



**Arbitration CAS 2020/A/7019 Olympiacos Football Club (Olympiacos) v. Hellenic Football Federation (HFF) & Club Panthessalonkeios Athlitikos Omilos Konstantinoupoliton PAOK (PAOK) & “Xanthi” Athletic Group Football Club (Xanthi FC) & CAS 2020/A/7035 PAOK v. HFF, award of 14 August 2020 (operative part of 10 July 2020)**

Panel: Mr Manfred Nan (The Netherlands), President; Prof. Luigi Fumagalli (Italy); Prof. Ulrich Haas (Germany)

*Football*

*Sanctions for multiple ownership*

*Principle of legality and nulla poena sine lege certa in disciplinary proceedings*

*Scope of review of the CAS*

*Referral of the decision*

1. The purpose of disciplinary sanctions is to influence the behaviour of its members, in particular to encourage them not to engage in certain unwanted activity by threatening to sanction them. In order to achieve this goal, there must be clarity for all stakeholders on what constitutes misconduct. Furthermore, equal treatment of all members is only possible if there is legal certainty with respect to the contents of the rule. In order to protect the aforementioned interests, criminal law follows the principles of *nullum crimen, nulla poena sine lege scripta et certa*, pursuant to which no sanction may be imposed unless there is an express provision describing in sufficient clarity and specificity, not only the misconduct but also the applicable sanction. This principle is applicable by analogy to disciplinary proceedings, although not the same high criminal law standards apply. It suffices that the misconduct covered by the respective rule and the sanction applicable to such misconduct be determinable by interpretation.
2. If a party has requested in its prayers for relief that no sanction be imposed upon it, a CAS panel can set aside not only the appealed decision of an appeals body confirming a sanction imposed by a first instance body, but also the decision of the first instance body imposing the sanction. This does not lie outside the scope of competence of the CAS panel, as a mere annulment of the appealed decision would indeed leave the first instance decision in place.
3. Pursuant to Article R57 CAS Code, a CAS panel is entitled to annul the appealed decision and render a decision on the substance of the case to replace the appealed decision. The CAS panel is however also perfectly entitled to annul the appealed decision and refer the case back to the lower instance. To do so, no request from any party is required, it is a discretion afforded to the CAS panel by Article R57 CAS Code.

## **I. PARTIES**

1. Olympiacos Football Club (“Olympiacos”) is a professional football club with its registered office in Piraeus, Greece. Olympiacos is affiliated to the Hellenic Football Federation.
2. Panthessaloníkeios Athlitikós Ómilos Konstantinoupolitón (“PAOK”) is a professional football club with its registered office in Thessaloniki, Greece. PAOK is also affiliated to the Hellenic Football Federation.
3. “Xanthi” Athletic Group Football Club (“Xanthi”) is a professional football club with its registered office in Xanthi, Greece. Xanthi is also affiliated to the Hellenic Football Federation.
4. The Hellenic Football Federation (the “HFF”) is the national governing body of football in Greece and has its registered office in Athens, Greece. The HFF is affiliated to the *Union des Associations Européennes de Football* (“UEFA”) and the *Fédération Internationale de Football Association* (“FIFA”).
5. Olympiacos, PAOK, Xanthi and the HFF are hereinafter jointly referred to as the “Parties”.

## **II. INTRODUCTION**

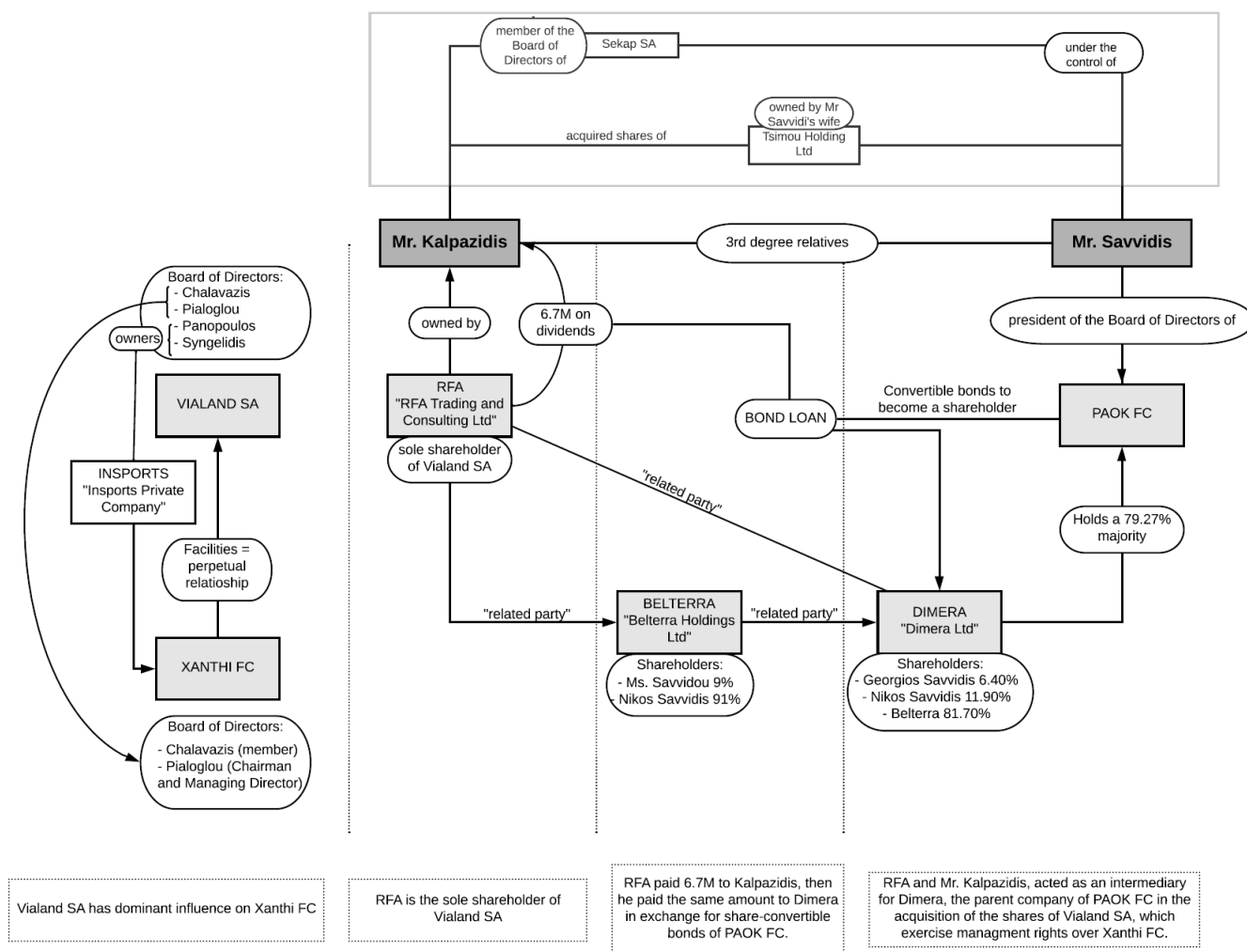
6. The present appeal arbitration proceedings concern a dispute between the Parties related to an alleged violation by PAOK and Xanthi of the applicable law prohibiting multiple ownership of football clubs, for which the Single-Member Disciplinary Body of First Instance for Super League 1 (the “League”) of Greece (the “Disciplinary Committee”) imposed a seven-point deduction on both PAOK and Xanthi, which decision was confirmed by the HFF Appeal Committee (the “Appeals Committee”) on appeal (the “Appealed Decision”).
7. Both Olympiacos and PAOK request that the Appealed Decision be set aside. Olympiacos requests for harsher sanctions to be imposed on PAOK and Xanthi, and PAOK requests that no sanction be imposed on it.

## **III. FACTUAL BACKGROUND**

8. Below is a summary of the main relevant facts and allegations based on the Parties’ written and oral submissions. Additional facts and allegations may be set out, where relevant, in connection with the legal discussion that follows. Although the Panel has considered all the facts, allegations, legal arguments and evidence submitted by the Parties in the present proceedings, it refers in this award only to the submissions and evidence it considers necessary

to explain its reasoning. The English versions of original Greek texts in the present arbitral award are based on translations submitted by the Parties, which have remained undisputed.

9. The factual background concerning the alleged violation by PAOK and Xanthi of the prohibition on multiple ownership is best described schematically. It consists of multiple alleged personal and corporate links and interdependencies. The Panel finds that the below figure presented by Olympiacos is representative for the allegations made:



#### IV. PROCEDURAL BACKGROUND

##### A. Proceedings before the Commission on Professional Sport

10. The Commission on Professional Sport (the “CPS”) is an administrative body of the Greek public administration, independent from the HFF.
11. On 4 December 2019, Olympiacos lodged a complaint with the CPS, requesting it to investigate PAOK and Xanthi in accordance with Article 77A Law 2725/1999 for a possible violation of Article 69(9) Law 2725/1999.
12. On 27 January 2020, the CPS issued a decision (the “CPS Decision”) holding that PAOK and Xanthi had violated the rules concerning multiple ownership of football clubs, with the following operative part:

**“1) The Committee accepts:**

- (a) *By a majority (4 – 1), that XANTHI F.C. has committed an infringement of Article 69 par. 3, 12 of Law 2725/1999.*
- (b) *This infringement is qualified by a majority (3 – 2) as “Gross”.*
- (c) *Forwards the decision as a “Report” to the competent court for the imposition of the prescribed penalty, in accordance with article 69 (12) of Law 2725/1999.*
- (d) *Forwards the decision of the competent Prosecution Authority for prosecution in accordance with article 69 (13) of Law 2725/1999.*

**2) The Committee accepts:**

- (a) **Unanimously**, *that XANTHI F.C. has committed an infringement of Article 77A par. 3, 5, and 6 of Law 2725/1999.*
- (b) *Revokes, by a majority (3 – 2), the certificate of participation granted, which is considered as never have been issued and therefore the revocation refers to the time of its issuance, given that the offending conduct of the F.C. existed at the time of its issuance, without being known to the CPS.*
- (c) *Forwards the decision as a “Finding” to the Federation concerned for the imposition of the prescribed penalty, in accordance with article 69 (12) of Law 2725/1999.*
- (d) **Unanimously imposes a fine of One Hundred Thousand (100,000) euros on XANTHI F.C.**
- (e) *Forwards the decision to the competent Public Prosecutor for the deed of obtaining a false certificate.*

**3) The Committee accepts:**

- (a) **By a majority (4 – 1), that XANTHI F.C. and PAOK F.C. violated Article 69 par. 9, 12 of Law 2725/1999.**
- (b) *This infringement is, by a majority (4 – 1) classified as ‘Gross’.*
- (c) *Forwards the decision as a ‘Report’ to the competent Court for the imposition of the prescribed penalty, in accordance with article 69 (12) of Law 2725/1999.*
- (d) *Forwards the decision as a ‘Finding’ to the Federation concerned for the imposition of the prescribed penalty, in accordance with article 69 (12) of Law 2725/1999.*
- (e) *Forwards the decision to the competent Prosecution Authority for the criminal proceedings under article 69 (13) of Law 2725/1999; and*
- (f) *Unanimously imposes a fine of Three Hundred Thousand (300,000) Euros on each of the above F.Cs”. (emphasis in original)*

**B. The amendment of Law 2725/1999**

13. At the time of the alleged violation, Article 69(12) Law 2725 provided as follows:

*“In the event that any of the provisions of the preceding paragraphs of this article are violated because [of] the fault of Sports SA bodies, its team is **expelled from the championship**, by decision of the relevant judicial body, which is taken after a report of the Committee on Professional Sports or after a request by anyone having legal interest” (emphasis added by the Panel).*

14. On 28 January 2020, the day after the CPS Decision was issued, the Greek Parliament passed an amendment to Law 2725/1999 to modify the applicable sanction in case of violation of Article 69(9). Pursuant to Article 30 of Law 4659/2020, the new wording applies retroactively since 1 July 2019 and provides as follows:

*“In case of violation of any of the provisions of the previous paragraphs of this article because of fault of the Sports SA organs, it is imposed on its team, by decision of the relevant judicial body, which acts upon after a report by the Committee on Professional Sports or at the request of anyone having legitimate interest, the penalty of **deducting five (5) to ten (10) points from the current professional championship in which it participates, depending on the gravity of the violation**. In case the violation is found after the end of the season, the above penalty is imposed for the next professional championship. The penalty of this paragraph shall be imposed regardless of the legal characterization of the violation by the relevant disciplinary provisions.*

*\*\*\* Paragraph (12) was replaced as above with Article 30 (1), L.4659/2020, Government Gazette issue A 21/3/2/2020. It applies, pursuant to Article 30 (4), on infringements established as of July 1st 2019” (emphasis added by the Panel).*

15. On 10 February 2020, the grounds of the CPS Decision were communicated to Olympiacos, PAOK and Xanthi.
16. As from this moment, proceedings were commenced before the Greek Council of State, the Athens Administrative Court of Appeal and the Disciplinary Committee. These proceedings are addressed in turn under separate headings below, but not necessarily in chronological order.

**C. Proceedings before the Greek Council of State**

17. On 14 February 2020, PAOK submitted an application for annulment with the Greek Council of State against the CPS Decision and the decree issued by the Deputy Minister for Culture and Sport, by which Mr Farantouris, Professor of Commercial Law, was appointed as a full member of the CPS, without allegedly holding the necessary qualifications.
18. No evidence was presented before the Panel that a decision was rendered by the Greek Council of State at the time the operative part of the present arbitral award was issued.

**D. Proceedings before the Athens Administrative Court of Appeal**

19. Also on 14 February 2020, PAOK submitted an application for annulment of the CPS Decision before the Athens Administrative Court of Appeal, as well as a claim for an interlocutory injunction.
20. On 10 March 2020, the Athens Administrative Court of Appeal rejected PAOK's request for provisional measures.
21. No evidence was presented before the Panel that a decision on the main appeal of PAOK was rendered by the Athens Administrative Court of Appeal at the time the operative part of the present arbitral award was issued.

**E. Proceedings before the Disciplinary Committee**

22. On 10 February 2020, the CPS forwarded the CPS Decision to the Disciplinary Committee of the League as well as to the HFF.
23. On the same day, 10 February 2020, Olympiacos lodged a complaint with the Disciplinary Committee against PAOK and Xanthi based on the CPS Decision, requesting that it initiate proceedings against both clubs for violating Article 69(9) of Law 2725/1999 and impose the sanction of expulsion on both clubs, as provided for by Article 69(12) of Law 2725/1999 when the CPS Decision was issued.

24. Olympiacos and the Greek football club A.E.L. FC (“AEL”) filed interventions in the proceedings instigated against PAOK and Xanthi before the Disciplinary Committee.
25. On 5 March 2020, the Disciplinary Committee issued its decision (the “First Instance Decision”), dismissing the interventions of Olympiacos and AEL and sanctioning PAOK and Xanthi with a seven-point deduction from the 2019/20 championship, with the following operative part:

*“IT HEARS TOGETHER, with the parties present A) those noted on the Report dated 27-1-2020 of the [CPS] concerning [Xanthi] and [PAOK], which was forwarded to this [Disciplinary Committee] under its document no. 96/10-2-2010 and HFF document under outgoing protocol no. 30/10-2-2020, on the breach of the provisions of article 69 (9) and (12) of Law 2725/1999; B) the additional intervention made by [Olympiacos], dated 14-2-2020, in support of item A above of the CPS Report from 27-1-2020, which is directed against [Xanthi]; C) the additional intervention by [Olympiacos] from 14-2-2020 in support of the Report from 27-1-2020 by the CPS, noted in item A, which is turned against [PAOK]; D) the additional intervention by [AEL] from 14-2-2020, in support of [Olympiacos], which is turned against [Xanthi] and [PAOK].*

***DISMISSES** the above (under items B, C, D) additional interventions.*

***IMPOSES** to [Xanthi] the penalty of deduction of seven (7) points from the current professional championship (Super League 1 Hellas 2019 – 2020).*

***IMPOSES** to [PAOK] the penalty of deduction of seven (7) points from the current professional championship (Super League 1 Hellas 2019 – 2020)”. (emphasis in original)*

#### **F. Proceedings before the Appeals Committee**

26. On 9 March 2020, PAOK and Xanthi filed appeals against the First Instance Decision, requesting to be acquitted.
27. On the same date, 9 March 2020, Olympiacos and AEL filed appeals against the First Instance Decision, requesting that PAOK and Xanthi be expelled from the championship, alternatively that 10 points be deducted from PAOK and Xanthi in the championship.
28. On 11 March 2020, Olympiacos filed two interventions.
29. On 6 April 2020, the Appeals Committee issued the Appealed Decision, dismissing the appeals of PAOK and Xanthi, rejecting Olympiacos’ interventions, accepting Olympiacos’ and AEL’s appeals from a formal point of view, but rejecting Olympiacos’ and AEL’s requests insofar as the expulsion or the additional points deduction on PAOK and Xanthi was concerned, with the following operative part:

*“Judges with the opposite parties present.*

*Judges together with appeal no. 8660/9.3.2020 by [Xanthi], appeal no. 8674/9-3-2020 by [PAOK], appeal no. 8707/9-3-2020 by [Olympiacos], appeal no. 8648/9-3-2020 by [AEL], intervention no. 9012/11.3.2020 by [Olympiacos], and intervention no. 9013/11.3.2020 by [Olympiacos].*

*Unanimously rejects the above interventions of [Olympiacos].*

*Unanimously accepts the above appeals in form.*

*Rejects, by majority, as essentially unfounded the above appeals of [Xanthi] and [PAOK].*

*Unanimously accepts as substantiated the above appeals of [Olympiacos] and [AEL].*

*Partially eliminates [the First Instance Decision] concerning the part for which the main interventions that were brought before the [Disciplinary Committee] by [Olympiacos] and [AEL] were rejected.*

*Holds and judges the above interventions.*

*Accepts by majority as partially substantiated the above main interventions of [Olympiacos] and [AEL].*

*Orders the forfeiture in favour of the HFF of the fees of the appeals deposited by the appellants [Xanthi], [PAOK] as well as the fees of the interventions brought before the present Committee by [Olympiacos]. Orders the return of the fees of the appeals to [Olympiacos] and [AEL].”*

30. On 14 April 2020, the grounds of the Appealed Decision were notified.

## **V. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT**

31. On 28 April 2020, in accordance with Article R47 of the Code of Sports-related Arbitration (“CAS Code”), Olympiacos filed its Statement of Appeal with CAS, challenging the Appealed Decision. In its Statement of Appeal, Olympiacos nominated Mr Luigi Fumagalli, Professor and Attorney-at-law in Milan, Italy, as arbitrator.
32. On 4 May 2020, in accordance with Article R47 CAS Code, PAOK filed its Statement of Appeal with CAS, challenging the Appealed Decision. In its Statement of Appeal, PAOK nominated Mr Ulrich Haas, Professor of Law in Zurich, Switzerland, as arbitrator.
33. On 6 May 2020, the CAS Court Office requested the Parties whether they agreed to consolidate the proceedings in *CAS 2020/A/7019* and *CAS 2020/A/7035*.
34. On 8, 11 and 12 May 2020 respectively, Xanthi and PAOK objected to the consolidation of the two proceedings and the HFF left it up to the other Parties, or in the absence of an agreement, for the President of the CAS Appeals Arbitration Division to decide upon this issue. PAOK also maintained that Olympiacos had no standing to challenge the Appealed Decision and requested that this issue be decided in a preliminary decision and that the



decision on the consolidation of the proceedings be suspended until such preliminary decision would be issued.

35. On 13 May 2020, the CAS Court Office informed the Parties that, in the absence of an agreement between the Parties, the President of the CAS Appeals Arbitration Division, or her Deputy, would decide on the consolidation of the proceedings.
36. On the same date, 13 May 2020, in accordance with Article R51 CAS Code, PAOK filed its Appeal Brief in *CAS 2020/A/7035* with the CAS Court Office, which was, however, only notified together with the Appeal Brief of Olympiacos in *CAS 2020/A/7019* on 2 June 2020.
37. On 15 May 2020, Xanthi informed the CAS Court Office that it agreed that the Panel be composed of Mr Fumagalli and Mr Haas.
38. On 18 May 2020, the CAS Court Office informed the Parties that the Deputy President of the CAS Appeals Arbitration Division had decided that the proceedings *CAS 2020/A/7019* and *CAS 2020/A/7035* were consolidated.
39. On the same date, 18 May 2020, the HFF informed the CAS Court Office that it agreed that the Panel be composed of Mr Fumagalli and Mr Haas.
40. On 29 May 2020, in accordance with Article R51 CAS Code, Olympiacos filed its Appeal Brief in *CAS 2020/A/7019* with the CAS Court Office, which was, however, only notified on 2 June 2020.
41. On 11 June 2020, the CAS Court Office informed the Parties that pursuant to Article R54 CAS Code and on behalf of the Deputy President of the CAS Appeals Arbitration Division, the Panel had been constituted as follows:  
  
President: Mr Manfred Nan, Attorney-at-Law, Arnhem, the Netherlands  
Arbitrators: Mr Ulrich Haas, Professor of Law, Zurich, Switzerland  
Mr Luigi Fumagalli, Professor and Attorney-at-Law, Milan, Italy
42. On 15 June 2020, on behalf of the Panel, the CAS Court Office invited the Parties to communicate to the CAS Court Office the ultimate date on which an award would have to be rendered for such decision to be implemented in the final league ranking for relegation and UEFA club competition purposes. The HFF was also invited to communicate whether any points had already been deducted.
43. On 16 June 2020, PAOK informed the CAS Court Office that the League had confirmed that the Super League 1 Hellas 2019 – 2020 season was expected to end on 19 July 2020.

44. On 17 June 2020, the HFF informed the CAS Court Office that the arbitral award, at least its operative part, had to be rendered before 19 July 2020 and that the 7-point deduction imposed on PAOK and Xanthi had already been applied.
45. On 18 June 2020, following consultation of the Parties, on behalf of the Panel, the CAS Court Office confirmed that a hearing would be held on 6 July 2020 and that, despite Olympiacos' request to this effect, there would be no second round of written submissions, but that the Panel would assess whether to allow post-hearing briefs, after the hearing and that there would be no bifurcation related to the issue of Olympiacos' standing to appeal.
46. On 26 June 2020, in accordance with Article R55 CAS Code, the HFF, PAOK and Xanthi filed their respective Answers.
47. On the same date, 26 June 2020, the CAS Court Office informed the Parties that Mr Dennis Koolgaard, Attorney-at-Law in Arnhem, the Netherlands, had been appointed as *Ad hoc* Clerk.
48. On 30 June 2020, the CAS Court Office issued an Order of Procedure, which was duly signed and returned by Olympiacos on 2 July 2020 and by PAOK, Xanthi and the HFF on 3 July 2020.
49. On 2 July 2020, upon the request of the Panel, the Parties provided the CAS Court Office with a jointly proposed tentative hearing schedule, which was approved by the Panel. On behalf of the Panel, the CAS Court Office also informed the Parties of certain modalities of the proposed expert conferencing. To this effect, the Parties were invited to provide questions to be answered by the experts in the different expert conferencing sessions, which Olympiacos, PAOK and Xanthi did. The HFF did not submit any questions.
50. On 3 July 2020, Olympiacos provided the CAS Court Office with a decision of the HFF Football Court of Arbitration, which it alleged was relevant because it contained an interpretation of the HFF's highest court regarding the nature of the CPS Decision. Olympiacos requested this decision to be admitted on file on the basis of Article R56 CAS Code, the exceptional circumstance being that the decision was issued on 2 July 2020 and could therefore not have been submitted into evidence before.
51. On 6 July 2020, a hearing was held in Lausanne, Switzerland. At the outset of the hearing, all Parties confirmed that they had no objection to the constitution and composition of the Panel.

52. In addition to the Panel, Ms Sophie Roud, CAS Counsel, and Mr Dennis Koolaard, *Ad hoc* Clerk, the following persons attended the hearing in person:

For Olympiacos:

- 1) Mrs Evangelia Souloukou, General Manager of Olympiacos;
- 2) Mr Dimitris Karpetopoulos, Legal Counsel of Olympiacos;
- 3) Mr Athanasios Tsironas, Professor of Law and External Consultant of Olympiacos;
- 4) Mr Lucas Ferrer, Counsel;
- 5) Mrs Nicole Santiago, Counsel;
- 6) Mr Théodore Buchelos, Interpreter.

For PAOK:

- 1) Mr Achilleas Mavromatis, Head of Legal Department of PAOK and Counsel;
- 2) Dr Theodoros Katsas, Counsel;
- 3) Mr Jorge Ibarrola, Counsel;
- 4) Ms Monia Karmas, Counsel;
- 5) Mr Cian Derder, Observer.

For Xanthi:

- 1) Mr Konstantinos Zemberis, Counsel.

For the HFF:

- 1) Mr Toni Garcia, Counsel;
- 2) Mr Juan Curbelo, Counsel.

53. The following expert witnesses were heard in an expert conferencing format divided over five separate sessions as follows:

Issues on Standing to Appeal:

- 1) Prof. Spyridon Vlachopoulos, Professor of Public Law at the School of Law of the University of Athens, expert witness called by Olympiacos;
- 2) Prof. Evgenia Prevedourou, Professor of Administrative Law at the Law Faculty of the Aristoteleion University of Thessaloniki, expert witness called by PAOK (by video-conference);
- 3) Mr Nikos Lagarias, Attorney-at-Law in Athens, expert witness called by PAOK (by video-conference).

Issues on HFF jurisdiction:

- 1) Mr Panagiotis Perakis, Attorney-at-Law in Athens, expert witness called by Olympiacos;
- 2) Mr Nikos Lagarias, Attorney-at-Law in Athens, expert witness called by PAOK (by video-conference).

Nature of the CPS Decision:

- 1) Mr Panagiotis Perakis, Attorney-at-Law in Athens, expert witness called by Olympiacos;
- 2) Prof. Panos Lazaratos, Professor of Administrative Law at the Law School of the University of Athens, expert witness called by Xanthi (by video-conference);
- 3) Prof. Evgenia Prevedourou, Professor of Administrative Law at the Law Faculty of the Aristoteleion University of Thessaloniki, expert witness called by PAOK (by video-conference).

Issues on applicable law and applicable sanctions:

- 1) Prof. Spyridon Vlachopoulos, Professor of Public Law at the School of Law of the University of Athens, expert witness called by Olympiacos;
- 2) Prof. Panos Lazaratos, Professor of Administrative Law at the Law School of the University of Athens, expert witness called by Xanthi (by video-conference);
- 3) Prof. Evgenia Prevedourou, Professor of Administrative Law at the Law Faculty of the Aristoteleion University of Thessaloniki, expert witness called by PAOK (by video-conference).

Issues on commercial law and multi-ownership under Greek law:

- 1) Mr Dimitris Tzouganatos, Attorney-at-Law in Athens, expert witness called by Olympiacos (by video-conference);
- 2) Prof. Nikolaos Rokas, emeritus Professor of Commercial Law at the Law Faculty of the Ethnikon and Kapodistriakon University of Athens, expert witness called by PAOK (by video-conference);
- 3) Prof. Nikolaos Tellis, Professor of Commercial Law at the Law Faculty of the Aristoteleion University of Thessaloniki, expert witness called by PAOK (by video-conference).

54. The Panel also heard Mr Dimos Tziortzis, Sole Director of Vialand SA since 22 January 2020 and, until then, former General Manager of the hotel LeChalet, as a witness called by PAOK. Although PAOK had initially indicated that it wanted to hear Mr Michail Ioannou, Manager-Administrator of Belterra Holdings Ltd., and Mr Cristos Panopoulos, owner of 50% of the share capital of Insports P.P.C., which is the majority shareholder and parent company of

Xanthi, as witnesses, during the hearing Olympiacos indicated not to have any questions for the witnesses, following which PAOK indicated that it did not consider it necessary to hear them.

55. All witnesses and expert witnesses were invited by the President of the Panel to tell the truth subject to the sanction of perjury under Swiss law. The Parties and the Panel had full opportunity to pose their questions to the witness and expert witnesses, however, due to the limited time available and the Parties' prior agreement on the hearing schedule, the Panel considered it appropriate to abide by and enforce the tentative hearing schedule jointly prepared and agreed by the Parties. Thus, exercising its discretion under Articles 182 and 184 of the Swiss Private International Law Act ("PILA"), the Panel intervened and invited the Parties to speed up their examinations.
56. Nevertheless, the Parties were given full opportunity to present their cases, submit their arguments in closing statements and to answer the questions posed by the members of the Panel.
57. Before the hearing was concluded, all Parties expressly stated that they had no objection to the procedure adopted by the Panel and that their right to be heard had been respected.
58. On 7 July 2020, further to a request from Olympiacos, the CAS Court Office informed the Parties that the Panel did not consider it necessary that further submissions be filed.
59. On 10 July 2020, the CAS Court Office provided the Parties with the operative part of the present arbitral award and indicated that the reasoned award would be issued in due course.
60. The Panel confirms that it carefully heard and took into account in its decision all of the submissions, evidence, and arguments presented by the Parties, even if they have not been specifically summarised or referred to in the present arbitral award.

## **VI. SUBMISSIONS OF THE PARTIES**

### **A. CAS 2020/A/7019**

#### ***i. Olympiacos***

61. Olympiacos provided the following summary of its submissions in its Appeal Brief:

➤ *"The underlying facts regarding [PAOK] and [Xanthi's] infringements of the prohibition against multiple ownership were proven to the satisfaction of the CPS, the public administrative body in Greece tasked with the investigation of such matters. Given the binding nature and presumption of legality that this administrative act carries, the ensuing disciplinary procedure accepted the CPS Decision's conclusions without further evaluation. In view of this, and because this particular matter was not*

*within the scope of the Appealed Decision, it falls outside the scope of review of the Panel in this case. The object of the Appealed Decision, and thus the only matters before the Panel for review, are whether the correct source of law was used to apply the relevant sanctions, and if so, whether the applied sanctions were insufficient.*

- *Olympiacos has a right to appeal the decision rendered by the HFF Appeals Committee because it was already lawfully admitted as a party in that previous instance. The HFF Appeals Committee correctly considered that the applicable HFF regulations and provisions of Greek law, together with the facts of the particular case, afforded Olympiacos the requisite legitimate interest to have standing to appeal the decision in question, and the HFF fully recognizes the right to appeal the decisions of its Appeal Committee to CAS.*
- *As to the sanctions being discussed, the Disciplinary Body and HFF Appeals Committee were bound to apply the sanctions that were explicitly referenced in the CPS Decision as mandatory by law. The emergence of the retroactive amendment to Law 2725/1999 constitutes an inadmissible change in circumstance specifically for the benefit of only two subjects of that law. It was not adopted in good faith or for the public interest and goes against all notions of fairness and legitimate expectations of those bound by the laws of the Greek State. Therefore, the disciplinary bodies should have disregarded this untimely amendment and applied the sanction that was in force at the time the CPS Decision (the legal basis for the disciplinary procedure in the first place) was rendered: expulsion from the championship.*
- *Finally, in the unlikely event that the Panel considers the point deduction was the appropriate sanction under the applicable law, Olympiacos implores the Panel to consider that, prior to that untimely amendment of the law, the infringements PAOK and [Xanthi] committed were sanction [sic] with the harshest punishment possible at the time. This precedent, together with the sheer gravity of the infringing act (the intentional creation of a multiple ownership scheme), more than justifies the imposition of the harshest sanction that is now possible: a deduction of 10 points for each club involved”.*

62. On this basis, Olympiacos submits the following prayers for relief:

- a. Set aside the HFF Appeals Committee Decision no. 20/2020 insofar as it confirms the decision of the Disciplinary Body of First Instance Super League 1 Hellas imposing a 7-point deduction on the Second and Third Respondent;*
- b. Apply article 69 (12) of Law 2725/1999, as it was in force on 27 January 2020, and order the expulsion of PAOK FC and XANTHI FC from the Greek Super League 1;*
- c. Subsidiarily, apply article 69 (12) of Law 2725/1999, as amended by article 30 of Law 4659/2020, and impose a 10-point deduction on PAOK FC and XANTHI FC on the points accumulated by each club either:
  - i. during the 2019/2020 Greek Super League 1 season, if the final decision in this matter is rendered before the end of said season; or**

*ii. during the 2020/2021 Greek Super League 1 season, if the final decision in this matter is rendered after the end of the 2019/2020 season, and accounting for the 7-point deduction already enforced during the 2019/2020 season.*

*d. Order the Respondents to pay the costs of these proceedings and a contribution towards the Appellant's legal fees".*

*ii. PAOK*

63. PAOK provided the following summary of its submissions in its Answer:

- *"[PAOK] submits once again, that the Appellant lacks standing to appeal the [Appealed Decision] and that, therefore, the appeal filed by [Olympiacos] shall be dismissed [...].*
- *If against all odds the Panel finds that [Olympiacos] has standing to appeal in the present matter, it shall dismiss [Olympiacos'] appeal for lack of jurisdiction of the HFF judicial bodies to issue the [Appealed Decision] [...].*
- *Further, the Panel shall find that the HFF judicial bodies, assuming they had jurisdiction to rule on the dispute, erred in refusing to assess the merits of the case, as the rule instituted a duty to fully adjudicate the case. HFF thus committed a material denial of justice and the Panel shall rule de novo on the whole dispute, without any limitation [...].*
- *In that regard, the Panel has a full power of review and find that [PAOK] does not exercise any decisive influence on another football club, namely [Xanthi], pursuant to all applicable laws, including FIFA Regulations, UEFA Regulations and Greek Law [...]. Besides, contrary to what [Olympiacos] alleges, the Panel shall find that, should [PAOK] be subject to any possible disciplinary sanction, the lex mitior principle shall apply and, accordingly, the Greek law Law 2725/1999 as amended by Law 4659/2020 applies to any possible sanction to be imposed on [PAOK]. Finally, [Olympiacos'] requests for the imposition of harsher sanctions on [PAOK] are inadmissible [...]."*

64. On this basis, PAOK submits the following prayers for relief:

- I. The appeal filed by OLYMPIACOS FC on 29 May 2020 against the Hellenic Football Federation Appeals Committee Decision n°20/2020 is dismissed.*
- II. OLYMPIACOS FC shall bear all the arbitration costs, if any, and shall be ordered to reimburse PAOK FC all advances of costs paid by the latter.*
- III. OLYMPIACOS FC is ordered to reimburse Panthessaloníkios Athlitikós Ómilos Konstantinoupolitón all procedural costs borne by the latter within the Hellenic Football Federation proceedings.*
- IV. OLYMPIACOS FC shall be ordered to pay Panthessaloníkios Athlitikós Ómilos Konstantinoupolitón a contribution towards the legal and other costs incurred in the framework of these proceedings".*

**iii. Xanthi**

65. The submissions of Xanthi, in essence, may be summarised as follows:

- Olympiacos lacks standing to appeal in the present matter and thus, its appeal needs to be dismissed.
- The findings in the CPS Decision are wrong and unsubstantiated. Xanthi has not infringed Article 69(9) of Law 2725/1999, as mistakenly concluded in the CPS Decision.
- The HFF judicial bodies have mistakenly denied to examine the substantive validity of the CPS Decision.
- Article 30 of Law 4659/2020 and its retroactive application is perfectly legal and in compliance with the Greek Constitution and general principles of law.
- Olympiacos' alternative request that 10 points should be deducted from PAOK and Xanthi in the current championship is to be dismissed. A higher sanction could only be imposed if the sanction is evidently and grossly disproportionate to the gravity of the infringement, which is not the case.

66. On this basis, Xanthi submits the following prayers for relief:

- “1. to rule that the Appellant has no standing to appeal in the present matter and to dismiss the Appeal as unfounded;
  2. to condemn the Appellant to the payment in the favour of the Third Respondent of the legal expenses incurred;
  3. to establish that any cost of the arbitration procedure shall be borne by the Appellant.
- Subsidiarily, and only in the event that the above is rejected, the CAS is respectfully requested:*
1. to dismiss the Appeal of the Appellant in its entirety as totally unfounded;
  2. to condemn the Appellant to the payment in the favour of the Third Respondent of the legal expenses incurred;
  3. to establish that any cost of the arbitration procedure shall be borne by the Appellant”.

**iv. The HFF**

67. The HFF provided the following summary of its submissions in its Answer, which addresses both the appeal of Olympiacos in *CAS 2020/A/7019* as well as the appeal of PAOK in *CAS 2020/A/7035*:



- *“Greek law applies to the case at hand by virtue of Art. 1(5) of the HFF Statutes and the inclusion of Greek sports federations and clubs within the subjective and material scope of Law 2725/1999.*
- *The amendment of Art. 69(12) of Law 2725/1999 binds the HFF judicial bodies. Both the Disciplinary Body and the HFF Appeals Committee cannot do anything other than comply with the legal framework in force.*
- *The application of a sanction that had already been repealed would have been a severe breach of the Greek legal system. It would have violated the legitimate expectations of the accused and the general interest.*
- *According to Law 2725/1999, the CPS has neither authority to impose sanctions nor to determine its scope. The only bodies that have jurisdiction are the HFF judicial bodies. In any case, the penalty of deduction of 7 points imposed on PAOK and Xanthi FC is not grossly disproportionate. Therefore, the sanction imposed should respectfully be confirmed without further assessments according to well-established CAS jurisprudence.*
- *As it was decided by the majority of the HFF Appeals Committee, the CPS Decision binds the HFF judicial bodies limiting their powers to the determination of the scope of the sanction provided for in Art. 69(12) of Law 2725/1999 as well as to the imposition of such a penalty.*
- *According to long-standing CAS jurisprudence, Panel’s review’s scope is limited to that which the HFF Appeals Body had when rendered the Appealed Decision. Accordingly, the CPS finding and the establishment of the violation of Art. 69(9) of Law 2725/1999 cannot be reviewed in the present instance”.*

68. On this basis, the HFF submits the following prayers for relief:

1. *The appeals lodged by Olympiacos and PAOK against the Hellenic Football Federation Appeals Committee’s decision of 14 April 2020 are rejected, and the decision confirmed.*
2. *The entire costs of the proceedings and a contribution towards the legal fees and other expenses of the Hellenic Football Federation are paid by the Appellants”.*

**B. CAS 2020/A/7035**

***i. PAOK***

69. PAOK provided the following summary of its submissions in its Appeal Brief:

- *“The present dispute is subject to the HFF regulations, including UEFA and FIFA regulations which are explicitly incorporated in HFF regulations [...];*
- *the HFF Appeal Committee had neither jurisdiction to apply the laws enacted by the Greek legislator, nor any legal basis in the HFF regulations to issue the Challenged Decision [...];*

- *the First Instance Body and the HFF Appeal Committee committed a due process violation and a denial of justice by failing to consider whether the Appellant had actually committed any possible violation and basing their disciplinary sanctions exclusively on the findings of a report issued by a public authority (the [CPS]), unrelated to HFF [...];*
- *ruling de novo on the merits of this case pursuant to the HFF regulations, the Appellant has not violated any rule on Clubs' Multi-Ownership and is not subject to any sanction [...];*
- *Alternatively, ruling de novo on the merits of this case pursuant to Greek law, assuming that it is subsidiarily applicable, the Appellant has not violated any rule on Clubs' Multi-Ownership and is not subject to any sanction [...]."*

70. On this basis, PAOK submits the following prayers for relief:

*"I. The decision issued on 14 April 2020 by the Appeal Committee of the Hellenic Football Federation is null and void.*

**Alternatively to I**

*II. The decision issued on 14 April 2020 by the Appeal Committee of the Hellenic Football Federation is annulled.*

*III. No sanction shall be imposed on Panthessaloníkios Athlitikós Ómilos Konstantinoupolitón.*

**In any case**

*IV. The Hellenic Football Federation shall bear all the arbitration costs, if any, and shall be ordered to reimburse PAOK FC all advances of costs paid by the latter.*

*V. The Hellenic Football Federation is ordered to reimburse Panthessaloníkios Athlitikós Ómilos Konstantinoupolitón all procedural costs borne by the latter within the Hellenic Football Federation proceedings, in an amount of EUR 2000.*

*VI. The Hellenic Football Federation shall be ordered to pay Panthessaloníkios Athlitikós Ómilos Konstantinoupolitón a contribution towards the legal and other costs incurred in the framework of these proceedings".*

**ii. The HFF**

71. The summary of the HFF's submissions with respect to the appeal filed by PAOK in CAS 2020/A/7035 has been set out above in respect of the proceedings in CAS 2020/A/7019. Also the requests for relief are identical.

## VII. JURISDICTION

72. Article R47 CAS Code provides that:

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

73. Article 60(3) HFF Statutes provides as follows:

*“The decisions of the Appeals Committee may be challenged before the Court of Arbitration for Sport (CAS) in Lausanne, Switzerland, in accordance with the specific provisions of the relevant regulations of the HFF”.*

74. Article 5(5) HFF Rules Governing the Procedures before the Judiciary Bodies provides as follows:

*“Decisions of the Appeals Committee may be challenged before the Court of Arbitration for Sport (CAS) in Lausanne, Switzerland, in accordance with what is specified in its procedural regulations”.*

75. The Appealed Decision also provides as follows:

*“Reference is made to the fact that an appeal against this decision may be brought before the Court of Arbitration for Sport (CAS) in Lausanne, Switzerland (Article 60 (3) of the Statute / HFF and Article 5 (5) of the Procedural Regulation of Judicial Bodies / HFF)”.*

76. The jurisdiction of CAS derives from Article 60(3) of the HFF Statutes (2019 edition) and Article 5(5) of the HFF Rules Governing the Procedures before the Judiciary Bodies (2019 edition).

77. The jurisdiction of CAS is not contested and is further confirmed by the Order of Procedure duly signed by all Parties.

78. It follows that CAS has jurisdiction to adjudicate and decide on the present dispute.

## VIII. ADMISSIBILITY

79. Article R49 CAS 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 in a previous agreement, the time limit for appeal shall be twenty-one days from the receipt of the decision appealed against”.*

80. The HFF Statutes or regulations do not provide for a specific time limit to lodge an appeal, as a consequence of which the default time limit of 21-days to file an appeal set forth by Article R49 CAS Code shall apply.
81. The Appealed Decision was communicated to Olympiacos and PAOK on 14 April 2020.
82. The Statement of Appeal of Olympiacos was filed on 28 April 2020 and the Statement of Appeal of PAOK on 4 May 2020.
83. Accordingly, both appeals were filed within the 21-day time limit to appeal. The appeals also complied with all other requirements of Article R48 CAS Code, including the payment of the CAS Court Office fee. The admissibility of the appeals is also not disputed.
84. It follows that both appeals are admissible.

#### **IX. APPLICABLE LAW**

85. Article R58 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”.*

86. Olympiacos submits that the Panel shall decide the present dispute on the basis of the HFF regulatory framework, which also extends to Greek law.
87. PAOK maintains that the dispute shall be decided pursuant to the HFF regulations and only subsidiarily to Greek law, being the law of the country in which the HFF is domiciled.
88. The HFF argues that, pursuant to Article R58 CAS Code and Article 1(5) HFF Statutes, the HFF regulations and Greek law apply to these proceedings.
89. Xanthi maintains that, in accordance with Article R58 CAS Code, the present dispute shall be decided primarily according to the various regulations of the HFF and subsidiarily by Greek law.
90. Article 1(5) of the HFF Statutes provides as follows:

*“[...] Hellenic Football Federation is a legal entity governed by the rules of the Greek rule of law and operating based on the Statutes thereof and the rules and guidelines of FIFA and UEFA”.*

91. The Panel finds that, pursuant to Article R58 and Article 1(5) HFF Statutes, the various regulations of the HFF are primarily applicable. Subsidiarily, the present dispute is to be decided on the basis of Greek law, given that the HFF is domiciled in Greece.

## X. MERITS

92. Although the Disciplinary Committee is a body of the League and the Appeals Committee of the HFF, pursuant to Article 4(1) of the HFF Procedural Rules, both bodies are HFF judicial bodies. The Panel will therefore jointly refer to these bodies as such.

### A. The Main Issues

93. The main issues to be resolved by the Panel are:
- i) Do the HFF judicial bodies have jurisdiction to sanction football clubs directly on the basis of Law 2725/1999?
  - ii) Should the CPS Decision have been referred to the HFF prosecutor before referring it to the Disciplinary Committee?
  - iii) Is the CPS Decision binding on the HFF judicial bodies?
  - iv) If the CPS Decision is not binding on the HFF judicial bodies, what are the consequences thereof?

#### ***i. Do the HFF judicial bodies have jurisdiction to sanction football clubs on the basis of Article 69(12) of Law 2725/1999?***

##### *a. The legal framework concerning the prohibition of multiple ownership of football clubs*

94. Article 18(3) HFF Statutes provides the following:

*“No natural or legal person (including holding companies and subsidiaries) may exercise control over more than one Club or Group whenever the integrity of any match or competition could be jeopardised”.*

95. No rule in the various regulations of the HFF however provides for disciplinary sanctions in case of breach of the afore-mentioned provision, as acknowledged in the Appealed Decision.

96. It is not in dispute that, until 2018, Article 30 of the HFF Regulation on Football Matches (edition 2018) provided as follows:

**“Article 30 Multi-ownership**

*With a regulation issued by decision of the HFF Board of Directors all issues concerning multi-ownership and multi-participation are regulated.*

1. *Any natural person who is a shareholder in another FC is precluded from being assigned and taking over the management of a Football Societe Anonyme (FC), as specified in the Licensing Regulation. The same preclusion applies to any private legal entity in which natural persons – who are shareholders or members of another FC – participate as members or shareholders.*
2. *Infringers of the above provisions are punished by decision of the competent judicial body following their referral by decision of the BoD of the professional association:*
  - a) *The assigning FC is punished by relegation to the lower League;*
  - b) *The natural or legal persons who accept – in infringement of the above – the aforementioned assignment, undertaking the management of the FC, are punished by disqualification or dismissal from any office, capacity or competence in the field of professional football, for minimum three (3) years;*
  - c) *The FC whose President or BoD member participates – and for as long as he/ she still participates – in the assignment and undertaking of the management of another FC or has the capacity of President or BoD member of the legal entity that undertakes the aforementioned management by paying in any way an amount of money or proceeding with the acquisition of shares or share capital increase – is also punished with match forfeiture and a fine from eight thousand (8,000) to forty thousand (40,000) euro for each match of the current League;*
  - d) *The President or BoD member of the FC that proceeds with the actions of paragraph (c) hereof is punished with disqualification or dismissal from any office, capacity or competence in the field of professional football.*
3. *For amateur clubs. With a regulation issued by decision of the HFF Executive Committee all issues concerning multi-participation are regulated.*

*The participation of the same person in the BoD of more than one different clubs, belonging to the same organizer, is precluded. In case of non-compliance with this preclusion, any match of the teams is awarded to the opposing team”.*

97. The above-cited provision was however deleted from the 2019 edition of the HFF Regulation on Football Matches, in force as from 13 August 2019. This is confirmed by a decision of the HFF Executive Committee dated 31 July 2019, confirming, *inter alia*, the following:

*“It completely eliminates, following a suggestion of the HFF President, Mr. Grammenos, Article 30 of the Regulation of Football Matches”.*

98. On the same day, 31 July 2019, the HFF issued a press release containing, *inter alia*, the following:

*“Article 30 on FC Multi-Ownership issues is completely deleted from the HFF Regulation of Football Matches, given that the issue comes under the competencies of the Professional Sports Committee, while there is a relevant explicit provision also in law 2725/99”.*

99. Article 69(9) of Law 2725/1999 provides the following:

*“Any Sports Company, Sports Company shareholder, Members or managers of a private legal entity or company holding the share capital of a Sports Company, as well as their spouses and all up to 2nd degree kins of all the above natural persons, are precluded – with absolute nullity of the legal act – from acquiring, directly or indirectly, as well as especially through interposed persons, shares or management rights or undertake managerial duties of another Sports Company, of the same or another sport.*

*The precluded indirect acquisition, in the sense of the previous paragraph, is also considered the one performed through another legal entity or company, if it is an associated company within the meaning of Article 42e (5), Codified Law 2190/1920 or in which the person subject to the above restrictions either holds more than twenty percent (20%) of the share capital or voting rights or participates in its governing body or in any way in its management or exercises a dominant influence on administration or its operation, regardless of the percentage of share capital held”.*

100. Article 69(12) of Law 2725/1999 provides as follows:

*“In case of violation of any of the provisions of the previous paragraphs of this article because of fault of the Sports SA organs, it is imposed on its team, by decision of the relevant judicial body, which acts upon after a report by the Committee on Professional Sports or at the request of anyone having legitimate interest, the penalty of deducting five (5) to ten (10) points from the current professional championship in which it participates, depending on the gravity of the violation. In case the violation is found after the end of the season, the above penalty is imposed for the next professional championship. The penalty of this paragraph shall be imposed regardless of the legal characterization of the violation by the relevant disciplinary provisions”.*

*b. The position of PAOK*

101. PAOK maintains, supported by the expert opinion of Mr Nikos Lagarias, that the HFF Statutes and regulations do not provide for HFF jurisdiction to issue a disciplinary sanction in a case of multiple ownership of football clubs. The HFF rather left the issue of multiple ownership to the competence of the national Greek judicial instances, to be decided pursuant to Law 2725/1999.

102. According to PAOK, the press release issued by the HFF on 31 July 2019 is subject to interpretation and the HFF Appeals Body's interpretation thereof in the Appealed Decision is wrong. The press release does not indicate that Law 2725/1999 was to be directly incorporated into the HFF regulations. On the contrary, PAOK submits that the matter of multiple ownership was withdrawn from the HFF regulatory framework because the issue came under the competence of the CPS and Greek national law, which provides for administrative and criminal sanctions.
  103. PAOK also maintains that, in any event, if the HFF really had the intention of incorporating Law 2725/1999 in its rules through such statement, such vague statement cannot constitute a legal act capable of affecting the legal situation of its members. Indeed, the HFF did not proceed with the normal legislative procedure, that is to say by specifically providing for the direct incorporation of Articles 69(9) and (12) of Law 2725/1999 into the HFF regulations. For instance, when the HFF decided to incorporate the rule of non-issuance or revocation of a club's certificate by the CPS as foreseen in Article 77A of Law 2725/1999 into its regulations, it adopted an Annex A precisely citing this article and included it in its Disciplinary Code.
  104. PAOK further submits that, pursuant to Article 15(2) of Law 4326/2015, Greek public law never applies directly to football matters unless the rules are incorporated in the HFF regulations. Since this did not happen, Articles 69(9) and (12) of Law 2725/1999 are not applicable to the present matter.
  105. The disciplinary measures imposed on PAOK were therefore pronounced in violation of the principle of legality and *nulla poena sine lege scripta et certa*, because the HFF regulations do not contain any legal basis to impose disciplinary sanctions for multiple ownership of clubs. In any event, any possible ambiguity as to whether or not Law 2725/1999 was incorporated in the HFF regulations shall be interpreted against the HFF.
  106. Finally, PAOK submits that the sanctions have been inadmissibly enforced and are null and void, because they conflict with the rules of FIFA and UEFA on the obligation for national federations to maintain their autonomy and independence and to prevent excessive state interference.
- c. The position of the HFF*
107. The HFF does not concur with PAOK that the HFF judicial bodies had no power to impose sanctions on the basis of Article 69(12) of Law 2725/1999. The HFF maintains that PAOK fails to take into consideration Article 1(5) HFF Statutes, which provision sets forth that the HFF is governed by the rules of the Greek rule of law. The position of the HFF is supported by Olympiacos and the expert opinion of Mr Panagiotis Perakis.
  108. Furthermore, Greek sports federations and football clubs fall within the subjective and material scope of Law 2725/1999, which sets out a certain number of rights and obligations



to both types of entities. Articles 69(12) and 77A(2) of Law 2725/1999 provide the powers and establish the obligation on judicial bodies of sports federations in Greece to impose on the accused the statutory sanction for violations identified by the CPS.

*d. The findings of the Panel*

109. The Panel finds that as a legal entity domiciled in Greece, PAOK is subject not only to the various rules and regulations of the HFF, but also to Greek law. Indeed, PAOK, like any football club in Greece, is subject to both.
110. The wording of Article 69(12) of Law 2725/1999 is clear in that it grants the power to the judicial bodies of sports federations to impose sanctions on its members if a violation of Article 69 is considered to be committed. The range of sanctions that can potentially be imposed is also clearly set out in Article 69(12) of Law 2725/1999.
111. The Panel finds that such provision is in accordance with the principle of legality and *nulla poena sine lege scripta et certa*. As referred to by PAOK, CAS jurisprudence has interpreted the latter concept as follows:
- “The purpose of disciplinary sanctions is to influence the behaviour of its members, in particular to encourage them not to engage in certain unwanted activity by threatening to sanction them. In order to achieve this goal, there must be clarity for all stakeholders on what constitutes misconduct. Furthermore, equal treatment of all members is only possible if there is legal certainty with respect to the contents of the rule. In order to protect the aforementioned interests, criminal law follows the principles of nullum crimen, nulla poena sine lege scripta et certa, pursuant to which no sanction may be imposed unless there is an express provision describing in sufficient clarity and specificity, not only the misconduct but also the applicable sanction. The Panel finds that this principle is applicable by analogy to disciplinary proceedings” (CAS 2017/A/5272, para. 62 of the abstract published on the CAS website).*
112. PAOK however omitted to cite a subsequent paragraph of such CAS award, which provides the following:
- “While acknowledging the applicability of the above criminal principle in general terms, this Panel wishes to emphasize that not the same high criminal law standards with respect to legal certainty (“Bestimmtheitsgrundsatz”) apply to disciplinary proceedings. In the view of the Panel it suffices that the misconduct covered by the respective rule and the sanction applicable to such misconduct be determinable by interpretation” (CAS 2017/A/5272, para. 64 of the abstract published on the CAS website).*
113. The Panel observes that it is not in dispute that a violation of the prohibition on multiple ownership of football clubs is contemplated by Law 2725/1999 and that the sanctions set forth in Article 69(12) may be applied in such case. The core of PAOK’s argument appears to be that the authority of the HFF judicial bodies to sanction a violation of multiple ownership

may not derive directly from such domestic law provision, but that a regulatory link between the HFF regulations and such domestic law provision must be established in order to do so.

114. The Panel dismisses this argument. Based on Article 69(12) of Law 2725/1999 it was or must have been clear (i.e. predictable) to PAOK that the HFF judicial bodies could inflict the sanctions set forth in this provision on it.
115. Indeed, Article 69(12) of Law 2725/1999 provides that “[t]he penalty of this paragraph shall be imposed regardless of the legal characterization of the violation by the relevant disciplinary provisions”. Accordingly, notwithstanding any possible federative provision sanctioning the prohibition of multiple ownership, the sanction set forth in Article 69(12) would prevail over any such association provision, which renders the latter redundant.
116. The above conclusion is further corroborated by the fact that the prohibition on multiple ownership of football clubs was set out in Article 30 of the HFF Regulation on Football Matches (edition 2018). There is no indication on file suggesting that the HFF Executive Committee’s decision dated 31 July 2019 to eliminate such provision from its regulations had the purpose of condoning multiple ownership of clubs and no longer making such offence sanctionable.
117. Rather, it appears from 18(3) HFF Statutes that such conduct remained undesirable. The Panel finds that it is clarified by the press release issued by the HFF on 31 July 2019 that Article 30 of the HFF Regulations on Football Matches (edition 2018) was considered obsolete because “there is a relevant explicit provision also in law 2725/99”.
118. The Panel therefore fully concurs with the reasoning of the HFF Appeals Body in the Appealed Decision in this respect:
- “[...] The HFF Regulation of Football Matches drafter’s will, therefore, was to adopt the internationally established – in professional football – preclusion of multi-ownership in Sports Companies, by directly applying, as evident from the above Statement of the HFF Executive Committee, of the relevant provisions of law 2725/1999, which in fact establish the authority of the relevant judicial body to enforce the sanctions enshrined. [...]”.*
119. The Panel finds that no other interpretation is reasonably possible than concluding that Article 69(12) of Law 2725/1999 is directly applicable and provides the HFF judicial bodies with the required authority to sanction football clubs for any potential violation of Article 69 of Law 2725/1999.
120. Finally, the Panel finds that PAOK’s argument that the sanctions must be declared null and void, because the direct application of Law 2725/1999 would result in excessive state interference must be dismissed, exactly because the CPS is not permitted to rule on expulsion or deduction of points directly, but affords such authority to the judicial bodies of the HFF.

121. Consequently, the HFF judicial bodies have jurisdiction to sanction football clubs on the basis of Article 69(12) of Law 2725/1999.

**ii. *Should the CPS Decision have been referred to the HFF prosecutor before referring it to the Disciplinary Committee?***

122. PAOK maintains on a subsidiary basis that, even assuming that the HFF judicial bodies have a valid basis to issue sanctions on football clubs in case of a violation of the prohibition on multiple ownership, a fundamental breach of procedure was committed, because, pursuant to Article 25 HFF Disciplinary Code, the matter should have been referred to the HFF Prosecutor instead of being directly prosecuted by the Disciplinary Committee. PAOK considers it inconceivable that the same person prosecutes and judges his own prosecution.

123. Article 25 HFF Disciplinary Code provides as follows:

*“The [HFF] operates a body for the disciplinary prosecution of football related offences. The prosecutor of disciplinary proceedings is competent to: Prosecute infringements of the Statutes or the Regulations of [HFF] and refer the offending natural or legal person to the competent committees (of the organising authority of [HFF], case accordingly) disciplinary offences not contained in a match sheet that became known to him as a result of:*

- i) a matter referred to him by the Executive Committee of [HFF] or by the body appointed by the Executive Committee of [HFF];*
- ii) a matter referred to him by the committees or bodies of the organising authority or [HFF], case accordingly;*
- iii) ex officio from his own knowledge of facts or statements covered by the Media;*
- iv) documented named complaints;*
- v) a report by a team or team officials, exclusively for the disciplinary offence of adverse judgements and defamation of football authorities and bodies.*

*The power to prosecute on the basis of the visual material (i.e. not included in the Match Sheet) does not lie with the Disciplinary Committee but solely with the Prosecutor of football related offences.*

*The prosecution for offences coming to the knowledge of the prosecutor of football related offences through one of the aforesaid ways, is exercised within five (5) days from the day of notification or complaint”.*

124. The Panel finds that, also here, the text of Article 69(12) of Law 2725/1999 is clear in that “the relevant judicial body” acts upon receipt of “a report by the Committee on Professional Sports”. There was therefore no requirement that the CPS Decision had to be filed with the prosecutor,

prior to submitting the report with the Disciplinary Committee. In any event, the issuance of a CPS Decision is not listed in the categories of offences listed in Article 25 HFF Disciplinary Code.

125. Consequently, it was not required that the CPS Decision was first referred to the HFF prosecutor before referring it to the Disciplinary Committee.

*iii. Is the CPS Decision binding on the HFF judicial bodies?*

*a) Factual background*

126. As indicated *supra*, the CPS is a body of the Greek public administration, independent from the HFF.
127. Following a complaint lodged by Olympiacos, the CPS, *inter alia*, decided that PAOK and Xanthi had violated Article 69(9) of Law 2725/1999.
128. The relevant part of the operative part of the CPS Decision is reproduced here for ease of reference:

*“(a) **By a majority (4 – 1)**, that XANTHI F.C. and PAOK F.C. **violated** Article 69 par. 9, 12 of Law 2725/1999.*

*(b) This infringement is, by a majority (4 – 1) classified as ‘**Gross**’.*

*(c) Forwards the decision as a ‘Report’ to the competent Court for the imposition of the prescribed penalty, in accordance with article 69 (12) of Law 2725/1999.*

*(d) Forwards the decision as a “Finding” to the Federation concerned for the imposition of the prescribed penalty, in accordance with article 69 (12) of Law 2725/1999.*

*(e) Forwards the decision to the competent Prosecution Authority for the criminal proceedings under article 69 (13) of Law 2725/1999; and*

*(f) Unanimously imposes a fine of Three Hundred Thousand (300,000) Euros on each of the above F.Cs” (emphasis in original).*

129. This operative part can be divided into three or four separate sections: i) the CPS Decision is forwarded as a “Report” to the competent Court for the imposition of the penalty set forth in Article 69(12); ii) the CPS Decision is forwarded as a “Finding” to the Federation concerned for the imposition of the penalty set forth in Article 69(12); iii) the CPS Decision is forwarded to the competent Prosecution Authority for the commencement of criminal proceedings; and iv) a fine of EUR 300,000 is directly imposed.

130. It is not entirely clear to the Panel what the purpose is of distinguishing between forwarding the CPS Decision to the competent Court as well as to the Federation concerned, i.e. para. (c)

and (d) of the operative part, because on both occasions reference is made to Article 69(12) of Law 2725/1999, which only applies to the relevant judicial bodies of the Federation concerned. It may be, as testified by Mr Perakis, that one of the two references was related to licensing.

131. Be it as it may, the CPS Decision has a hybrid nature. On the one hand, the CPS Decision is certainly a final and binding decision insofar as it imposes an administrative fine of EUR 300,000 on PAOK and Xanthi. This also transpires from the fact that the CPS Decision could be the object of an appeal before the Athens Administrative Court of Appeal.
132. However, on the other hand, the CPS is also forwarded to the “competent Prosecution Authority”. It is not in dispute that the public prosecutor can then decide whether or not to initiate criminal proceedings against a club on the basis of the CPS Decision. Thus, insofar, the referral is not of an adjudicatory nature.
133. The dispute between the Parties centres around the remaining aspect of the CPS Decision, i.e. the status of the CPS Decision for the proceedings before the HFF judicial bodies. Olympiacos and the HFF submit that the CPS Decision is final and binding on the HFF judicial bodies insofar as it establishes the infraction against the prohibition on multiple ownership. According to the HFF and Olympiacos, the power of the HFF judicial bodies is, thus, strictly limited to issuing the appropriate sanction provided for by Article 69(12) of Law 2725/1999. PAOK and Xanthi, on the contrary, submit that the CPS Decision is merely an opinion and not of an adjudicatory nature. According to them, the HFF judicial bodies, when deciding whether or not to sanction a club for an alleged violation of multiple ownership, adjudicate the matter *de novo*.
134. Not only the positions of the Parties differ, but also the positions of the Disciplinary Committee, the Appeals Committee and the HFF Football Court of Arbitration for Sport in the First Instance Decision, the Appealed Decision and the HFF Football Court of Arbitration for Sport decision on the one hand, and the position of the Athens Administrative Court of Appeal on the other, are different.
135. The Disciplinary Committee determined, *inter alia*, as follows in the First Instance Decision:

*“From all the foregoing provisions, based on the foregoing findings, but also from the grammatical wording of Article 69 (12) of Law 2725/1999, it is clear that the [CPS] is the sole competent body to exercise audit over multi-ownership, which it examines exclusively and bindingly (67/2015 HFF Appeals Committee decision), as it is explicitly stated in the [CPS Decision]. The [CPS] then forwards the relevant Report to the relevant judicial body for the imposition of the applicable penalties. The judicial body concerned, in the context of which this provision defines its jurisdiction but also restricts the regulatory framework of the HFF, as stated above, can only – and is obliged (see CtS 1596/2004) – impose the corresponding penalties, such as they are set out in Article 69 (12) of Law 2725/1999, without being able to (re) judge the substantive or legal merits of the violation found or the legality of the relevant [CPS]*

*report, since, in addition to the above, the disciplinary body, not being a Court within the meaning of Article 26 (3) and Article 87 (1) of the Constitution nor an Arbitration Tribunal, derives its jurisdiction solely from Article 69 (12) of Law 2725/1999, in view of the fact that the Regulation and the Disciplinary Code of the HFF, as stated above, do not provide for provisions relating to multi-ownership issues. Moreover, the above article does not refer to the re-examination of the verification of the infringement. It should be noted that for the present case, in the reasoning of the [CPS Decision], the [CPS] expressly states that “this judgement must be referred to the relevant judicial body in accordance with Article 69 (12) for the imposition of the applicable penalties”. (pg. 82). Consequently, the allegations made by the defendants of the non-binding nature of this [CPS Decision] must be rejected is illegitimate”.*

136. The Appeals Committee determined, *inter alia*, as follows in the Appealed Decision:

*“[...] [T]his Report prepared by a specially established body such as the [CPS] is not a mere opinion of the relevant judicial body. Thus, the judicial body is bound by the Report prepared by the [CPS] in the context of the broader competencies (review and decision) assigned to it by the legislature. Article 69(12) Law 2725/1999 does not allow the relevant judicial body to verify the [CPS’s] inclusion of the facts in the rule (or in the set of rules) of law precluding the multi ownership in Sports Companies, since such a review would conflict with the presumption of legitimacy of the administrative act, as in the case of the [CPS] Report. According to this presumption, from the entry into force and until it is annulled, revoked or abolished, either administratively or legally, the administrative act produces all its legal effects against its recipient and any third party as well as against the courts and administrative authorities, regardless of errors of law [...]”.*

137. In disciplinary proceedings commenced by Olympiacos against PAOK and Xanthi for the alleged violation of Article 35 of the HFF Regulation on Football Matches by by-passing the jurisdiction of the HFF judicial bodies and filing an appeal against the CPS Decision with the Athens Administrative Court of Appeals, the HFF Football Court of Arbitration for Sport determined, *inter alia*, as follows:

*“The sole competence of the [Disciplinary Committee] is to measure/compute the impossible sanction for violations already established by the CPS, which cannot be revised by it”.*

138. The Athens Administrative Court of Appeals determined, *inter alia*, as follows:

*“Whereas, with the above provision of Article 69 (12), it is stipulated that the competent “judicial” body decides in order to enforce the sanction enshrined hereby, i.e., its legal competency to decide on a specific case is activated in two ways, which legislator by no means differentiates as of the scope of competence of the competent “judicial” body. One is forwarding a relevant [CPS Decision] and the other is the (direct) appeal of any party with a legitimate interest. Both methods constitute types of proceedings brought before the present judicial body, in the form of an “introductory document”. In another words, lodging the [CPS Decision] serves as a “disciplinary proceeding”, while the appeal of any third party with a legitimate interest, as a disciplinary report. In view of these facts, it cannot be convincingly argued that the “judicial” body, having, of course, full power to decide based on the facts and the law and eventually establishing*

*guilt and sentencing on a case, does not (nevertheless) have the power to decide based on the facts of the infringement committed when it decides following the lodging of the relevant [CPS Decision]. In view of this and taking into consideration the nature of the disciplinary body, as "judicial", but also the use by the legislator of the term "decides", as well as the characterization of the [CPS] reviewed findings as "Report" or "Conclusion", it should be accepted that [CPS Decision] does not bind the "judicial" body as of the facts of the infringement committed, the substantiation of which therefore comes under the competence of the "judicial" body, which as a disciplinary body cannot be deprived of full jurisdiction in terms of establishing guilt and sentencing, i.e. it does not mean that the disciplinary procedure is separated between two different bodies, one of which is to decide on the guilt and the other is to decide only on sentencing. However, due to the fact that the [CPS] is a specially established body, composed of persons with special knowledge and expertise (Article 77 (4), L.2725/1999), the "judicial" body, when deviating from the conclusions, appraisals and weightings of the [CPS], the report of which is merely an opinion, should do so on an explicit, specific and clear justification. In this light, the [CPS Decision], which establishes an infringement of the provisions of Law 2725/1999, can only base enforceability only on the inherent legal consequence that consists in the obligation of the judicial body to hear and to adopt a decision on the alleged disciplinary infringement (see Council of the State 1596/2004)".*

139. Also the views of the various experts called upon by the Parties that gave evidence at the hearing were diametrically opposed.
- b) *The position of PAOK*
140. PAOK maintains, supported by the expert opinion of Prof. Evgenia Prevedourou, that pursuant to Article 69(12) of Law 2725/1999, the “findings” of the CPS Decision only constitute a “report” on the basis of which the judicial body, i.e. the Disciplinary Committee and the Appeals Committee, must review and verify the substantive elements of the case, namely to the constitutive elements of Article 69 and decide, with an unlimited scope of review, whether there has been any violation of the applicable rules.
141. Article 4 of the HFF Procedural Rules prescribes that the adjudicatory bodies of the HFF “*adjudicate the above disciplinary infringements*”.
142. By analogy, the HFF Disciplinary Code provides that, when the CPS issues reports on the issue of licensing, then the matter can be brought before the Disciplinary Committee and the Appeals Committee, which have full power to review the case on the merits and revoke or grant the licence.
143. Mr Kyriákos Mitsotákis, Prime Minister of Greece, indicated in the Greek Parliament that the CPS Decision was not a formal decision binding the HFF judicial bodies, but that it merely constituted an opinion.
144. The reasoning of the Appeals Committee in the Appealed Decision is in clear contradiction with the reasoning of the Athens Administrative Court of Appeal. In the absence of a clear

rule providing that the relevant judicial body cannot review the merits and facts of the case, the merits should be examined. The HFF judicial bodies cannot rely on the “*presumption of legitimacy of the administrative act*”, because a presumption can by definition be rebutted.

145. According to CAS jurisprudence, relying on Swiss jurisprudence, when a federation renders an arbitrary decision in breach of a statutory provision, this can constitute a substantive denial of justice, a violation of due process and a violation of PAOK’s right to be heard.
146. PAOK also argues that the Appealed Decision is contradictory in itself, because the Appeals Committee admitted that “*the present Committee is not even provisionally bound by the decisions of the administrative or civil courts*”. It can therefore also not be bound by a report issued by the CPS. It must also be stressed that one of the three members of the Appeals Committee issued a dissenting opinion, sharing PAOK’s views.

c) *The position of Xanthi*

147. Since the position of Xanthi largely overlaps with the position of PAOK, for the sake of brevity, this section is limited to arguments raised by Xanthi that have not already been set out in the section above concerning PAOK’s position.
148. Also Xanthi submits, supported by the expert opinion of Prof. Panos Lazaratos, that the rulings of the Disciplinary Committee and the Appeals Committee are wrong and fail to address the matter correctly. The First Instance Decision and the Appealed Decision deprived PAOK and Xanthi of their legal right and of the opportunity to challenge the CPS Decision and its findings. Xanthi however acknowledges that it did not file an appeal against the Appealed Decision and that it shall therefore, in principle, limit itself to refuting the appeal filed by Olympiacos.
149. Xanthi submits that it would be irrational to hold that the CPS Decision is binding, while appeals can be filed against a decision of the Disciplinary Committee with the Appeals Committee and subsequently CAS. The more instances and legal measures exist, the more clear it is that the CPS Decision is only a simple opinion.
150. Pursuant to Article 69(12) of Law 2725/1999, the Disciplinary Committee hears the case following either i) a report of the CPS; or ii) an appeal by a party having a legitimate interest. Xanthi submits that it is obvious that both ways of initiating the procedure need to be treated in a uniform way from a procedural and substantive point of view and especially in relation to the scope of the power of the deciding judicial body. However, if the reasoning of Olympiacos would be followed, it would be bound by the CPS Decision in the first case, while it would enjoy full power to review in the second. This is confirmed in the decision of the Athens Administrative Court of Appeal, the primarily competent Court to decide on the matter and to clarify and confirm whether a report of the CPS issued in the framework of Article 69(12) is binding on sports judicial bodies. The Appeals Committee obviously erred by not taking



into account the findings of the Athens Administrative Court of Appeals in the Appealed Decision.

*d) The position of the HFF*

151. The members of the Disciplinary Committee and the Appeals Committee, who enjoy full independence under the HFF regulations, although they were able to get into the merits of the case, decided that the determination of the violations of PAOK and Xanthi fell outside their scope of review. The CPS Decision is an enforceable administrative act, which is referred to the Disciplinary Committee for the sole purpose of determining the scope of the statutory sanction and enforcing it on the parties concerned.
152. The HFF maintains that there is no provision in Greek law which could suggest that the judicial body of a sports federation, which is a private entity, can re-examine the findings or overturn a decision of a Greek public administrative body such as the CPS.

*e) The position of Olympiacos*

153. Olympiacos submits, supported by the expert opinion of Mr Panagiotis Perakis and Prof. Spyridon Vlachopoulos, that the CPS Decision is to be considered as an enforceable administrative act that is in no case subject to review by a private disciplinary body. It is completely inadmissible for any private entity or body to re-evaluate the findings of the CPS Decision, as it is not conceivable for individuals or private entities to be able to revise, abolish or even refuse to comply with decisions of state bodies of their own accord. At most, it can be subject to a revision on the merits by the CPS itself or annulment proceedings before the ordinary administrative courts.
154. Olympiacos alternatively submits that, if the fact that the CPS Decision is transmitted to the Disciplinary Committee for imposition of sanctions is understood to mean that the CPS Decision is not enforceable in and of itself, this administrative act is nonetheless a binding proposal under Greek administrative law. Such proposal is submitted to the adjudicatory bodies, who may only do one of two things: i) accept the proposal and comply with its content; or ii) abstain from issuing the enforceable act if, and only if the relevant law provides for such discretion. However, Olympiacos maintains that it is clear from the literal text of the applicable law that the content of the proposal is binding on the decision-making body, which therefore cannot under any circumstances issue a decision that diverges from that content. This view is supported by a decision cited in the First Instance Decision, decision no. 67/2015 of the Appeals Committee.
155. There is no specific legislative or sporting provision that recognises any discretion for the HFF judicial bodies. As opposed to the CPS, the inquisitorial powers of the HFF judicial bodies are limited. The CPS is a specialised body that has the ability to engage in thorough fact-

finding efforts with the assistance of the State, if necessary, in order to prosecute potential infringements of the national law pertaining to the prohibition of multi-ownership.

156. According to Olympiacos, therefore, the determination of the infringements of Law 2725/1999 by PAOK and Xanthi as established in the CPS Decision is not subject to review before any instance and lies outside the scope of the Panel's power of review.

f) *The findings of the Panel*

157. The first element deemed relevant by the Panel is that Law 2725/1999 does neither explicitly set forth that a decision by the CPS is binding on the judicial bodies of a sports federation, nor that it is not binding. The Panel finds that it is therefore subject to interpretation whether or not the CPS Decision is binding on the HFF judicial bodies.
158. The Panel finds that if the CPS Decision were considered to be binding on the HFF judicial bodies, i.e. if the HFF judicial bodies had no choice but to sanction PAOK and Xanthi, the CPS might just as well have decided on the expulsion or point deduction from PAOK and Xanthi itself. The referral of the case to the HFF judicial bodies for the latter to intervene in this case would not serve any real purpose.
159. Rather, it appears that the sporting consequences have been left at the discretion of the HFF judicial bodies. This, however, implies that the HFF judicial bodies indeed must enjoy a certain discretion with respect to the handling of the matter.
160. Although one could argue that the discretion of the HFF judicial bodies consists of the freedom to decide on a point deduction between 5 and 10 points, this does not appear to have been the rationale of the system, because the same system was in place already before Article 69(12) of Law 2725/1999 was amended. Indeed, before such amendment the only possible sanction for a violation of the prohibition on multiple ownership of clubs was expulsion, i.e. there was no discretion for the HFF judicial bodies with respect to the severity of the sanction. Accordingly, the Panel finds that the discretion of the HFF judicial bodies would logically have lied in the decision whether or not to accept the finding of the CPS and impose a sanction in the first place.
161. Furthermore, the Panel considers the wording of Article 69(12) of Law 2725/1999 relevant:

*“**In case of violation** of any of the provisions of the previous paragraphs of this article because of fault of the Sports SA organs, it is imposed on its team, **by decision of the relevant judicial body**, which acts upon after a **report by the Committee on Professional Sports** or at the request of anyone having legitimate interest, the penalty of deducting five (5) to ten (10) points from the current professional championship in which it participates, depending on the gravity of the violation. In case the violation is found after the end of the season, the above penalty is imposed for the next professional*

*championship. The penalty of this paragraph shall be imposed regardless of the legal characterization of the violation by the relevant disciplinary provisions” (emphasis added by the Panel).*

162. The provision refers to a “decision” of the judicial body, not a mere ratification, recognition or implementation of the CPS Decision. The provision also refers to a “report” of the CPS, not a (final and binding) “decision” of the CPS. The Panel finds that this wording is not consistent with an alleged adjudicatory nature of the CPS Decision.
163. The Panel finds that it would also be highly unusual to submit a mere ratification of the CPS Decision by the Disciplinary Committee to two further instances of appeal (i.e. before the Appeals Committee and subsequently before CAS). If the duty of the Disciplinary Committee was merely to rubber-stamp the findings of the CPS one would have expected no recourse of appeal at all. Conversely, it does make a lot of sense to have appeal instances if the Disciplinary Committee was to make its own independent assessment of the situation on the basis of the CPS Decision.
164. Another argument in favour of the non-binding nature of the CPS Decision is that a potential violation of the prohibition on multiple ownership of clubs can be instigated in two ways, i.e. by means of a CPS decision, or by means of a direct complaint being filed with the HFF judicial bodies. This derives from the wording of Article 69(12) of Law 2725/1999, determining that “*after a report by the Committee on Professional Sports **or at the request of anyone having legitimate interest***” (emphasis added by the Panel).
165. The Panel adheres with PAOK and Xanthi that it would be rather strange if the HFF judicial would not be allowed to examine the substance of a CPS report, but that they would be allowed to make their own independent assessment in case of a direct complaint being filed by anyone having a legitimate interest.
166. What is more, and the Panel considers this to be the most compelling argument, the Athens Administrative Court of Appeals concluded that the CPS is not binding on the HFF judicial bodies in a decision rendered following an application for provisional measures filed by PAOK against the CPS Decision. Obviously, considerable weight is to be afforded to the HFF judicial bodies, but the Panel finds that a ruling of the Athens Administrative Court of Appeals is in principle to be perceived as being more authoritative, because it is the sole appeal instance dealing with appeals against decisions of the CPS.
167. In any event, the Panel finds the reasoning of the Athens Administrative Court of Appeals compelling:

*“[I]t cannot be convincingly argued that the "judicial" body, having, of course, full power to decide based on the facts and the law and eventually establishing guilt and sentencing on a case, does not (nevertheless) have the power to decide based on the facts of the infringement committed when it decides following the lodging of the relevant [CPS Decision]. In view of this and taking into consideration the nature of the*

*disciplinary body, as "judicial", but also the use by the legislator of the term "decides", as well as the characterization of the [CPS] reviewed findings as "Report" or "Conclusion", it should be accepted that [CPS Decision] does not bind the "judicial" body as of the facts of the infringement committed, the substantiation of which therefore comes under the competence of the "judicial" body, which as a disciplinary body cannot be deprived of full jurisdiction in terms of establishing guilt and sentencing, i.e. it does not mean that the disciplinary procedure is separated between two different bodies, one of which is to decide on the guilt and the other is to decide only on sentencing. However, due to the fact that the [CPS] is a specially established body, composed of persons with special knowledge and expertise (Article 77 (4), L.2725/1999), the "judicial" body, when deviating from the conclusions, appraisals and weightings of the [CPS], the report of which is merely an opinion, should do so on an explicit, specific and clear justification. In this light, the [CPS Decision], which establishes an infringement of the provisions of Law 2725/1999, can only base enforceability only on the inherent legal consequence that consists in the obligation of the judicial body to hear and to adopt a decision on the alleged disciplinary infringement (see Council of the State 1596/2004)".*

168. The Panel notes that the Appeals Committee reasoned as follows in the Appealed Decision:
- “Article 69(12) Law 2725/1999 does not allow the relevant judicial body to verify the [CPS’s] inclusion of the facts in the rule (or in the set of rules) of law precluding the multi ownership in Sports Companies, since such a review would conflict with the presumption of legitimacy of the administrative act, as in the case of the [CPS] Report”.*
169. The Panel agrees with such analysis insofar as the Appeals Committee finds that the CPS Decision is presumed to be legitimate. However, as argued by PAOK, presumptions can by definition be rebutted. A presumption of legitimacy is therefore something else than a binding decision that cannot be challenged. Notwithstanding the presumption of legitimacy of the CPS Decision, the Appeals Committee deprived PAOK of the possibility to try and rebut such presumption by refusing to look at the substance of PAOK’s arguments and considering the CPS Decision as binding.
170. The Panel also notes that the decision on PAOK’s request for provisional measures by the Athens Administrative Court of Appeal was issued on 10 March 2020, while the Disciplinary Committee issued the First Instance Decision on 5 March 2020 and appeals were filed against the latter decision with the Appeals Committee on 9 March 2020.
171. Accordingly, the Appeals Committee had the benefit of being able to take into account the Athens Administrative Court of Appeal decision in rendering the Appealed Decision. Notwithstanding the HFF’s argument in the present proceedings before CAS that there is no provision in Greek law suggesting that the judicial body of a sports federation can re-examine the findings or overturn a decision of a Greek public administrative body such as the CPS, the majority of the three-person tribunal constituting the Appeals Committee that issued the Appealed Decision does not make reference to the decision of the Athens Administrative Court of Appeal and does not contain any reasoning as to why the Appeals Committee

deemed it appropriate to deviate from the reasoning of the Athens Administrative Court of Appeal.

172. Only the minority of the Appeals Committee refers to the Athens Administrative Court of Appeals Decision in supporting its conclusion that the CPS Decision was not binding on the HFF judicial bodies.
173. If the reasoning of the HFF and Olympiacos were followed, and the HFF judicial bodies rightly considered themselves to be bound by the CPS Decision, it appears inconsistent to the Panel that the HFF judicial bodies would be free to ignore the findings of the Athens Administrative Court of Appeal, i.e. the only court competent to deal with a direct appeal against the CPS Decision.
174. The Panel finds that the decision of the HFF Football Court of Arbitration for Sport does not have much relevance, as the subject matter decided upon in such decision was different.
175. Furthermore, the Panel finds that considering the CPS Decision as binding on the HFF judicial bodies could potentially also result in unfairness.
176. The CPS Decision only acquires *res judicata* effect when all appeal instances against such decision are exhausted, which was not yet the case at the time of issuance of the operative part of the present award. Now, if the HFF judicial bodies would simply ratify the CPS Decision without assessing the substance and expel clubs or deduct points from the championship ranking, this would have immediate sporting consequences on the clubs. Fairness would be trampled if the appeals against the CPS Decision would subsequently turn out to be successful, because the entire basis for expulsion or points deduction would disappear, while it would be impossible or very difficult to remedy the sporting damages incurred by the clubs retrospectively.
177. Such unfairness would not exist if the HFF judicial bodies make their own independent assessment of the CPS Decision and decide to impose sanctions on the clubs. In that case, even if the CPS Decision would ultimately be set aside, the imposition of sporting sanctions by the HFF judicial bodies is nonetheless justified because they made their own independent assessment of the facts in front of them. A possible annulment of the CPS Decision would not *per se* deprive the sanctions imposed by the HFF judicial bodies of their legitimacy.
178. This conclusion does not mean that the HFF judicial bodies can simply ignore or disregard the CPS Decision. Indeed, the description of the Appeals Committee in the Appealed Decision of the CPS Decision as being presumptively legitimate is probably a fair description.
179. Furthermore, the Panel deems it relevant to reiterate the finding made above with respect to the jurisdiction of the HFF judicial bodies to sanction clubs on the basis of Article 69(12) of Law 2725/1999. In that section, the Panel dismissed PAOK's argument that the sanctions

imposed must be declared null and void, because the direct application of Law 2725/1999 would result in excessive state interference. The Panel finds that this is relevant for present purposes as well.

180. The potential threat of a violation of the duty for national federations to maintain their autonomy and independence and to prevent excessive state interference is considerably larger in case the HFF judicial bodies would be obliged to ratify the findings of the CPS, an administrative body of the Greek public administration, independent from the HFF, to decide on intra-federation matters such as the expulsion of clubs or the deduction of points from championships, than in case the HFF judicial bodies would be afforded discretion in deciding whether or not to follow the findings of the CPS Decision. Indeed, the latter scenario strikes the Panel as a reasonable and appropriate balance between the powers of the CPS and the HFF judicial bodies.
181. Finally, the Panel notes that the operative part of the CPS Decision dictates that it is to be forwarded to the federation concerned, i.e. the HFF, but also to the *“competent Prosecution Authority for the criminal proceedings”*. The Panel has little doubt that the prosecution authority and the criminal courts cannot be considered bound by the CPS Decision, despite the fact that the wording of Article 69(12) does not materially differ from Article 69(13) of Law 2725/1999, which provides that “[a]nyone who intentionally infringes the preclusions of paragraphs 3, 6, 8, 9 and 10 hereof shall be punished by imprisonment and a fine of up to five hundred thousand (500,000) euro [...]”. The Panel is not persuaded as to why this should be different for the HFF judicial bodies.
182. Having examined all the evidence in front of it, the Panel finds that the CPS Decision is not binding on the HFF judicial bodies. Accordingly, the Disciplinary Committee and the Appeals Committee should have analysed the substance of the CPS Decision and taken this into account in deciding whether or not PAOK and Xanthi were to be sanctioned.
183. Consequently, the Panel finds that the CPS Decision is not binding on the HFF judicial bodies.
- iv. If the CPS Decision is not binding on the HFF judicial bodies, what are the consequences thereof?*
184. Having established that the HFF judicial bodies wrongfully failed to assess the substance of the CPS Decision, absent such assessment and without an endorsement of the conclusions of the CPS Decision, the Panel finds that the CPS Decision cannot be used as a direct basis to sanction PAOK. Accordingly, the 7-point deduction imposed on PAOK must be annulled.
185. Considering that Xanthi did not file an independent appeal against the Appealed Decision, the Panel does not have the power to annul the 7-point deduction imposed on Xanthi.

186. A mere annulment of the Appealed Decision would however leave the First Instance Decision in place, by means of which also a 7-point deduction was imposed on PAOK. Accordingly, the First Instance Decision must also be set aside insofar as it imposes a 7-point deduction on PAOK. The Panel finds that this does not lie outside its scope of competence, because PAOK requested in its prayers for relief that no sanction be imposed on it and the Appeals Committee had the authority to decide on the 7-point deduction.
187. Article R57 CAS Code provides as follows:
- “The Panel has full power to review the facts and the law. It may issue a new decision which replaces the decision challenged or annul the decision and refer the case back to the previous instance”.*
188. Pursuant to this provision, the Panel is perfectly entitled to annul the Appealed Decision and render a decision on the substance of the case to replace the Appealed Decision, i.e. to examine the CPS Decision and decide whether a sanction is to be imposed on PAOK.
189. The Panel is however also perfectly entitled to annul the Appealed Decision and refer the case back to the Appeals Body. To do so, no request from any party is required, it is a discretion afforded to the Panel by Article R57 CAS Code.
190. Considering that both the Disciplinary Committee as well as the Appeals Committee incorrectly assumed that the CPS Decision was binding on them, they did not enter into an analysis of the CPS Decision. Considering the technical nature of the CPS Decision and the intricacies of the Greek legal order to be taken into account, the Panel finds that, notwithstanding its power to decide the case itself, the judicial bodies of the HFF are better placed at this moment in time, and in fact have the duty, to assess the content of the CPS Decision and the arguments raised by the Parties.
191. The Panel does not find it appropriate to render a final and binding decision with major consequences for Greek football in a situation where the HFF judicial bodies have not reviewed and assessed the substance of the CPS Decision. PAOK was deprived of two instances of justice and had to present their case within a very short timeframe before CAS. The Panel facilitated the Parties’ request to hold a hearing on short notice, and the Parties expressed their gratitude for and satisfaction with the modalities chosen by the Panel, but PAOK also remarked that in order to have a hearing on such short notice it had to rush and give up several of its defence rights. The Panel finds that such defence rights should be fully respected and that the HFF judicial bodies are the primary fora for this and only subsequently CAS. Indeed, the HFF judicial bodies should not be allowed to abstain from complying with their responsibility to decide on the substance of the case at the expense of PAOK’s right to fully plead its case. This is all the more true considering that PAOK was sanctioned without its right to be heard having been fully respected.

192. Consequently, the Panel finds that the Appealed Decision and the First Instance Decision are to be set aside insofar as they impose a 7-point deduction on PAOK and that the case is to be referred back to the Appeals Committee for adjudication, this time duly examining and assessing the substance of the CPS Decision and respecting PAOK's right to be heard.
193. Because the Panel reached the conclusion to refer PAOK's case back to the Appeals Committee, and in order to not unnecessarily restrict the free assessment of the case by the Appeals Committee, the Panel does not address the substance of Olympiacos' appeal in the present proceedings, i.e. to decide whether PAOK and Xanthi should be expelled or whether a 10-point deduction should be imposed rather than a 7-point deduction. Since the substance of Olympiacos' appeal is not addressed, the Panel does not have to make a ruling on whether or not Olympiacos has standing to challenge the Appealed Decision. The fact that the operative part of the present award indicates that Olympiacos' appeal is partially upheld is solely based on the formality that Olympiacos' primary request for relief is upheld, i.e. that the Appealed Decision be set aside, and because the proceedings in *CAS 2020/A/7019* and *CAS 2020/A/7035* are consolidated. The reason for setting aside the Appealed Decision is however not premised on arguments advanced by Olympiacos.

## **B. Conclusion**

194. Based on the foregoing, and after taking into due consideration all the evidence produced and all arguments made, the Panel finds that:
- i. The HFF judicial bodies have jurisdiction to sanction football clubs on the basis of Article 69(12) of Law 2725/1999.
  - ii. It was not required that the CPS Decision was first referred to the HFF prosecutor before referring it to the Disciplinary Committee.
  - iii. The CPS Decision is not binding on the HFF judicial bodies.
  - iv. The Appealed Decision and the First Instance Decision are set aside insofar as they impose a 7-point deduction on PAOK and the case is referred back to the Appeals Committee for adjudication taking account of the reasons exposed above.
195. All other and further motions or prayers for relief are dismissed.



## ON THESE GROUNDS

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

1. The appeal filed on 28 April 2020 by Olympiacos Football Club against decision no. 20/2020 issued by the Appeals Committee of the Hellenic Football Federation on 6 April 2020 is partially upheld.
2. The appeal filed on 4 May 2020 by Panthessaloníkeios Athlitikós Ómilos Konstantinoupolitón (PAOK) against decision no. 20/2020 issued by the Appeals Committee of the Hellenic Football Federation on 6 April 2020 is partially upheld.
3. Decision no. 20/2020 issued by the Appeals Committee of the Hellenic Football Federation on 6 April 2020 is set aside insofar it imposes a sanction of 7 (seven) points deduction from the current professional championship (Super League I Hellas 2019 - 2020) on PAOK.
4. Decision no. 95/2020 issued by the Single-Member Disciplinary Body of First Instance of the Hellenic Football Federation on 5 March 2020 is set aside insofar it imposes a sanction of 7 (seven) points deduction from the current professional championship (Super League I Hellas 2019 - 2020) on PAOK.
5. The present matter is referred back to the previous instance, i.e. the Appeals Committee of the Hellenic Football Federation, which shall adjudicate and decide the dispute without considering the conclusions reached by the Committee on Professional Sports in its report dated 27 January 2020 to be binding on it.
6. (...).
7. (...).
8. All other and further motions or prayers for relief are dismissed.