by the Club:

*“It seems to be well recognised that under Swiss law in the interpretation of contracts, one first has to look at the text; if the text is not clear, then at what the parties intended; if that cannot be established, then how the contract should be interpreted in an objective manner.*

*There is less unanimity, it seems, in Swiss doctrine and case law whether statutes or similar instruments should be interpreted in a like manner. But it is the Tribunal’s impression that the better and more prevalent view is that the same criteria should, so far as possible, apply.*

*As was said in a recent CAS award:*

*Under Swiss law there is some controversy regarding the method of interpretation that applies to the rules of an association, i.e. whether they should be interpreted using the method applicable to provisions of law or using the method applicable to contracts. However, in practice the principles of interpretation overlap to a large degree and both methods converge considering that the literal meaning (the wording) of the provision or clause is the starting point [CAS 2007/A/1377]” (CAS 2008/A/1502, §15-17).*

70. In addition, the Panel takes also note of Swiss law, which is applicable on the merits on a subsidiary basis and, thus, also to the principles applicable to the interpretation of rules and regulations of an association. According thereto, rules and regulations of an association must

be construed in an objective way in case their application is at stake in relation to (indirect) members that did not participate in drafting them:

*“Demgegenüber kann für später dem Verein beigetretene Mitglieder das Willensprinzip nicht massgebend sein, da solche Personen am seinerzeitigen Willen gar nicht beteiligt waren. Für sie kann vielmehr nur das Vertrauensprinzip anwendbar sein, d.h. es ist die Frage zu beantworten, wie sie die Statuten oder eine bestimmte Statutenbestimmung in Würdigung der für sie erkennbaren Umstände vernünftigerweise verstehen durften und mussten. Dabei fallen als für sie erkennbare Umstände die erwähnten Auslegungselemente (vgl. vorstehend N 333 – 343) – und zwar stets nach Massgabe einer objektiven Deutung derselben – in Betracht (wobei allerdings die Entstehungsgeschichte für sie in der Regel ... nicht zu den erkennbaren Umständen gehören wird, vgl. BGE 26 II 284 ... und auch BGE 107 II 186 ...)”* (Berner Kommentar-ZGB/RIEMER, Bern 1990, ST Rn. 345).

free translation:

*“In relation to members that joined the association later, the intention of the parties is not decisive [when interpreting the rules and regulations]<sup>2</sup>, since these persons did not participate in the formation of the will. In relation to these persons the method of interpretation applicable is the principle of trust (Vertrauensprinzip), according to which one has to answer the question how this person could have reasonably understood the rules and regulations considering the facts and information that it reasonably had at its disposal. However, when looking at the facts and information at the person’s disposal that constitute the starting point of any interpretation (see supra N 333 – 343) always an objective approach must be applied (taking in consideration that the genesis of the rules and regulations, in principle, is not a fact that is at the person’s reasonable disposal, see SFT 26 II 284 ... and also SFT 107 II 186 ...)”*.

71. The Panel fully endorses the above considerations on the way how to interpret rules and regulations under Swiss law and that this interpretation shall prevail over the view expressed in CAS 2008/A/1502, primarily because the Club was not directly involved in the formation of the rules and regulations concerned.
72. As such, in the absence of a clear and unequivocal wording, the Panel turns its attention to the question how the Club should have reasonably understood the rules and regulations considering the facts and information that it reasonably had at its disposal.
73. In this respect, it must be noted that an objective interpretation of rules and regulations, according to Swiss law, include the general practice in relation to a certain rule, *i.e.* if a rule is applied over a longer period of time in a certain manner this might establish a common understanding (see: Berner Kommentar-ZGB/RIEMER, Bern 1990, ST no. 340; BSK-ZGB/HEINI/SCHERRER, 5th ed., Basel 2014, Vor Art. 60-70 no. 23; HEINI/PORTMANN/SEEMANN, Grundriss des Vereinsrechts, Zurich 2009, no. 56) and it is permissible to make recourse to facts and circumstances outside the concrete rules but that facilitate an objective interpretation of the rules (Berner Kommentar-ZGB/RIEMER, Bern 1990, ST no. 339; SFT 110 Ia 36, E. 3b: “official brochure”).

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<sup>2</sup> Added by the Panel for better understanding.

74. The Panel finds that UEFA Circular letter no. 13/2014 is such an objective element of interpretation that the Club reasonably had at its disposal and that may thus be taken into account by the Panel in interpreting the regulatory framework.
75. In interpreting the regulatory framework the Panel will particularly attempt to construe the way in which the terminology of “ineligibility” is to be interpreted. The Panel observes that, on the one hand, pursuant to article 18.01 of the UEFA CLR, in order to be eligible a player needs to be registered with UEFA, however, on the other hand, article 18.05 of the UEFA CLR appears to provide that also a player who is properly registered with UEFA by means of the A list, can be ineligible to play. Thus, the registration of a player with UEFA by means of the A list does apparently not necessarily render a player eligible.
76. The Panel understands from the above that UEFA apparently made a distinction between a player’s “eligibility to play” in an UEFA competition in general and that a player is only eligible to do so if he is registered with UEFA by means of the A or B list, and a player’s “eligibility to be fielded” in a specific match of an UEFA competition.
77. Since article 18.01 of the UEFA CLR determines that “*only eligible players can serve pending suspensions*”, the Panel needs to examine whether a player, in order to serve a suspension, needs to be “eligible to play” or needs to be “eligible to be fielded”.
78. The Panel finds that article 18.04 of the UEFA CLR is particularly confusing because it specifically determines that “*all players to be fielded in the UEFA club competition in question*” need to be listed, which might be understood in the sense that suspended players should not be listed because they will not be fielded. This is all the more true in light of the provision in article 18.05 of the UEFA CLR that starts from the presumption that one can be ineligible even though registered with UEFA. Thus, it appears that the word “eligible” in the context of article 18 of the UEFA CLR has in effect different meanings.
79. The Panel however finds that UEFA Circular letter no. 13/2014 is very clear and provides an objective interpretation of the rules, since it explains that “*only players that are duly registered with the UEFA administration can serve pending UEFA suspensions*”.
80. On this basis, the Panel finds that the word “eligibility” in the last sentence of article 18.01 of the UEFA CLR refers to a player’s “eligibility to play” in an UEFA competition, rather than a player’s “eligibility to be fielded” in a specific match of an UEFA competition. As such, even if a player is not “eligible to be fielded” in a specific match because of a pending suspension, he still needs to be registered with UEFA by means of the A list in order to be “eligible to play” in the UEFA competition in general, for him to serve his suspension.
81. In addition, and as will be discussed in more detail below, the Panel also finds it important that other clubs in similar situations consistently registered suspended players with UEFA in order for them to serve their suspensions and that even the Club itself, in the 2009/2010 football season, listed a player that was suspended following a disciplinary decision of UEFA taken in the previous season.

82. Hence, although the Panel finds that it would provide clarity if UEFA would clearly determine this in the UEFA CLR, the Panel concludes that the Club should have reasonably understood that in order for a player to serve a pending suspension he must be registered with UEFA by means of List A or B as contemplated for in article 18.04 of the UEFA CLR.
83. The Panel is of the view that the UEFA CLR in conjunction with UEFA Circular letter no. 13/2014 is sufficiently clear and does not warrant an interpretation in favour of the Club pursuant to the *contra proferentem* principle.
84. Consequently, the Panel finds that it was compulsory for the Club to list the Player in “List A” in order for him to serve his suspension.

*ii. If so, should the Club be sanctioned for failing to do so?*

85. Having established that the Club should have listed the Player prior to the matches against St. Patrick’s Athletic FC in order for him to serve his suspension and that the Player was therefore ineligible to be fielded in the second match against Celtic FC, the next question for the Panel is whether the Club’s failure to do so should lead to disciplinary measures.
86. The Club finds that the formal requirement of UEFA to include the Player in List A or B shall be considered as excessive formalism. This conclusion is substantiated by the Club’s arguments that it only listed 23 instead of 25 players for the second qualifying round of the UEFA Champions League and that the Club did not experience any advantage whatsoever by not listing the Player. The Club submits that it remained undisputed that the Player, in practice, served his 3 match ban and that the strict application *in concreto* of this provision is neither justified nor appropriate.
87. Contrarily, UEFA finds that the requirement that a player needs to be registered with UEFA in order to serve a pending suspension is no excessive formalism. As to the *ratio legis* of the rule that only eligible and registered players can serve pending suspensions, UEFA maintains that a player without club, for instance, or a player employed by a club not qualified for the UEFA Champions League or the UEFA Europa League, cannot serve a UEFA disciplinary decision previously imposed on him. This is why a player, in order to indeed serve a UEFA sanction, must be registered on the respective player list of a club qualified and participating in an UEFA competition.
88. UEFA further argues that CAS panels have dealt with the fielding of ineligible players before and have consistently rejected arguments that sanctions deriving from the fielding of ineligible players were illegal or disproportionate due to excessive formalism. According to the SFT, excessive formalism exists only where there are rigorous formalities without any objective reason, where formal requirements are applied with exaggerated severity or where excessive prerequisites are applied to party submissions, thereby preventing access to justice in an undue manner. UEFA finds that the principle of legal certainty is to be taken into account in analysing why players need to be registered in order to serve their suspension.

89. The Panel finds that the requirement of UEFA that suspended players need to be registered with UEFA by means of List A is no excessive formalism.
90. The Panel observes that the SFT – as cited by the Club – determines the following in respect of excessive formalism:

*“excessive formalism takes place when strictly applying the rules is justified by no interest worthy of protection, becomes an end in itself and complicates in an untenable way the application of material law”* (4A\_600/2008).
91. The Panel notes that the Club stated that it *“does not intend to discuss here whether the requirement to include suspended players on the List A is in abstracto justified and appropriate. However, it will show below that the strict application in concreto of this procedural requirement is neither justified nor appropriate”*.
92. The Panel however finds that UEFA’s requirement that suspended players need to be listed needs to be examined *in abstracto*, rather than *in concreto*. If the general *rationale* behind this requirement is justified, there might still be possibilities to determine that the requirement is not justified or appropriate in the concrete matter at hand, but such finding does not take away the fact that the requirement is in general justified and that a deviation therefrom shall not be accepted lightly.
93. The Panel finds that the *ratio legis* of UEFA in maintaining the requirement that suspended players need to be listed is in general justified and that UEFA has legitimate reasons to maintain such policy and, as concluded *supra*, the practical consequences of this policy are set out sufficiently clear.
94. The Panel adheres with UEFA that a player without club, or a player employed by a club not qualified for the UEFA Champions League or the UEFA Europa League, cannot serve a suspension in matches of the European competitions of UEFA. This is why a player, in order to indeed serve a UEFA sanction, must be registered on the respective player list of a club qualified for and participating in an UEFA competition. Indeed, the administrative task of UEFA to ensure that suspensions are properly served is clearly aided by the fact that only eligible players (*i.e.* players that are registered with UEFA by means of List A or B) can serve pending suspensions.
95. The Panel finds that the mere fact that the above-mentioned specific risks did not materialise in the matter at hand, do not justify the conclusion of the Club that it shall therefore not bound by the regulatory requirement of UEFA that suspended players need to be listed.
96. The Panel is also satisfied that this system of registration through lists enables – and is indeed necessary – for the UEFA administration to efficiently verify whether all suspensions imposed on players participating in the UEFA European competitions are properly served.
97. The Panel took due note of the information provided by UEFA that several football clubs were confronted with a similar situation in the past (*i.e.* a player carrying over a suspension for UEFA competitions to a new season), but that these clubs (*i.e.* PFC Ludogorets, Hibernians FC, FC Kairat, FC Dnipro, Feyenoord and Kardemir Kardabükspor) consistently mentioned the

suspended player on the A List in the new season in order for the player to serve his suspension and that this was not disputed by the Club.

98. More importantly, the Club itself faced a similar situation in the qualifying round of the UEFA Europa League in the 2009/2010 football season, but the Club then properly listed the suspended player in order for him to serve his suspension.
99. The Panel finds that the above is an indication that the Club made a mistake in not mentioning the Player on the A list and that it is now merely seeking to find a legally sound justification for such mistake, rather than that it conducted a thorough investigation of the relevant regulations, UEFA Circular letter no. 13/2014 and the general practice of clubs regarding the registration of suspended players at the time of submitting the list to UEFA and concluded that the Player should not be listed.
100. The fact that the Club listed only 23 players instead of the possible 25, is indeed an indication that the Club acted in good faith, but the fact remains that the Club should have listed the Player, but did not, and thereby violated the UEFA CLR.
101. Against this background, the Panel finds that UEFA's requirement that only listed players can serve pending suspensions is no excessive formalism and that the Club's violation of this requirement – although regrettable for the Club in view of the severe consequences – constitutes a disciplinary infringement justifying the imposition of a disciplinary sanction.
102. The Panel observes that article 21.2 of the UEFA DR determines as follows:

*“A match is declared forfeit if a player who has been suspended following a disciplinary decision participates in the match”.*
103. Although the proportionality of the sanction will be discussed below, the Panel has no doubt that this provision clearly justifies the imposition of a disciplinary sanction on the Club.
104. Whether UEFA legitimately imposed a sanction on the Player can be questioned, as the Player was not summoned in the proceedings before the UEFA CEDB and the UEFA Appeals Body and because it appears that the Club was responsible for the mistake rather than the Player. This matter must however be left open as the Player did not appeal against UEFA's decision to impose an additional suspension on him and the Club voluntarily withdrew request for relief number 4 regarding the Player at the occasion of the hearing.
105. Consequently, the Panel finds that the Club shall be sanctioned for fielding an ineligible player in the second match against Celtic FC.

***iii. Is the sanction imposed on the Club disproportionate?***

106. Turning its attention to the question whether declaring the second match against Celtic FC lost by forfeit is disproportionate, the Panel observes that the Club submits that this measure is

disproportionate, whereas UEFA maintains that the measure is justified. In particular, the Club considers that the sanction should have been suspended pursuant to article 20.1 of the UEFA DR.

107. The Panel observes that article 20.1 of the UEFA DR determines as follows:

*“All disciplinary measures may be suspended, with the exception of:*

- a. warnings;*
- b. reprimands;*
- c. bans on all football-related activities”.*

108. Although it is true that this provision of the UEFA DR determines that “[a]ll disciplinary measures may be suspended”, the Panel finds that it is not appropriate to suspend a sanction to declare a match lost by forfeit.

109. The Panel finds that article 21.2 of the UEFA DR in itself does not provide the decision-making body with any latitude as to the severity of the sanction to be imposed; the provision merely determines that if a player who has been suspended following a disciplinary decision participates in a match, this match is declared forfeit.

110. Furthermore, the Club fielded an ineligible player in the match against Celtic FC. As such, Celtic FC suffered the direct consequences from this illegal fielding. If the sanction would be suspended, the result of the match would remain unaffected and only if the Club would commit a subsequent disciplinary offence, another random team would benefit from a match being declared lost by forfeit. It therefore appears to the Panel that due to the nature of the sanction imposed, it is not opportune to suspend such sanction.

111. In addition, it is a general principle in the context of sports law that sporting results should, in principle, be left unturned, *i.e.* the sporting result shall be determined on the field and not by a court after the particular match or competition. In this respect, CAS has consistently applied a restrictive approach (MCLAREN, *Introducing the Court of Arbitration for Sport: The Ad Hoc Division at the Olympic Games*, 12 Marq. Sports L. Rev. 515 (2001), with reference to CAS OG 00/013, where the CAS panel held that it could not review a determination of the “rules of the game” unless the rules had been applied in bad faith). The general CAS jurisprudence related to decisions in respect of the “rules of the game” is that such decisions can be revised when made in bad faith, completely arbitrary or in violation of the law, social rules or general principles of law (see, CAS OG 1996/06; CAS OG 00/013; CAS OG 02/007; CAS 2004/A/727, para. 30).

112. The Panel finds that a rule determining that a match is to be declared forfeit if a suspended player participates therein is not a “rule of the game” in strict terminology, but the Panel finds that it is crucial that article 21.2 of the UEFA DR is a regulatory exception to the sanctity of the match result, *i.e.* the rule contemplates that the match result is amended in case an ineligible player is fielded and does not distinguish between an intentional violation of the rules or a violation committed due to negligence – similar to for example the invalidation of results following an anti-doping rule violation. It is in this respect that the Panel considers article 21.2

of the UEFA DR to be akin to a “rule of the game” and that a restrictive approach of CAS in overturning such rule is appropriate.

113. Applying the above-mentioned framework to the matter at hand, the Panel finds that it was not established by the Club that UEFA’s sanction to declare the second match against Celtic FC lost by forfeit was made in bad faith, was completely arbitrary or in violation of the law, social rules or general principles of law.
114. In view of the above, the Panel finds that the fact that the Club did not qualify for the Play-offs of the UEFA Champions League due to the forfeit of the second match against Celtic FC cannot be taken into consideration by the Panel, although it is admittedly a tough consequence for the Club.
115. Although it remained undisputed, the Panel considers it to be irrelevant that the Player’s influence on the result of the match against Celtic FC was insignificant due to the fact that he was only fielded in the 86<sup>th</sup> minute when Celtic FC was trailing 6-1 on aggregate and that Celtic FC thus did not really suffer from the fielding of the Player.
116. Finally, the Panel deems it important that it appears to be constant practice of UEFA to declare a match lost by forfeit if an ineligible player participated.
117. In light of the above, the Panel finds that UEFA’s decision to declare the Club’s match against Celtic FC to be lost by forfeit is not disproportionate. As such, the Panel does not deem it necessary to address the Club’s claim for compensation.

## **B. Conclusion**

118. Based on the foregoing, and after having taken into due consideration both the regulations applicable and all the evidence produced and all arguments submitted, the Panel finds that:
  - i. It was compulsory for the Club to list the Player in order for him to serve his suspension.
  - ii. The Club shall be sanctioned for fielding an ineligible player in the second match against Celtic FC.
  - iii. UEFA’s decision to declare the Club’s match against Celtic FC to be lost by forfeit is not disproportionate.
119. Any other prayers or requests for relief are dismissed.

## ON THESE GROUNDS

**The Court of Arbitration for Sport rules that:**

1. The appeal filed by Legia Warszawa SA on 15 August 2014 against the Decision issued on 14 August 2014 by the Appeals Body of the Union Européenne de Football Association is dismissed.
2. The Decision issued on 14 August 2014 by the Appeals Body of the Union Européenne de Football Association is confirmed.
3. (...).
4. (...).
5. All other motions or prayers for relief are dismissed.