



**Arbitration CAS 2014/A/3855 Clubul Sportiv Municipal Râmnicu Vâlcea v. Romanian Football Federation (RFF) & Romanian Professional Football League (RPFL), award of 15 September 2015 (operative part of 4 June 2015)**

Panel: Mr Sofoklis Pilavios (Greece), Sole Arbitrator

*Football*

*Promotion/relegation of teams in a national football league system*

*Fundamental importance of the promotion/relegation system in Europe*

*Lack of standing to sue*

*Principle of non-retroactivity of the rules governing the promotion and relegation of clubs*

*CAS power of review related to a claim for compensation*

1. The promotion/relegation system is one of the fundamental characteristics of the organisation of competitive sport throughout Europe. The key role of the promotion/relegation system in the European sport model has been acknowledged by the CAS, with further reference to a consultation document of the European Commission.
2. According to a general and well-established principle of procedural law, a party has standing to sue if it has an interest worthy of protection. This is deemed to be the case if an appellant is factually and directly affected by an appealed decision in a fashion that can be eliminated by its annulment. In this respect, a club has no “*present interest*” to obtain the annulment of a decision preventing it from being admitted to a first league, if there is no legal basis that would allow said club to be admitted to the first league, should the appeal be admitted.
3. The principle of non-retroactivity does apply to a rule which governs the requirements for being admitted to a competition. In this respect, the promotion and relegation of clubs cannot be governed by a set of rules which was adopted after the end of the relevant sporting season and amended the rules which were in force during said season. This would result in disrupting the legal position acquired by the participating clubs, which were entitled for promotion at the end of the relevant sporting season and would violate the expression of the concept of providing legal protection to a person who relies on the principle of good faith, as determined by the CAS jurisprudence and by the applicable national civil law.
4. According to legal doctrine and well-established CAS case-law, the CAS *de novo* power of review cannot be construed as being wider than that of the appellate body. Against this background, CAS is not competent to hear a claim for compensation where the appellate body having rendered the challenged decision is not competent to hear monetary claims.

## **I. PARTIES**

1. Clubul Sportiv Municipal Râmnicu Vâlcea (hereinafter referred to as “CSM Râmnicu Vâlcea” or the “Appellant”) is a football club with its seat in Râmnicu Vâlcea, Romania. CSM Râmnicu Vâlcea is affiliated to the Romanian Football Federation, which is a member of the Fédération Internationale de Football Association (FIFA) and during the 2014-2015 season has competed in Liga 2, which is the second league of the Romanian professional football league system.
2. The Romanian Football Federation (hereinafter referred to as the “RFF” or the “First Respondent”) is the national governing body for the sport of football in Romania with its registered office in Bucharest, Romania. It is affiliated with FIFA since 1923.
3. The Romanian Professional Football League (hereinafter referred to as the “RPFL” or the “Second Respondent”) manages Liga 1 and Liga 2, which are the first and second leagues of the Romanian professional football league system.

## **II. FACTUAL BACKGROUND**

### **A. Background Facts**

4. Below is a summary of the relevant facts and allegations based on the parties’ written submissions, pleadings and evidence adduced at the hearing. Additional facts and allegations found in the parties’ written submissions, pleadings and evidence may be set out, where relevant, in connection with the legal discussion that follows. While the Panel has considered all the facts, allegations, legal arguments and evidence submitted by the parties in the present proceedings, it refers in its Award only to the submissions and evidence it considers necessary to explain its reasoning.
5. In the 2013-2014 football season the Appellant participated in Seria II of Liga 2 of the Romanian professional football league system. Liga 2 included 25 teams, which were divided into two groups, Seria I and Seria II. The regular season was played in a round-robin tournament and in the play-offs the teams placed 1st to 6th in each group played a promotion play-off. The first two teams in each play-off group would eventually be promoted to Liga 1 at the end of the season.
6. The play-off standings of Seria II placed the Appellant in the third place with 30 points, whereas ASA 2013 Târgu Mureş and CS Universitatea Craiova with 34 and 37 points respectively secured the first and the second place.
7. On 28 June 2014, and after the end of the Seria II play-offs, the RFF, pursuant to the Appellant’s assertion, amended its Statutes and modified the conditions for the promotion of teams. The Appellant submits in particular that the RFF removed the “three-year rule”, which was in place until then in Article 54(2) of the RFF Statutes (2011 version) providing that in order for a team to be promoted to a higher division, its membership with the RFF must have lasted – at the start of the next season – for at least three consecutive years.

8. Article 54 of the RFF Statutes (version 2011), as it was in force at the beginning of the 2013-2014 season, stipulated that:

*“Article 54. The principle of promotion and relegation*

*1. The right of a club to participate in national championships will depend, primarily, on its sporting merit. A club will qualify for a national championship by: continuing to play in the same competitive division or by promoting or relegating at the end of the season.*

*2. To promote to a higher competitive division the affiliate membership of a club must have a duration – at the time the next competitive season begins – of at least three consecutive years. Any change in the legal form of the club or the structure of the legal entity (e.g. change of registered office, name or club colors or transfer between clubs and/or other legal entities of participations) that occurred during this period, in order to facilitate access in a higher competitive division than that in which the sports club in question has the right to operate and/or in order to facilitate the receipt of a license detrimental to the integrity of the competition, will be considered as an interruption of the continuity of the affiliate membership, for the purpose of these provisions”* (translation provided by the Appellant).

9. The Appellant submits that the RFF replaced the aforementioned provision by new promotion and relegation rules, which were included in Article 70 of the amended version of the RFF Statutes after the amendments of 28 June 2014, according to which:

*“Article 70. The principle of promotion and relegation*

*1. The right of a club to participate in national championships will depend on its sporting merit. A club will qualify for a national championship by (i) continuing to play in the same competitive division or (ii) by promoting or relegating at the end of a season.*

*2. Any change in the legal form of the club or the structure of the legal entity (e.g. change of registered office, name or club colors or transfer between clubs and/or other legal entities of participations) in order to facilitate access in a higher competitive division than that in which the sports club in question has the right to operate and/or in order to facilitate the receipt of a license detrimental to the integrity of the competition, is prohibited”* (translation provided by the Appellant).

10. The Appellant further states that CS Universitatea Craiova did not meet the “three-year rule” requirement. Nevertheless, the RFF Executive Committee decided for the promotion of teams on the basis of sporting merit, allegedly applying the 2014 version of the RFF Statutes which the Appellant asserts is contrary to the principle of non-retroactivity.
11. As a result, CS Universitatea Craiova and ASA 2013 Târgu Mureş were promoted to Liga 1 for the 2014-2015 season.

## **B. Proceedings before the bodies of the Romanian Football Federation**

12. On 31 July 2014, the Appellant lodged a complaint with the Disciplinary Committee of the Romanian Football Federation against the RFF and the RPFL maintaining that the promotion to Liga 1 of the football club CS Universitatea Craiova, which had finished first in the Seria II

play-offs, was in breach of the “three-year rule” of Article 54(2) of the 2011 RFF Statutes, which were applicable in the matter at stake as they were in force at the beginning of the 2013-2014 football season.

13. The Appellant further maintained in its complaint that the football club CS Universitatea Craiova was definitively affiliated with the RFF only on 28 June 2014 and, therefore, it was not eligible for promotion to Liga 1 as it did not meet the three-year-membership condition of Article 54(2) of the RFF Statutes. As a result, the Appellant requested that the RFF and the RPFL be obliged, instead of the football club CS Universitatea Craiova, to register the Appellant to the 2014-2015 edition of Liga 1 or, in case the 2014-2015 season would already be underway, to register the Appellant to the 2015-2106 edition of Liga 1.
14. The Appellant also requested from the RFF Disciplinary Committee to be awarded a financial compensation in the amount of EUR 1,000,000 corresponding to damages incurred from the loss of the Appellant’s income from the exploitation of television rights for the 2014-2015 edition of Liga 1.
15. The Appellant did not call the football club CS Universitatea Craiova as a respondent in said proceedings.
16. On 27 August 2014, the RFF Disciplinary Committee rendered its decision 54/2014 and rejected the Appellant’s claims as inadmissible. The Committee found that the Appellant lacked legal interest to request its promotion to Liga 1 as both the 2013 and the 2014 edition of the RFF Regulations governing the Organisation of Football Activity (“ROFA”) regulated the issue of vacancies due to failure to meet the promotion requirements, allegedly providing that such vacancies would either be filled by the highest-placed relegated team or remain vacant (Articles 19 and 18 of the 2013 and 2014 editions of ROFA respectively). Therefore, the Appellant was not entitled to be promoted to Liga 1, irrespective of whether CS Universitatea Craiova would meet the promotion criteria or not.
17. Further, the Committee rejected the Appellant’s monetary claim due to lack of jurisdiction and material competence.
18. On 1 October 2014, the Appellant filed an appeal against the decision of the RFF Disciplinary Committee claiming that the aforementioned provision of the ROFA applies only in cases of a team’s expulsion or withdrawal from the championship and, therefore, is not applicable in the matter at stake, and that the RFF Disciplinary Committee is competent to adjudicate on every dispute related to the promotion of a club to a higher division.
19. On 13 November 2014, the RFF Appeal Committee rendered its decision 82/2014, by which it dismissed the Appellant’s appeal and found that the Appellant had no standing to sue in accordance with Article 4.6.5 of the ROFA (2014 edition), which provides that the RFF Secretary General “*may petition*” (sic) the competent decision-making bodies in the event that one or more clubs have violated the rules governing promotion and relegation matters in the Romanian football league system.

20. The operative part of the decision of the RFF Appeal Committee reads as follows:

*“[...] Dismisses as unfounded the recourse filed by Râmnicu Vâlcea Municipal Sports Club, based in Râmnicu Vâlcea [...] against the Decision no. 54 of 27.08.2014 stated by the Disciplinary and Ethics Committee of the Romanian Football Federation.*

*Internally final and enforceable.*

*The decision may be recurred before T.A.S. within 21 days of notification”* (translation provided by the Appellant).

21. On 2 December 2014, the RFF Appeal Committee communicated its decision 82/2014 to the Appellant.

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

22. On 10 December 2014, the Appellant filed a statement of appeal in accordance with Articles R47 and R48 of the Code of Sports-related Arbitration (hereinafter referred to as the “Code”) against the decision 82/2014 of the RFF Appeal Committee (hereinafter referred to as the “Appealed Decision”).

23. With its statement of appeal the Appellant requested from the CAS:

*“1. to uphold the present Appeal.*

*2. to annul the Decision no. 82/2014, issued by the Recourse Committee of the Romanian Football Federation, and the Decision no. 54/2014, issued by the Disciplinary Committee of the Romanian Football Federation.*

*3. to ascertain that the promotion from the Second League to the First League of the Football Championship of Romania at the end of the season 2013-2014 was done by the Respondents Romanian Football Federation and Romanian Football Professional League in breach of the Romanian Football Federation’ Statute, article 54, paragraph 2, consequently to this breach the club being promoted was “SC Club Sportiv U Craiova SA” instead of “Clubul Sportiv Municipal Râmnicu Vâlcea” and, therefore:*

*3.1. to order the Respondents Romanian Football Federation and Romanian Football Professional League to register the Appellant “Clubul Sportiv Municipal Râmnicu Vâlcea” in the next season, 2015-2016, of the First League of the Football Championship of Romania, and*

*3.2. to order the Respondents Romanian Football Federation and Romanian Football Professional League to jointly pay as damages a sum of 1.000.000 euro (one million euro), representing the quota from the TV rights for the First League seasons 2014-2015, which the Appellant has been deprived of by their deeds and it would have benefited from if it had been promoted to the First League.*

*4. to order the Respondents Romanian Football Federation and Romanian Football Professional League to borne jointly the costs of the current arbitration.*

*5. to order the Respondents Romanian Football Federation and Romanian Football Professional League to pay jointly to the Appellant "Clubul Sportiv Municipal Râmnicu Vâlcea" a total amount of CHF 10.000 (ten thousands Swiss francs) as contribution towards the expenses incurred in connection with these arbitration proceedings".*

24. The Appellant also requested that a Sole Arbitrator be appointed by the CAS in this arbitration.
25. On 19 December 2014, the Second Respondent objected to the appointment of a Sole Arbitrator in this matter and requested that a Panel of three arbitrators be appointed.
26. On 21 December 2014, the Appellant filed its appeal brief, in accordance with Article R51 of the Code.
27. On 12 January 2015, and in relation to the matter of the number of arbitrators in the present case, the CAS Court Office invited the First and the Second Respondent, in accordance with Article R50 of the Code, to state whether they are willing to pay their respective share of the advance of costs before the issue be transmitted for the decision of the President of the CAS Appeals Arbitration Division.
28. On 13 and 14 January 2015, the Second and First Respondent respectively answered that they do not intend to pay their shares of the advance of costs.
29. By letter of 10 March 2015, the CAS Court Office acknowledged that the Appellant paid its share of the advance of costs for this procedure and informed the parties that Mr Sofoklis Pilavios had been appointed as Sole Arbitrator in this matter by the President of the CAS Appeals Arbitration Division. Moreover, the CAS Court Office invited the Respondents to submit their answers within 20 days of receipt of such letter, pursuant to Article R55 par. 3 of the Code.
30. On 3 April 2015, the First Respondent filed its answer in accordance with Article R55 of the Code requesting from the CAS:
  - A. to dismiss the appeal lodged by the Appellant*
  - B. to maintain and consider the challenged decisions undisturbed.*
  - C. subsequently, to deny all the prayers for relief made by the Appellant.*
  - D. to order the Appellant to pay all costs, expenses and legal fees relating to the arbitration proceedings before CAS encumbered by the First Respondent".*
31. The Second Respondent filed its answer also on 3 April 2015 and in accordance with Article R55 of the Code, requesting from the CAS:
  - 1. to ascertain the lack of standing to be sued of the Professional Football League and to reject the Appellant's claim against the undersigned, on the ground that it is directed against a person without standing to be sued;*

2. *to ascertain the lack of interest of the Appellant to lodge this appeal and to dismiss the latter's appeal for want of interest;*
  3. *to grant the plea of inadmissibility of the prayer for relief 3.1 from the statement of appeal and to dismiss this prayer for relief as inadmissible;*
  4. *to dismiss the appeal filed by Clubul Sportiv Municipal Ramnicu-Valcea as unfounded;*
  5. *to compel the Appellant Clubul Sportiv Municipal Ramnicu-Valcea to bear all costs generated by this procedure, including the attorney fee".*
32. On 9 April 2015, the CAS Court Office consulted the parties whether they preferred the Panel to render an award exclusively based on the parties' written submissions or whether they preferred that a hearing be held.
  33. In reply to the aforementioned letter, on 14 April 2015, the Second Respondent agreed that the Panel issue an award based solely on the parties' written submissions.
  34. On 15 April 2015, the First Respondent wrote to the CAS stating that "*we consider that a hearing is necessary in this matter, as the written submissions are not self-explanatory and there are issues that need further development and argumentation*".
  35. On 16 April 2015, the Appellant wrote to the CAS stating that they "*kindly request and insist to the CAS Panel for a hearing to be held in the current case*".
  36. On 22 April 2015, the CAS Court Office informed the parties that the Sole Arbitrator had decided that a hearing shall be held in accordance with Article R57 of the Code.
  37. On 5 May 2015, the CAS Court Office issued an order of procedure, which was signed and returned to the CAS on 6 May 2015 by the Second Respondent, on 11 May 2015 by the First Respondent and on 12 May 2015 by the Appellant.
  38. On 27 May 2015, a hearing took place at the Lausanne Palace Hotel in Lausanne, Switzerland.
  39. The Panel sat in the following composition:  
  
Sole Arbitrator: Mr Sofoklis P. Pilavios, Attorney-at-law in Athens, Greece
  40. The Panel was assisted by Mr Christopher Singer, CAS Counsel.
  41. The following persons attended the hearing:
    - The Appellant was represented by Dr. Tudor Chiuariu and Ms Idita Dan, attorneys-at-law.
    - The First Respondent was represented by Mr Adrian Stangaciu, Legal Counsel, Head of Legal Department and Mr Paul-Filip Ciucur, attorney-at-law.

- The Second Respondent was represented by Mr Mincu Paul Alexandru, attorney-at-law and Mr Statescu Constantin Emanuel, Legal Director.
42. At the outset of the hearing, the parties confirmed that they did not have any objection as to the constitution and composition of the Arbitral Tribunal.
43. At the conclusion of the hearing, the parties confirmed that their right to be heard and to be treated equally in the present proceedings before the Sole Arbitrator had been fully respected, following which the Sole Arbitrator closed the hearing and announced that his award would be rendered in due course.

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

44. The following outline of the parties' positions is illustrative only and does not necessarily comprise every submission advanced by the Appellant and the First and the Second Respondent. The Sole Arbitrator has nonetheless carefully considered all the submissions made by the parties, whether or not there is specific reference to them in the following summary.
45. The Appellant's submissions, in essence, may be summarized as follows:
- The 2011 version of the RFF Statutes is applicable in the matter at hand, as they are the ones that were in force when the 2013-2014 season began and, therefore, the RFF was wrong to apply the 2014 version of the RFF Statutes with regard to the conditions regulating the promotion of teams to Liga 1 for the 2014-2015 season.
  - CS Universitatea Craiova did not comply with the "three-year rule" included in Article 54(2) of the 2011 RFF Statutes and, therefore, did not meet the promotion conditions and could not be promoted to the 2014-2015 Liga 1.
  - The RFF Appeal Committee was wrong to dismiss the Appellant's appeal on the basis that the Appellant had no standing to sue, as it was not allowed to deteriorate the position of the appealing party as a result of the appellate review.
  - RFF rules and regulations do not provide that only the RFF Secretary General has standing to sue with respect to disputes related to the promotion and relegation of teams.
  - Article 19 of the ROFA (2013 edition) does not apply in the matter at hand and the Appellant is not precluded from filing a complaint before the RFF bodies for lack of legal interest to do so.
  - The damages caused to the Appellant by the actions of the First and the Second Respondent can only be compensated by ordering the Respondents to register the Appellant for the 2015-2016 season of Liga 1 and to pay to it the amount of EUR



1,000,000 as compensation for the loss of income from the exploitation of TV rights of the 2014-2015 season.

46. In turn, the First Respondent's submissions may be summarized as follows:

- Pursuant to the provisions of the RFF Statutes and the RFF Disciplinary Regulation, the First and the Second Respondent lack standing to be sued before the RFF Disciplinary Committee.
- The Appellant lacks legal interest and, thus, standing to appeal.
- The appeal is inadmissible as the Appellant did not summon CS Universitatea Craiova in the proceedings before the RFF bodies or before CAS, even though CS Universitatea Craiova is to be affected by the ruling in the event that the Appellant's appeal is upheld.
- The Appellant did not challenge before the Romanian state courts the decision of the RFF General Assembly, which ratified the amendments to the 2014 edition of the RFF Statutes.
- The abolition of the "three-year rule" is in accordance with the principle of sporting merit.
- The 2014 RFF General Assembly confirmed the full-member status of CS Universitatea Craiova and, as a result, the team was able to enjoy all rights and duties provided for under the ROFA, including the right to promote to a higher league according to the principle of sporting merit.
- The promotion of CS Universitatea Craiova and the challenged decisions of the RFF decision-making bodies comply with the conditions set in Article 54 of the RFF Statutes.

47. The Second Respondent's submissions, in essence, may be summarized as follows:

- The Second Respondent has no competence to enact rules governing the promotion or relegation of teams, to confirm the final rankings and to determine the teams that are promoted or relegated. Such competence falls under the jurisdiction of the First Respondent. As a result, the Second Respondent has no standing to be sued in the present matter.
- In the event that the promotion of CS Universitatea Craiova to Liga 1 was annulled, the Appellant would not be eligible to fill the vacancy. According to Article 18 of the ROFA (2014 edition), the vacant place would be filled by the highest ranking team that was relegated from Liga 1 after the 2013-2014 season. Therefore, the Appellant lacks direct interest to challenge the promotion of CS Universitatea Craiova to the 2014-2015 season of Liga 1 and has thus no right of appeal.
- The request for registration in the 2015-2016 season is inadmissible because the Appellant amended its initial request before the RFF judicial bodies, whereby

registration in the 2015-2016 was only a subsidiary claim. In addition, promotion to a higher league can only occur on the basis of sporting merit and not as compensation for damages incurred.

- Moreover, in line with relevant CAS case-law, the principle of non-retroactivity does not apply to rules which govern the requirements for being admitted to a competition. Therefore, the Second Respondent submits that the promotion of teams to the 2014-2015 leagues is governed by the rules of the First Respondent on promotion and relegation of teams that came into force at the end of the 2013-2014 season (amendments of 28 June 2014), even though they were not known to the participants at the beginning of the 2013-2014 competitions, contrary to the Appellant's submission.

## V. JURISDICTION

48. The jurisdiction of CAS to decide on the present case arises out of Article 57(4) of the RFF Statutes and Article R47 of the CAS Code. The former provision determines that:

*“b) Decisions pronounced in first instance can be recorsed (sic), as appropriate, at:*

*- the Recourse Committee of FRF, as a final court at national level, for the decisions of the Disciplinary and Ethics Committee and the National Chamber for Settlement of Disputes;*

*- the Court of Arbitration of Sport in Lausanne, as a final court at international level, for recourses against the decision of the Recourse Committee of FRF”* (translation provided by the Appellant), whereas Article R47 of the Code provides as follows:

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

49. The jurisdiction of CAS is further confirmed by the Order of Procedure duly signed by the parties.

50. It follows that CAS has jurisdiction to decide on the present dispute.

## VI. ADMISSIBILITY

51. Article R49 of the Code provides as follows:

*“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. After having consulted the parties, the Division President may refuse to entertain an appeal if it is manifestly late”.*

52. The grounds of the Appealed Decision were communicated by the RFF Appeal Committee to the Appellant on 2 December 2014, the Appellant filed its statement of appeal on 10 December 2014 and its appeal brief on 21 December 2014.
53. The appeal complied with all other requirements of Article R48 of the CAS Code, including the payment of the CAS Court Office fee.
54. The appeal is therefore admissible.

## VII. APPLICABLE LAW

55. Article R58 of the Code provides as follows:

*“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”.*

56. Article R58 of the Code indicates how the Panel must determine which substantive rules/laws are to be applied to the merits of the dispute. This provision recognizes the pre-eminence of the “*applicable regulations*” to the “*rules of law chosen by the parties*” or the “*law of the country in which the federation [...] which has issued the challenged decision is domiciled*”, which are only applicable “*subsidiarily*”.
57. Article R58 of the Code does not admit any derogation and imposes a hierarchy of norms, which implies for the Panel the obligation to resolve the matter pursuant to the regulations of the relevant “*federation, association or sports-related body*”.
58. The case at hand involves a domestic dispute related to the promotion of teams in the Romanian football league system.
59. As a result, the “*applicable regulations*” in the present case are the RFF Statutes and the RFF Regulations governing the Organisation of Football Activity (“ROFA”), which define the conditions and criteria for the promotion of teams in the Romanian football league system.
60. The Sole Arbitrator will therefore primarily examine the Appealed Decision in the light of those regulations. If necessary in order to fill any gap in the applicable regulations, subsidiary norms will be determined later on.

## VIII. MERITS

61. According to Article R57 of the Code, CAS Panels have “*full power to review the facts and the law*”. As repeatedly stated in CAS jurisprudence, by reference to this provision the CAS appellate arbitration procedure entails a *de novo* review of the merits of the case, and is not confined merely to deciding whether the ruling appealed was correct or not. Accordingly, it is the

function of the Sole Arbitrator as Arbitral Tribunal in this case to make an independent determination as to merits (see CAS 2007/A/1394, para. 21).

**A. The Appellant's claim to be admitted to the 2015-2016 competition of Liga 1**

62. The Sole Arbitrator notes that the Appellant does not include in its prayers for relief in the statement of appeal lodged before CAS on 10 December 2014 its primary claim before the RFF judicial bodies, namely to be admitted to the 2014-2015 Liga 1 competition. At any rate, such request has become moot as the 2014-2015 Liga 1 competition was already underway when the Appellant lodged its appeal with CAS and, therefore, being reinstated into the 2014-2015 competition would be difficult, if not impossible, should the appeal be admitted.
63. As a result, the central legal question to be examined hereafter is the validity of the Appellant's request to CAS *"to order the Respondents Romanian Football Federation and Romanian Football Professional League to register the Appellant "Clubul Sportiv Municipal Râmnicu Vâlcea" in the next season, 2015-2016, of the First League of the Football Championship of Romania"*.
64. In this respect, the Sole Arbitrator notes that both the 2011 and the 2014 version of the RFF Statutes, which have been provided and relied on by the parties in these proceedings, provide for a system of promotion and relegation of teams to higher and lower divisions on the basis of their placements in the rankings of the respective leagues.
65. In particular, Article 54(1) of the RFF Statutes (version 2011) provided that *"[t]he right of a club to participate in national championships will depend, primarily, on its sporting merit. A club will qualify for a national championship by: continuing to play in the same competitive division or by promoting or relegating at the end of the season"*, whereas Article 70(1) of the RFF Statutes (version 2014) uses an almost identical wording stipulating that *"[t]he right of a club to participate in national championships will depend on its sporting merit. A club will qualify for a national championship by (i) continuing to play in the same competitive division or (ii) by promoting or relegating at the end of a season"*.
66. Secondly, the Sole Arbitrator notes that there is a substantial difference between the two sets of rules, which consists in the fact that the "three-year rule" requirement included in Article 54(2) of the RFF Statutes (version 2011) was abolished in the 2014 version of the rules. As a result, after the 2014 amendment of its Statutes, the RFF no longer requires for the promotion of a team to a higher division its RFF membership to have lasted – at the start of the next season – for at least three consecutive years.
67. In this context, the Sole Arbitrator wishes to highlight the importance of the promotion/relegation system as one of the fundamental characteristics of the organisation of competitive sport throughout Europe. The key role of the promotion/relegation system in the European sport model has been acknowledged by another CAS Panel in CAS 98/200, with further reference to a consultation document of the European Commission (*The European model of sport*, Brussels 1999).
68. In this matter the Sole Arbitrator has not been provided with evidence that the RFF regulatory framework contains any rules providing for exceptions from the established

promotion/relegation system on the basis of the sporting merit criterion and neither does the Appellant rely on any such rules to obtain the annulment of the Appealed Decision.

69. Furthermore, the Sole Arbitrator notes that the Appellant seeks to set aside an award preventing it from being admitted to the 2014-2015 Liga 1 competition.
70. However, said competition was already underway when the Appellant filed its statement of appeal before CAS, whereas, additionally, the Appellant did not challenge the decision of the competent body of the First Respondent determining the teams which will participate in the 2015-2016 competition of Liga 1.
71. In this respect, the Sole Arbitrator also considers that, as it was confirmed by the parties during the hearing, after a restructuring decision which was taken in January 2015, the 2015-2016 competition of Liga 1 is reduced from 18 to 14 teams. In order to implement such reduction, the last six teams from the 2014-2015 season were relegated to the 2015-2016 Liga 2 division, whereas only the first team from each of the two divisions of Liga 2 (Seria I and Seria II) advanced to Liga 1.
72. According to a general and well-established principle of procedural law, a party has standing to sue if it has an interest worthy of protection. This is deemed to be the case if the appellant is factually and directly affected by the appealed decision in a fashion that can be eliminated by its annulment.
73. In this respect, according to the Swiss Federal Tribunal jurisprudence, “[a] *legally protected interest consists in the practical use that admitting the appeal would have for the Appellant, by preventing him from undergoing some damage of an economic, ideal, substantive or another nature that would be caused by the decision under appeal (ATF 137 II 40 at 2.3 p. 43). The interest must be present, that is it must exist not only at the time the appeal is made but also when the decision is issued (ATF 137 I 296 at 4.2 p. 299; 137 II 40 at 2.1 p. 41). The Federal Tribunal finds the matter incapable of appeal when the legally protected interest is lacking at the time the appeal is made. [...] As a matter of exception it can be derogated from the requirement of a present interest when the dispute on which the decision under appeal is based may arise at any time under identical or analogous circumstances, when its nature makes it impossible to adjudicate it before it loses its topicality if, as a matter of principle, there is a sufficiently important public interest to resolve the issue in dispute (ATF 137 I 23 at 1.3.1 p. 25; 136 II 101 at 1.1 p. 103; 135 I 79 at 1.1 p. 81)*” (SFT 4A\_134/2012, *Olympique de Alpes SA v. UEFA et al.*, 2.1).
74. In light of the evidence and facts adduced at the hearing and by the parties’ submissions, the Sole Arbitrator points out that the RFF promoted CS Universitatea Craiova to the 2014-2015 competition of Liga 1 by applying Article 70 of the 2014 version of the RFF Statutes, which no longer included the “three-year rule” requirement which was in force at the beginning and until the end of the 2013-2014 season.
75. However, and regardless of the above, the 2014-2015 competition of Liga 1 was already underway when the Appellant lodged its statement of appeal with CAS, whereas the RFF rules provide that the promotion of teams to a higher-ranking category is determined strictly on the basis of their sporting merit (*i.e.* their placement in the relevant rankings).

76. Under such circumstances, the Sole Arbitrator finds that the Appellant has no *“present interest”* to obtain the annulment of the Appealed Decision preventing the Appellant from being admitted to the 2014-2015 Liga 1 competition, as there is no legal basis – and the Appellant does not provide any such – that would allow the Appellant to be admitted to the 2015-2016 Liga 1 competition, should the present appeal be admitted, particularly in the light of the new format of the 2015-2016 competition of Liga 1.
77. Moreover, the Appellant does not submit that the *“dispute on which the decision under appeal is based may arise at any time under identical or analogous circumstances”* – and there is nothing indeed to support such argument given that the *“three-year rule”* condition for the promotion of teams has been eliminated in the 2014 version of the RFF Statutes – neither is there a *“sufficiently important public interest to resolve the issue in dispute”*.
78. In light of the foregoing, the Sole Arbitrator is convinced that the Appellant did not establish the existence of a *“present interest”* to obtain the annulment of the Appealed Decision and considers this to be sufficient ground to reject the appeal.
79. Therefore, the Sole Arbitrator does not find it necessary to examine the substantive lawfulness of the Appealed Decision.
80. However, given the debate, the Sole Arbitrator finds it necessary to make the following observations:
81. According to the Appellant, the RFF competent body confirmed the promotion of CS Universitatea Craiova to the 2014-2015 competition of Liga 1 by applying the regulations included in the 2014 version of the RFF Statutes, which were amended on 28 June 2014, *i.e.* after the end of the regular season and play-off matches of the 2013-2014 competition of Liga 2 in which the Appellant also took part.
82. In particular, the First Respondent was able to promote CS Universitatea Craiova on the basis of Article 70 of the 2014 version of the RFF Statutes, as the *“three-year rule”* requirement was removed after the amendment of 28 June 2014. The fact that CS Universitatea Craiova did not meet said requirement is confirmed by the First Respondent in paragraph 31 of its answer, according to which the full member status of CS Universitatea Craiova was acknowledged by the 2014 RFF Extraordinary General Assembly.
83. In support of its position that the principle of non-retroactivity does not apply to a rule governing the requirements for being admitted to a competition, the Second Respondent refers to the CAS award in joined cases CAS 2008/A/1583 and CAS 2008/A/1584.
84. However, the Sole Arbitrator underlines that the facts upon which the CAS Panel was called to decide in the referenced award, are not relevantly identical to the facts of the present arbitration. In the referenced case the CAS Panel had to determine whether the admission criteria set out in Article 1.04 of the Regulations of the UEFA Champions League 2008/2009 – namely that a club *“must not be or have been involved in any activity aimed at arranging or influencing the outcome of a match at national or international level”* – which were adopted in March 2008 and

came into force on 1 May 2008, may apply to refuse admittance to a team which had committed the specified offence prior to the enactment of the provision.

85. The relevant issue for that CAS Panel to decide was whether an association may apply an already established set of admission criteria to exclude from a competition a team that has committed a specific offence at some point of time in the past.
86. Therefore, when that CAS Panel ruled that the principle of non-retroactivity does not apply to a rule which governs the requirements for being admitted to a competition, it certainly did not have in mind a set of rules which was adopted after the end of the relevant sporting season in order to be applied retroactively to an already established set of facts, thereby disrupting the legal position acquired by the participating teams.
87. As a result, the Sole Arbitrator finds that the conclusion of the CAS Panel in joined cases CAS 2008/A/1583 and CAS 2008/A/1584 cannot be applied in this arbitration in the way submitted by the Second Respondent.
88. On the contrary, the Sole Arbitrator is convinced that the promotion and relegation of teams cannot be governed by a set of rules which was adopted after the end of the relevant sporting season and amended the rules which were in force during said season. This would result in disrupting the legal position acquired by the participating teams, which were entitled for promotion at the end of the relevant sporting season, in the event that the adopted amendments would not apply retroactively.
89. In this respect, the application of such a set of rules by an association violates the expression of the concept of providing legal protection to a person who relies on the principle of good faith, as determined by the same CAS Panel in joined cases CAS 2008/A/1583 and CAS 2008/A/1584.
90. Moreover, as the Sole Arbitrator has not been provided with evidence that the 2014 version of the RFF Statutes contains any transitional provisions, which might solve the question of its application *ratione temporis*, the Sole Arbitrator finds that his conclusion is also supported by Article 6 of the Romanian Civil Code, which is applicable in the matter at hand in accordance with Article R58 of the Code as “*the law of the country in which the federation, association or sports-related body which has issued the challenged decision is domiciled*” and stipulates:  
  
“*Civil law is applicable while it is in force. It is not retroactive*” (translation provided by the Appellant).
91. In light of the foregoing, irrespective of the issue the substantive lawfulness of the Appealed Decision, the Sole Arbitrator dismisses the appeal.

## **B. The Appellant’s claim for compensation**

92. The Appellant requests from CAS “*to order the Respondents Romanian Football Federation and Romanian Football Professional League to jointly pay as damages a sum of 1.000.000 euro (one million euro), representing the quota from the TV rights for the First League seasons 2014-2015, which the Appellant*

*has been deprived of by their deeds and it would have benefited from if it had been promoted to the First League”.*

93. According to legal doctrine and well-established CAS case-law, the CAS *de novo* power of review “cannot be construed as being wider than that of the appellate body” (see MAVROMATI/REEB, *The Code of the Court of Arbitration for Sport. Commentary, cases and materials*, p. 522, with further references).
94. The competence of the RFF body that issued the Appealed Decision is based on Article 70(3) of the 2014 edition of the RFF Statutes, which stipulates that:

*“The settlement of any disputes, and the judgment on the failure to fulfill promotion conditions fall under the competence of the Disciplinary and Ethics Committee. The decision of the Disciplinary and Ethics Committee of the FRF can be challenged by recourse to the Recourse Committee of FRF”* (translation provided by the Appellant).
95. The Sole Arbitrator notes that, as a result, the Disciplinary Committee and the Appeal Committee of the RFF are not competent to hear monetary claims, as their jurisdiction is limited to the adjudication of disputes related to the application of the RFF promotion and relegation conditions.
96. Consequently, the Sole Arbitrator considers this to be sufficient ground to reject the relevant prayer of relief of the Appellant.
97. Any further claims or requests for relief are dismissed.

## ON THESE GROUNDS

### The Court of Arbitration for Sport rules:

1. The Appeal filed by Clubul Sportiv Municipal Râmnicu Vâlcea on 10 December 2014 against the decision of the Recourse Committee of the Romanian Football Federation of 13 November 2014 is dismissed.
2. (...).
3. (...).
4. All other prayers for relief are dismissed.