



**Arbitration CAS 2020/A/7331 FC Drita v. Union des Associations Européennes de Football (UEFA), award of 8 April 2021 (operative part of 7 October 2020)**

Panel: Mr Lars Hilliger (Denmark), President; Mr Francesco Macri (Italy); Mr Alexis Schoeb (Switzerland)

*Football*

*Forfeiture of a game due to positive cases of COVID-19*

*Standing to be sued alone of UEFA*

*Methods of interpretation of statutes and regulations of an international sports federation*

*Jurisdiction of the UEFA Appeals Body as a single instance*

*Strict liability*

*Legal validity of Annex I.2.1 of the UCL Regulations and factum principis*

*Right to equal treatment*

1. When deciding who is the proper party to defend an appealed decision, CAS panels proceed by a balancing of the interests involved and by taking into account the role assumed by the association in the specific circumstances. Consequently, one must ask whether a party stands to be sufficiently affected by the matter at hand in order to qualify as a proper respondent within the meaning of the law. The question is therefore if a club, in pursuing its request for reintegration into a UEFA competition should direct its claim to all clubs participating in that competition. These other clubs derive their rights in the competition solely from UEFA as the major event organiser and sports governing body of European club football. Their legal position can therefore not be stronger than or different from the legal position held by UEFA itself. Thus, these other clubs are only indirectly affected in the case at hand, and it is UEFA that is best suited to solely defend the common interests of the participants in this competition. This is all the more true considering that the reintegration of the club into the competition cannot affect, at least in theory, the other clubs more seriously than declaring a match forfeited by the club. If, however, UEFA can decide the latter without including the other clubs in the proceedings, it is difficult to understand why the *actus contrarius* should be qualified or handled any differently. There is indeed a risk that the reintegration of a club into a competition may cause difficulties. These difficulties, however, originate solely from the decision taken by UEFA and, therefore, cannot be shifted to the club by denying it effective access to justice.
2. Rules and regulations of international sports federations are subject to the methods of interpretation applicable to statutory provisions rather than contracts, i.e. literal interpretation, teleological interpretation, systematic interpretation and historical interpretation, and has to be rather objective. As a rule, although the starting point is the wording of the text to be interpreted, there is no hierarchy among the methods listed above. The adjudicating body will have to consider the meaning of the rule, looking at

the language used, and the appropriate grammar and syntax. In its search, the adjudicating body will have further to identify the intentions (objectively construed) of the association which drafted the rule.

3. Annex I of the Regulations of the UEFA Champions League 2018/21 Cycle – 2020/21 Season (UCL Regulations) does not intend to amend the structure of the internal judicial bodies of UEFA for disputes related to COVID-19. If, however, Annex I is based on the existence of two internal instances, the exhaustion of both legal remedies might be problematic in cases of extreme urgency. It is for this type of cases, that Article 29(3) of the UEFA Disciplinary Regulations (DR) provides for the possibility of the UEFA Control, Ethics and Disciplinary Body (CEDB) to refer the matter to the Appeals Body, allowing the latter to decide as a single instance. It would be against the idea of procedural efficiency and effective access to justice if Annex I was to be interpreted such as to prohibit the application of Article 29(3) of the UEFA DR in COVID-19-related disputes. Thus, an interpretation based on the reasonable interests of the parties and the overall structure of the rules cannot conclude that Article 29(3) UEFA DR is superseded by Annex I of the UCL Regulations.
4. Annex I.2. of the UCL Regulations provides for a strict liability for a club, which will be sanctioned with a forfeit by the score of 0-3, even without fault or negligence, for having one or more players infected by COVID-19 and for having followed an order of an authority to go into quarantine causing a match not to be played or rescheduled.
5. It follows from Annex I.2.1 of the UCL Regulations that even if a large group of players or the entire team is not able to participate in a match due to a COVID-19 quarantine imposed by the relevant authority, the provision allows for UEFA to decide that the match is to be played or rescheduled under certain conditions. Therefore, no rule of a public law nature or *factum principis* overriding UEFA rules is inserted in Annex I.2.1 of the UCL Regulations in a manner which makes it impossible for the members of UEFA to challenge the subsequent decision of UEFA with regard to the status of a match, even if such a decision is based on circumstances caused by a decision regarding quarantine issued by a public national health authority.
6. There is no violation of the right to equal treatment of a club if other national testing and health authorities might have had different approaches than those applied by a national testing and health authority with regard to whether or not a delegation of a team is subject to quarantine or other precautions.

## I. PARTIES

1. FC Drita (the “Appellant” or the “Club”) is a professional Kosovar football club affiliated with the Football Federation of Kosovo (the “FFK”), which in turn is affiliated with the Union des Associations Européennes de Football.
2. Union des Associations Européennes de Football (the “Respondent” or “UEFA”) is the governing body of European football, based in Nyon, Switzerland.
3. The Appellant and the Respondent are hereinafter jointly referred to as the “Parties”.

## II. FACTUAL BACKGROUND

4. Below is a summary of the relevant facts and allegations based on the Parties’ written submissions, pleadings and evidence adduced at the hearing. Additional facts and allegations found in the Parties’ written submissions, pleadings and evidence may be set out, where relevant, in connection with the legal discussion that follows. While the Panel has considered all the facts, allegations, legal arguments and evidence submitted by the Parties in the present proceedings, it refers in its Award only to the submissions and evidence it considers necessary to explain its reasoning.
5. By emails of 25 and 30 June 2020, the Respondent informed the clubs participating in the preliminary round matches (“PR matches”) of the UEFA Champions League 2020/2021 (the “UCL 2020/2021”) that, due to the circumstances caused by COVID-19, the PR matches were to be played in Switzerland at the Colovray Stadium in Nyon.
6. Since 6 July 2020, Kosovo has been included by the Swiss health authorities in the list of countries from which visitors to Switzerland who have spent time there must go into mandatory quarantine.
7. On 15 July 2020, the UEFA administration, via Circular 53/2020, informed its member associations and their clubs of the implementation of the UEFA Return to Play Protocol (the “Protocol”), which was adopted by the UEFA Executive Committee on 8 July 2020. The Protocol is a set of rules addressing measures concerning the COVID-19 pandemic in Europe relation to UEFA club competitions. Particularly, it *“sets out the framework of medical, sanitary and hygiene procedures, together with the operational protocols that are to be applied when staging UEFA competition matches”*.
8. By letter of 21 July 2020 from the Office du Médecin Cantonal in Vaud (the “Office du Médecin”) to the Respondent, and following a specific request, it was confirmed that the Appellant’s team was granted an exemption from the general quarantine rule applying to travellers from Kosovo. The letter, which was forwarded to the Appellant by email of 27 July 2020, stated, *inter alia*, as follows:

*“[...] To follow-up on the validation of the protection plan for the football tournament organised by the UEFA Champions League, that will be played at the Colovray Stadium in Nyon between the 8 and 11 August 2020, the sanitary authority of the canton of Vaud confirms:*

- *that the representative team of Kosovo is exempted from quarantine during its stay on the territory of Vaud, from 7 to 12 August 2020, but must scrupulously respect the protective measures.*

*The organiser also commits to ensure that the team complies with the different measures included in the protection plan.*

*In case one of the players would be infected with COVID-19 during its stay in our Canton, isolation measures will be put in place with an extension of its stay in Switzerland, which will be covered by the organiser. [...].”*

9. On 3 August 2020, the UEFA administration, via Circular 58/2020, informed its member associations and their clubs of Annex I to the Regulations of the UEFA Champions League (2020/21 season) and Regulations of the UEFA Europa League (2020/21 Season) (“Annex I”), which were approved by the UEFA Executive Committee at its meeting on 17 June 2020. Annex I is named *Special rules applicable to the qualifying phase and play-offs due to COVID-19*, and sets out *“special rules applicable to the qualifying phase and play-offs due to COVID-19”*.
10. On 6 August 2020, and in compliance with the Protocol, all members of the Appellant’s delegation underwent a test to detect possible COVID-19 infections. All tests resulted negative from COVID-19.
11. On 7 August 2020, the Appellant’s delegation arrived in Switzerland.
12. Later on the same date, and on the evening before the Appellant’s PR match against Club d’Éscalades, one player from the Appellant’s team (“Player 1”) returned a positive COVID-19 test.
13. In accordance with the instructions received from SYNLAB, the laboratory in charge of all COVID-19 testing in connection with the PR matches, Player 1 was quarantined together with another player (“Player 2”), with whom Player 1 had been in close contact.
14. By authorisation by the Swiss health authorities by email of 8 August 2020, the rest of the team was not quarantined and was therefore able to play the match later in the evening. The email stated, *inter alia*, as follows:

*“Following our phone exchange today, and after the validation from Dr Karim Boubaker (Cantonal Doctor - DGS Vaud), you will find hereafter the Cantonal Doctor’s Office’s authorization for the Kosovo football team to take part in tonight’s game.*

*Reminder of the facts:*

*All the team's members were tested for a first time in Kosovo before flying to Switzerland: all of their test's results were negative.*

*Upon arriving in Switzerland on the 07/08/2020, all the players were once again tested: the team captain's result was positive. He is asymptomatic.*

*Upon receiving this result, the entire team was quarantined in Hotel Everness - Chavannes de Bogis.*

*Contact tracing:*

*On the 5th and the 6th of August, all the team's players stayed home in Kosovo as rain had made training impossible. The players live in different cities, and do not have any contact amongst them outside of training sessions and games.*

*The first whole-team meeting happened on the 07/08/2020 in Pristina, in the airport before embarking.*

*The flight was in a private plane. All players wore masks and gloves.*

*Upon arriving in the hotel and as soon as the player's positive result was received, all of them were quarantined while waiting for contact tracing to proceed.*

*Taking into account the information that was transmitted, and after evaluation of the risk of transmitting the SARS-CoV-2 virus, we confirm that, excepting the positively-tested player as well as the player with which he could have had risky contacts, the team's other players are not in quarantine and can thus participate in tonight's game.*

*As for the player tested positive for COVID-19 and the player in quarantine, their situation will be monitored by the Cantonal Doctor's Office - Vaud during the whole duration of the isolation (minimum 10 days) / quarantine (10 days). Both players have to stay in Switzerland until their quarantine / isolation periods have been declared over".*

15. On 8 August 2020, the Appellant's team won its first PR match against Club d'Éscalades, thus qualifying for the next PR match against Linfield FC scheduled to be played on 11 August 2020 at 18.00 CET (the "Match").
16. On 10 August 2020, the UCL second qualifying round draw took place, the result of which was that the winning team of KP Legia Warszawa SSA, the Appellant and Linfield FC would face the winning team between FC Ararat Armenia and AS Omonia.
17. Later on the same date, and following a new test as foreseen in the Protocol, the Appellant was informed by SYNLAB that another player ("Player 3") had tested positive for COVID-19. Player 3 had been playing the full match against Club d'Éscalades on 8 August 2020.

18. However, almost at the same time, the Appellant was informed by SYNLAB that Player 1 and Player 2 had tested negative for COVID-19.

19. On 11 August 2020 at 13.35, the Parties were informed by the Office du Médecin as follows:

*“Dear Sir,*

*Thank you for your message.*

*As discussed today, I can confirm the decision of the Cantonal Doctor’s Office regarding the quarantine of the whole delegation of FC Drita (Kosovo).*

*They can travel back to Kosovo with private plane as soon as possible and have to apply all protection measures during the flight, including social distances between the positive cases and the rest of the delegation”.*

20. At 13.42, the Respondent forwarded an email to the Appellant with the following wording:

*“Following the below e-mail sent by the authorities, could you please inform us about your plans in order to support you.*

*Awaiting for your information”.*

21. At 14.39, the Appellant replied, *inter alia*, as follows:

*“We have received notice that today we will continue the quarantine at the Hotel, and each of us in its own room as per recommendations.*

*Breakfast, Lunch, Dinner is served in our rooms.*

*Even tonight we will sleep in a hotel then tomorrow we will travel to the airport with the whole group, with private Airplane/ charter, normally according to the suggestions we will be very careful with protections measures for everyone also for the 2 Positive players including social distances between the positive cases and the rest of the delegation and everything else as per recommendations.*

[...]

*Note: we are trying to make an earlier departure from Geneva Airport, but still waiting in confirmation, as soon as we have any info regarding time/ change, I will write you immediately”.*

22. Later on 11 August 2020, the Respondent issued its Media Information N.041 stating, *inter alia*, as follows:

*“KF Drita UEFA Champions League preliminary round tie against Linfield FC will not be taking place after a second player from Kosovo side tests positive for COVID-19.*

*Following a decision taken by the Swiss health authorities in cooperation with UEFA to put the whole team of KF Drita (KOS) into quarantine after a second player from Kosovo side had tested positive for COVID-19, the upcoming UEFA Champions League preliminary round match between KF Drita and Linfield FC (NIR) - scheduled for on 11 August at 18:00 CET in Nyon, Switzerland - cannot be played.*

*The player who tested positive yesterday (Monday 10 August) had previously produced a negative test for COVID-19 on Friday 7 August as part of the comprehensive testing system put into place by UEFA in accordance with the UEFA Return to Play Protocol and approved by the local authorities in the Canton of Vaud, Switzerland. The whole team of KF Drita had also been tested negative prior to their arrival in Switzerland.*

*On Friday in a separate case, a player from KF Drita returned a positive result for COVID-19 following testing on the eve of their match against Inter Club d'Escaldes (AND) in accordance with the UEFA's above-mentioned protocol. This player was put into quarantine, together with one teammate after tracing found he had come into close contact with the affected player.*

*This second positive test of a player who was in contact with other members of the delegation over the last days has prompted the Swiss authorities to put the whole Kosovan team into quarantine. Accordingly, the upcoming fixtures cannot be played.*

*The matter will not be submitted to the UEFA Control and Disciplinary Body, for a decision to be taken in accordance with Annex I of the 2020/21 UEFA Champions League regulations, which was approved by the UEFA Executive Committee last week”.*

23. At 16.13, the Appellant furthermore informed the Respondent that “As we mentioned in previous email, our departure flight time has been changed. Now the departure time from Geneva airport is at 10:30”.
24. Furthermore, at 17.09, the Respondent forwarded by email a message to the Appellant, stating as follows:

*“This is to inform you that disciplinary proceedings have been instigated in accordance with Article 55(1)(e) of the UEFA Disciplinary Regulations (DR). Indeed, the following infringements have been reported:*

*Incident*

***Responsibility for the match not taking place***

*Offence*

***Annex i.2.1 to the UEFA Champions League Regulations (2020/2021)***

*The infringement has been submitted to the UEFA Control, Ethics and Disciplinary Body (CEDB) that will decide on the matter on 12 August 2020 at 17h00 CET.*

NB:

*The CEDB may take its decision on the basis of provisions other than those mentioned above. As regards the procedure, the provisions of art. 37 et seq of the DR shall apply.*

*Any statements to the above, as well as any evidence may be submitted to the Disciplinary Services by no later than 12 August 2020 at 15h00 CET (discipline@uefa.ch or fax +41 22 707 28 97)".*

25. No statement or evidence was received from the Club before the scheduled meeting.
26. On 12 August 2020, at 15.17, the Appellant was forwarded a letter from the Chairman of the UEFA Control, Ethics and Disciplinary Body (the "CEDB") to the Chairman of the UEFA Appeals Body (the "Appeals Body"), stating as follows:

*"On 11 August 2020, the 2020/21 UEFA Champions League preliminary round match between KF Drita and Linfield FC was due to be played in Nyon, Switzerland. Following a decision taken by the Swiss health authorities, the whole team of KF Drita was put into quarantine, following positive tests for COVID-19 of two players of the latter club. Therefore, the above mentioned match cannot be played, which - as per Annex I.2.1 to the UEFA Champions League Regulations 2020-21 ("Special rules applicable to the qualifying phase and play-offs due to COVID-19") - confers the jurisdiction to the UEFA Control, Ethics and Disciplinary Body.*

*Bearing in mind the urgent circumstances of this case, which might have an important impact on the smooth running of the 2020/21 UEFA Champions League and based on Article 29(3) of the UEFA Disciplinary Regulations, I would like to inform you that I have decided to refer this case directly to the UEFA Appeals Body for a decision".*

27. Furthermore, at 16.41, the Respondent informed the Appellant as follows by email:

*"This is to inform you that the meeting of the Appeals Body has been fixed as follows:*

***Date: 12 August at 17.00 CET***

*Please note that the Appeals Body will deal with your case in the following composition:*

*Chairman: Pedro Tomás Marques (Spain)*

*According to Article 64(2) of the Disciplinary Regulations, I note that KF Drita has not requested a hearing in this case. Consequently, the Appeals Body will render a decision based on the documents contained in the case file. The decision will be notified in due course.*

*I remain at your disposal for any further information".*

28. At 17.29, and before the notification of the decision of the Appeals Body, the Appellant forwarded a letter from the FFK to the Respondent, stating, *inter alia*, as follows:

*"UEFA Media information No 041, dated 11/08/20, notified that based on a decision taken by the Swiss health authorities in cooperation with UEFA to put the whole team of KF Drita (KOS) into quarantine after a second player from the Kosovo side had tested positive for COVID-19, the upcoming UEFA Champions*



*League preliminary round match between KF Drita and Linfield FC (NIR) - scheduled for on 11 August at 18:00 CET in Nyon, Switzerland - cannot be played.*

*In this regard, FFK expresses its concerns about the decision taken by the Swiss State Authorities and UEFA to quarantine FC Drita, meaning forfeiting the match in case the match is not played on a different date. In light of UEFA Return to Play Protocol, it is not mentioned that if a player tests out positive then the match should be postponed or moreover the club should forfeit the match.*

*Facts to take into consideration are as follows:*

- *On the first day of testing, Mr. Fidan Gerbeshi tested positive for COVID-19 and the same has been put in quarantine immediately. His contact person, Mr. Bujar Shabani was also sent in quarantine even though his test resulted negative.*
- *After the first match, Mr. Hamdi Namani resulted positive and all others resulted negative, including here Mr. Gerbeshi and Shabani, who previously resulted positive.*
- *In the end, the club had only one positive player.*

*Furthermore, in a conference call organized by UEFA on Thursday 6th of August, it was clearly mentioned that the club must have at least 13 eligible players to participate in the match. In this case, FC Drita had more than 20.*

*In pandemic time, where the whole world had been touched by Covid-19, including Atlético de Madrid, FC Barcelona, some of which players resulted positive too, the right for equal treatment has been breached by authorities who failed to do so. FC Drita is the only club which has been sent home.*

*A newly member association, such as Kosovo, which has struggled to gain international recognition for many years, and in a football loving country, this decision (a decision which is not based to all Covid-19 regulations) ruins all the dreams and ideals.*

*We wait for all authorities to reflect on this and look forward to your feedback!*

*Respectfully,  
Eroll Salihu  
General Secretary”.*

29. Finally, at 19.48, the Appeals Body notified its motivated decision (the “Appealed Decision”).
30. With regard to its competence, the chairman of the Appeals Body referred to Articles 29(3), 30(4) and 30(3) of the UEFA Disciplinary Regulations (the “UEFA DR”) and, given that the present case needed to be addressed urgently due to its direct impact in the ongoing UCL 2020/21 as well as the 2020/21 UEFA Europa League, the chairman found that the Appeals Body was competent to deal with the case with the chairman sitting alone.
31. With reference to Article 5(a) of the UEFA DR, the Appeals Body noted that it found, *in particular*, that the provisions in Annex I.2.1 and I.3.1 were of relevance in the matter at hand and that the legal issues revolved around a) whether the Appellant was responsible for the

match against Linfield FC not being played, and, in the affirmative, b) what would be the consequences pursuant to the applicable regulations?

32. With regard to a), the Appeals Body recalled Annex I, which emphasised the need to guarantee the start and the continuation of the PR matches given the COVID-19 pandemic, and further recalled that, as mentioned in paragraph 1 of the Protocol, the evaluation of the COVID-19 situation is dynamic and unpredictable.
33. Against this background, the Appeals Body further recalled that after the positive test of Player 3 was confirmed, the Swiss health authorities in the Canton of Vaud decided to send the entire delegation of the Appellant into mandatory quarantine for 10 days.
34. Taking into account the statement in Annex I.3.1 that “[t]he rescheduling of matches is subject to the following deadlines for the different stages of the competitions: (i) UCL PR: 14 August 2020 [...]”, combined with the entire delegation of the Appellant in a mandatory 10-day quarantine as of 11 August 2020, the Appeals Body noted that it was impossible for the UEFA administration to reschedule the said match before the 14 August 2020 deadline applicable to the preliminary round of the 2020/21 UCL season.
35. Due to this impossibility, and by virtue of Annex I.2.1 stating that “[t]he club that cannot play the match will be held responsible for the match not taking place [...]”, the Appeals Body found itself comfortably satisfied that the Appellant should be held responsible for the match not taking place.
36. Based on that, the Appeals Body recalled that, pursuant to Annex I.2.1, “[t]he club that cannot play the match will be held responsible for the match not taking place and the match will be declared [...] to be forfeited by the club, which will be considered to have lost the match 3-0”.
37. Based on the above, the Appeals Body rendered the Appealed Decision and decided:  
*“To declare the 2020/21 UEFA Champions League preliminary round match between KF Drita and Linfield FC, that was scheduled to be played on 11 August 2020, as forfeited by KF Drita, who is therefore deemed to have lost the match 3-0 in accordance with Annex I.2.1 to the Regulations of the UEFA Champions League (2020/21 Season)”.*
38. On 13 August 2020, the Appellant replied to the Respondent as follows:  
*“We have received the decision of the UEFA Appeals Body and we disagree with its content.  
We deem that it was and is not “impossible” to reschedule our match against Linfield FC.  
In this respect, pursuant to article I.2.1 of Annex I to the UEFA CL Regulations 2020/2021 we provide you herein attached with a list of 13 players including 1 goalkeeper duly registered with our Club who are not part of the Delegation currently in quarantine and who are tested negative to COVID-19 in accordance with the UEFA Return to Play Protocol, who are ready to travel and play the said match.*

*We look forward to receiving your prompt reply to organize the travel and all the connected logistic and administrative formalities”.*

39. By letter of 14 August 2020, the Respondent replied, *inter alia*, as follows:

*“We refer to your correspondence received on 13 August 2020 evening, following the decision taken by the UEFA Appeals Body (UEFA AB) on 12 August 2020 with regard to the UEFA Champions League match against Linfield FC, originally scheduled on 11 August 2020 at 18:00 CET in Nyon, Switzerland (the “Match”), which could not take place.*

*As you are aware, in application of Annex I.2.1 to the Regulations of the UEFA Champions League (2020/21 Season) (the “Annex”) the UEFA AB has declared the Match as forfeited by your club, due to the entire team being put into mandatory quarantine for 10 days, and which had as a consequence that the Match could not be played (the “Decision”).*

*With regard to the new list of players and the possibility to reschedule the Match as established in the above-mentioned Annex I.2.1 and I.3.1, we note that your club did not make any request in this regard nor it provided any statement to the UEFA AB ahead of its scheduled meeting of 12 August 2020.*

*In this respect, the UEFA administration cannot modify a decision taken by the UEFA disciplinary bodies.*

*Finally, we recall that your club is still qualified for the Q2 of the “2020/21 UEFA Europa League” and bound by the Regulations of the UEFA Europa League (2020/21 Season) and the UEFA Return to Play Protocol.*

*We thank you for taking note of the above”.*

40. On 17 September 2020, the Appellant played and won against FC Sileks in the second round of the qualification for the EL, and on 24 September 2020, the Appellant played and lost against Legia in the third round of the qualification for the EL.

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

41. On 15 August 2020, the Appellant filed a Statement of Appeal against the Respondent and against the clubs Linfield FC, KP Legia Warszawa SSA, FC Ararat Armenia and AS Omonoia in accordance with Articles R47 and R48 of the CAS Code of Sports-related Arbitration (the “CAS Code”) against the Appealed Decision.
42. Included in the Statement of Appeal was a Request for Urgent Provisional Measures within the meaning of Article R37 of the CAS Code, requesting provisional measures aimed at rescheduling the Appellant’s UCL PR match against Linfield immediately after the ending of the quarantine imposed by Swiss authorities on its delegation.

43. On 18 August 2020, the Respondent submitted its Response to the Request for Provisional Measures, submitting, *inter alia*, that the Appellant had not met the required three criteria for the application of provisional relief.
44. Later on the same date, the Deputy President of the Appeals Arbitration Division issued the operative part of her Order on Request for Provisional Measures dismissing the Appellant's request.
45. By letter of 20 August 2020, the Appellant informed the CAS Court Office that it wished to withdraw its appeal against the clubs Linfield FC, KP Legia Warszawa SSA, FC Ararat Armenia and AS Omonia, but to maintain the appeal against the Respondent.
46. By letters of 2 and 3 September 2020, the Parties informed the CAS Court Office that they agreed to submit these procedures to an expedited procedure and agreed on a procedural calendar, which included a hearing to be held on 5 or 6 October 2020 and the operative part of the award to be issued no later than 9 October 2020.
47. On 4 September 2020, the Appellant filed its Appeal Brief in accordance with Article 51 of the CAS Code.
48. By letter of 24 September 2020, and following previous correspondence with the Appellant, the CAS Court Office informed that Parties as follows:

*“Following the letter sent by the Appellant 11 and 21 September 2020, I inform the Parties that the CAS Court Office has reassessed the issue of the application of Articles R64 or R65 of the Code. Considering that the nature of this type of cases is half-eligibility and half-disciplinary, the CAS Court Office will not claim the payment of any advance of costs for now, until a consistent jurisprudence is established in this respect.*

*In light of the above, the Appellant is not required to pay any advance of costs and may disregard the CAS Finance Director's letter of 10 September 2020”.*
49. On 28 September 2020, the Parties were informed by the CAS Court Office that the Panel had been constituted as follows: Mr Lars Hilliger, Attorney-at-Law in Copenhagen, Denmark (President of the Panel), Mr Francesco Macri, Attorney-at-Law in Piacenza, Italy (nominated by the Appellant), and Mr Alexis Schoeb, Attorney-at-Law in Geneva, Switzerland (nominated by the Respondent).
50. On 1 October 2020, the Respondent filed its Answer in accordance with Article R55 of the CAS Code.
51. On 5 October 2020, both Parties signed and returned the Order of Procedure.
52. On 6 October 2020, a video-conference hearing was held via Webex.

In addition to the Panel, Mr Fabien Cagneux, Counsel to the CAS, and the following persons attended the hearing:

For the Appellant:

- Mr Luca Tettamanti, Counsel;
- Mr Michele Spadini, Counsel;
- Mr Feti Murseli, Legal representative of FC Drita;
- Mr Jetmir Salihu, General manager of FC Drita.

For the Respondent:

- Mr Jan Kleiner, Counsel;
- Mr Angelo Rigopoulos, Managing Director of UEFA Integrity & Regulatory;
- Mr William McAuliffe, UEFA Senior Legal Counsel.

53. At the outset of the hearing, the Parties confirmed that they had no objections to the constitution of the Panel.
54. The Parties were afforded ample opportunity to present their case, submit their arguments and answer the questions posed by the Panel. After the Parties' final submissions, the Panel closed the hearing and reserved its final award. The Panel took into account in its subsequent deliberations all the evidence and arguments presented by the Parties although they may not have been expressly summarised in the present Award.
55. At the end of the hearing, the Parties expressly confirmed that they had no objection to the procedure adopted by the Panel and that their right to be heard and to be treated equally had been duly respected.

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

56. In its Appeal Brief, the Appellant requested the CAS to rule as follows:
1. *"The Challenged Decision issued by the UEFA Appeals Body on 12 August 2020 is annulled and set aside in view of all the arguments addressed in the present submission.*
  2. *The sanction of loss by forfeit 0-3 of the match FC Drita v/ Linfield FC is therefore annulled.*
  3. *UEFA is ordered to immediately reinstate FC Drita into the UEFA Champions League competition of the sporting season 2020/2021 taking all the necessary measures to facilitate such reinstatement.*
  4. *It is granted any other relief or order the CAS deems reasonable and fit to the case at stake to reach the ultimate scope for which the present appeal have been filed by FC Drita and thus avoid FC Drita suffering sporting and/ or economic prejudices.*
  5. *UEFA is ordered to bear all the procedural costs of this arbitration procedure, if any.*
  6. *UEFA is ordered to compensate FC Drita for all the legal fees and other costs incurred in connection with this arbitration in an amount to be determined at the discretion of the Panel".*

57. The Appellant's submissions, in essence, may be summarised as follows:

- Pursuant to Annex I to the Regulations of the UEFA Champions League 2018/21 Cycle – 2020/21 Season (the “UCL Regulations”) *“if it is not possible to reschedule a match in accordance with the set out deadlines, the club that cannot play the match will be held responsible for the match not taking place and match will be declared by the UEFA CEDB to be forfeited by the club, which will be considered to have lost the match 3-0”*.
- In this article, and in several other articles of Annex I, the UEFA CEDB is mentioned as the body to issue the relevant decisions, and the UEFA AB is never mentioned as the first instance body.
- UEFA named Annex I Special Rules, and in the preamble of the said annex, it is stated that if there is any discrepancy between the rules of Annex I and the provisions to be found in the UCL Regulations or in any other sets of rules adopted by the Executive Committee, the rules of Annex I prevail.
- In compliance with these rules, the Appellant was informed that its disciplinary case under Annex I was submitted to the UEFA CEDB for a decision.
- Nevertheless, the case was referred to the UEFA AB, and the Appealed Decision was issued by the said body, which, according to the Respondent, was in accordance with the provisions of the UEFA DR due to the urgent nature of the matter.
- However, the UEFA AB was not competent to issue the Appealed Decision.
- First of all, all cases listed in Annex I are by nature to be considered as urgent cases, which is why, when drafting Annex I and granting the UEFA CEDB its exclusive competence to decide in a forfeit matters like the one at stake, the Respondent was well aware and conscious of its choice, which cannot be repudiated against its own rules.
- Moreover, there is no room to apply the UEFA DR in this case, since the rules in Annex I do not refer to the applicability of the UEFA DR, which thus cannot form the basis for a change of competence between the UEFA legal bodies.
- Moreover, Annex I encompasses a complete set of special rules adopted to govern special cases, and these rules will prevail over the UCL Regulations in case of discrepancy, although no discrepancy can be found in this particular case.
- Even if the UEFA DR were applicable as mere procedural rules, *quod non*, they cannot in any case prevail over substantive rules of Annex I in terms of competence, type of sanctions, etc. The strict delimitation of competence in favour of the UEFA CEDB cannot be overridden by the UEFA DR at the Respondent's free will.

- Since the Appealed Decision thus was issued by a body of the Respondent that did not and could not have competence, the Appealed Decision is not valid and has to be set aside.
- Such irregularity cannot be cured by this *de novo* appeal before the CAS, and the Appealed Decision must be annulled as a consequence.
- In any case, the rule applied by the UEFA AB to condemn the Appellant cannot be legally enforced.
- The rule in question provides for a strict liability of a club, which will be sanctioned with a forfeit by the score of 0-3, even without fault or negligence, for having one or more players infected with Covid-19 and for having followed an order from a public authority to go into quarantine, causing the match not to be played or rescheduled.
- It is not disputed that sports associations have disciplinary powers over its members, but such powers do not rest on public law or penal law, but on civil law.
- However, the rule applied in this case seeks to insert a rule of a civil law nature and its consequences of a compulsory nature of a decision made by a public authority.
- By basing the Appealed Decision on the quarantine imposed by a public authority and, by extension, making the Appellant unable to play the scheduled match, the Respondent inserts elements of public law into a rule of private law, rendering it impossible for its members to challenge such a decision/quarantine.
- Moreover, the Respondent imposes a disciplinary sanction not coming from a violation of its own civil rule, or rather, coming from a supposed violation of its civil law, but as a result of the compliance by the Appellant with a highly ranked public rule or order.
- Such a rule cannot be implemented into a sporting regulation and is therefore illegal.
- Since the Appealed Decision was based on such an illegal provision, the Appealed Decision must be annulled.
- With regard to the impossibility to play the Match or to have it rescheduled within the deadline of 14 August 2020, such impossibility derived from a compulsory order of the Swiss state authorities, which excludes at all any liability, whether strict liability or liability for fault or negligence, of the Appellant.
- Orders from state authorities that cannot be disregarded are considered *factum principis*, which goes hand in hand with the concept of *force majeure*.
- In this case, the Appellant's obligation to play the Match became definitively and objectively impossible for the period until 14 August 2020 by the order issued by the Swiss medical authorities.

- Such impossibility caused by this *factum principis* operates at a higher level than the analysis of the strict liability of the applied provision, thus precluding the existence of any liability of the Appellant.
- In this case, the destiny of the Appellant was in the hand of the Swiss authorities, who turned out to be acting in a stricter and less permissive manner than other European authorities.
- As such, the impossibility of the Appellant to play the Match as scheduled originates from a choice taken by the Respondent to host the Match in Switzerland
- Since the Appealed Decision is based on the application of such a provision and strict liability, it is ill-founded and must be annulled.
- The exclusion of the Appellant from participating in the Match also constitutes a violation of the principle of equal treatment, since other teams were in fact allowed to participate in UCL matches played in other countries even with one or more players tested positive for Covid-19.
- What is more, the Appellant's request to have the Match rescheduled was in compliance with the applicable rules, and the impossibility to reschedule the Match was caused by either the rules themselves or by external circumstances, which cannot be counted against the Appellant.
- According to the applicable provisions, although the Respondent is not obliged to reschedule a match, it must – at least – take into consideration such possibility in two cases: a) if the relevant authority allows a sufficient number of players to participate in such a match, b) if the club in question decides to field players not registered with the Respondent, provided that such players are registered with the club's national association as players of the said club and are tested negative for Covid-19.
- The Appellant did everything in its power at all times to play the Match or to have it rescheduled and relied on the Respondent to decide in good faith to reschedule the Match.
- The Respondent lacked any proactive attitude regarding a possible rescheduling of the Match, and even itself confirmed that the Match could not have been rescheduled irrespective of whatever request the Appellant might have made and whenever it might have been forwarded.
- In other words, since the beginning the Respondent set a mandatory deadline for the end of the PR matches, which, *a priori*, would have rendered it impossible to reschedule the last match of the PR matches, thus depriving the relevant clubs of the chance to have such a match postponed in case one or more players were tested positive for Covid-19.



- In any case, the applicable rules do not set a deadline for filing a request for a rescheduling of the Match.
- Eventually, if a party should really be found to be at fault, this is surely not the Appellant but rather the Respondent, which, by not rescheduling the Match or by not even trying to do so, prevented by its own tight calendar, breached its own regulations to the detriment of the Appellant.
- The CAS is not requested to rule on the reinstatement of the Appellant to the UCL 2020/2021 in concrete, but is requested to annul the Appealed Decision. The reinstatement of the Appellant in the competitions is the job of the Respondent.
- The Respondent is prevented from arguing that the Appellant cannot be reinstated in the competition since several rounds of the competition might have been played since the Appealed Decision was issued.
- Furthermore, the Respondent is prevented from arguing that the Appellant should have called all the other participants in the UCL 2020/2021 as respondents, as an award in the Appellant's favour would affect their rights, *inter alia*, since the Appellant's request is not to replace another team but simply to be readmitted to the competition, for instance as an additional participant.

57. In its Answer, the Respondent requested the CAS to issue an order:

- (a) *“Dismissing FC Drita’s appeal, insofar as it is admissible.*
- (b) *Confirming the Decision under appeal.*
- (c) *Ordering FC Drita to bear the costs of these proceedings and to pay UEFA a contribution towards the costs incurred by UEFA in connection with these proceedings”.*

58. The Respondent's submissions, in essence, may be summarised as follows:

- First of all, UEFA alone lacks standing to be sued.
- The Appellant requests the CAS to order UEFA to immediately reinstate the Appellant to the UCL 2020/2021, which request directly affects all other participants in this competition.
- However, the Appellant failed to call these participants as co-respondents, even when they are all third parties affected from a sporting perspective by the appeal in case the Appellant is reinstated to the UCL 2020/2021.

- But also from a legal perspective, the Appellant ignores the principle that all clubs that may be affected by the Appellant's request must have "*a seat at the table*" so that they are able to defend their rights.
- In this situation, the case law of the CAS is clear: the Appellant cannot direct such a request to UEFA alone.
- Furthermore, a reintroduction of the Appellant at this stage would result in a distortion of the sporting principles for a competition like the UCL 2020/2021.
- In any case, the UEFA AB had jurisdiction to adjudicate the matter.
- The applicable procedural framework makes it clear that in such urgent matters, it is possible – and warranted – to refer the case directly to the UEFA AB.
- It is not correct to say that Annex I is to be considered as *lex specialis*, even if the provisions included in the said annex create certain special provisions in relation to the COVID-19 pandemic.
- As such, Annex I does not create any sort of "*general replacement*" of the UEFA DR, nor does it replace the general procedural framework before the disciplinary bodies of UEFA.
- Annex I contains neither rules on jurisdiction, nor rules on the delimitation of competence between the CEDB and the UEFA AB.
- The fact that Annex I does not refer to the applicability of the UEFA DR does not mean that the UEFA DR are not applicable since the general procedural framework as established in the UEFA DR, as in all other cases before the UEFA disciplinary bodies, applies.
- The UEFA DR are applicable in their own right as they state that they "*govern the organisation and actions of the disciplinary bodies and the procedure to be followed before these bodies*".
- The UEFA Statutes provide the underlying statutory basis for the functioning of the disciplinary bodies of UEFA, i.e. specifically of the CEDB and the UEFA AB.
- Pursuant to the UEFA Statutes, the UEFA DR "*may provide that a case be referred directly to the Appeals Body in urgent circumstances, in particular regarding the admission to, or exclusion from, UEFA competitions*".
- This rule has been implemented in the UEFA DR, thus authorising the UEFA AB, *inter alia*, "*to rule on particularly urgent cases referred to it directly by the chairman of [the CEDB]*".
- Such referral of urgent cases from the CEDB to the UEFA AB is common practice and has been confirmed by the CAS on several occasions.

- Furthermore, Annex I does not create a complete set of special rules, which would no longer allow the cases to be forwarded directly to the UEFA AB.
- In any event, it appears contradictory that the Appellant criticises the Respondent for having procedurally treated this matter as an urgent case since the Appellant itself stressed from the beginning that this was in fact such an urgent case.
- As such, there has been no procedural irregularities, and all UEFA regulations were complied with.
- However, and in any case, the *de novo review* of the CAS will cure any such alleged procedural flaw.
- With regard to the alleged “*illegality*” of some of the provision of Annex I due to the alleged elements of public law inserted in rules of private law, this allegation is disputed.
- The Appellant’s statement regarding this alleged “*illegality*” is not a valid legal argument at all, and the Appellant fails to submit any legal source or other evidence to support its allegation.
- In any case, UEFA does not “*insert*” decisions of state authorities, nor does it outsource its decision-making process to state authorities. Besides, UEFA does not blindly rely on such decisions.
- However, it is not unusual for UEFA, based on its regulations, to partially refer to decisions or matters that may originally be of a public law nature and then draw conclusions within the UEFA regulations from these decisions and matters.
- But the final conclusion drawn within the UEFA regulations remains to be an internal, private decision of UEFA.
- With regard to the Appellant’s submission related to “*force majeure*” or “*impossibility*”, apparently the Appellant submits that the only reason why the Match could not be played was a “*governmental act*”, which is not the case.
- In fact, the reason why the Match could eventually not be played was the fact that the Appellant decided to travel home without seeking to field 13 new players and to reschedule the Match in accordance with Annex I.
- As such, the argument regarding “*impossibility*” is totally unfounded.
- Moreover, it must be stressed that UEFA, as a private association established under Swiss law, has the autonomy as an association to define the consequences if a match cannot be played.

- While this autonomy is not absolute or without limits, it clearly gives UEFA the right to pass specific regulations to operate its own competitions, which is the case with Annex I, which regulates the complex circumstances under which the UEFA competitions currently take place to the benefit of public health and to the benefit of football.
- In addition, UEFA never violated the principle of equal treatment since it is not relevant whether other, foreign, testing authorities may take other approaches than the Swiss authorities, or if a different match did take place or not.
- Finally, it is disputed that UEFA lacked any proactive attitude with regard to having the Match rescheduled as UEFA did in fact ask the Appellant to forward information to UEFA regarding the plans of the Appellant *“in order to support you”*.
- The Appellant cannot refuse to show any interest in rescheduling the Match, make no request and no communication whatsoever, travel home instead without engaging in any procedural step and only at a very late stage, and once a formal decision is taken by the independent bodies of UEFA, make a complete change of mind and say that it wants to play the Match at a time when the UEFA administration was no longer in a position to accommodate such a belated request.
- The rescheduling of the Match to be played before the deadline of 14 August 2020 was simply impossible when the request was finally received from the Appellant.

## V. JURISDICTION

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

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

60. Pursuant to Article 54 of the UEFA DR, *“[t]he UEFA Statutes stipulate which decisions taken by the disciplinary bodies may be brought before the Court of Arbitration for Sport, and under which conditions”.*

61. Pursuant to Article 62 (1) of the UEFA Statutes, *“[a]ny decision taken by a UEFA organ may be disputed exclusively before the CAS in its capacity as an appeals arbitration body, to the exclusion of any ordinary court or any other court of arbitration”.*

62. Furthermore, pursuant to Article 85.01 of the UCL Regulations, *“In case of litigation resulting from or in relation to these regulations, the provisions regarding the Court of Arbitration for Sport (CAS) laid down in the UEFA Statutes apply”.*

63. The jurisdiction of the CAS derives from Article 54 of the UEFA DR and Article 62 (1) of the UEFA Statutes and Article 85.01 of the UCL Regulations in conjunction with Article R47 of the CAS Code.
64. In addition, neither the Appellant nor the Respondent objected to the jurisdiction of the CAS, and both Parties confirmed the CAS jurisdiction when signing the Order of Procedure.
65. As such, the Panel finds that it has jurisdiction to decide the present dispute.

## **VI. ADMISSIBILITY**

66. Article R49 of the 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 of a previous agreement, the time limit for appeal shall be twenty-one days from the receipt of the decision appealed against. After having consulted the parties, the Division President may refuse to entertain an appeal if it is manifestly late”.*

67. The deadline provided in Article R49 of the CAS Code (twenty-one days from the receipt of the decision appealed against) is only relevant in the absence of a time limit set in the statutes or regulations of the relevant federation. The UEFA Statutes provide in Article 62 (3) that *“[t]he time limit for appeal to the CAS shall be ten days from the receipt of the decision in question”*. Therefore, the appeal against the Appealed Decision must be filed with the CAS within 10 days from its receipt.
68. The Appealed Decision was notified to the Appellant on 12 August 2020, and the Appellant’s Statement of Appeal was lodged on 15 August 2020, i.e. within the statutory time limit of 10 days set forth in Article 62 (3) of the UEFA Statutes, which is not disputed. Furthermore, the Statement of Appeal and the Appeal Brief complied with all the requirements of Articles R48 and R51 of the CAS Code.
69. It follows that the Appeal is admissible.

## **VII. APPLICABLE LAW**

70. Article 63 (2) of the UEFA Statutes states as follows:

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

71. Article R58 of the Code provides as follows:

*“The Panel shall decide the dispute according to the applicable regulations and the rules of law chosen by the parties or, in the absence of such a choice, according to the law of the country in which the federation, association*

*or sports-related body which has issued the challenged decision is domiciled or according to the rules of law, the application of which the Panel deems appropriate. In the latter case, the Panel shall give reasons for its decision”.*

72. Article 64 (1) of the UEFA Statutes states as follows:

*“These Statutes shall be governed in all respects by Swiss law”.*

73. The Panel is satisfied that the primarily the various regulations of UEFA are applicable to the merits of this Appeal, in particular Regulations of the UEFA Champions League 2018/21 Cycle – 2020/21 Season (the “UCL Regulations”), effective as of 3 August 2020, Annex I and the UEFA DR, effective as of 15 June 2019. Subsidiarily, Swiss law will apply should there be a need to fill a lacuna in various regulations of UEFA.

#### **VIII. MERITS**

74. Initially, the Panel notes that the facts set out in section II above are not disputed by the Parties.

75. However, while the Appellant submits, *inter alia*, that the Appealed Decision was issued by a legal body without the necessary competence to issue such a decision and that the Appealed Decision in any case was based on the application of illegal provisions without a proper legal basis, the Respondent maintains that the Appealed Decision is fully in line with the valid and legal applicable provisions and also maintains that the UEFA AB was competent to issue the Appealed Decision in application of the applicable rules and regulations.

76. Moreover, the Respondent submits that UEFA alone lacks the standing to be sued in this case, which is why the Appeal is not admissible.

77. Based on the above, the Appellant finds that the sanction imposed on the Appellant, resulting in the Appellant losing the Match by a forfeit of 0-3, should be annulled and that UEFA should be ordered to immediately reinstate the Appellant to the UCL 2020/2021.

78. UEFA, on the other hand, finds that the Appeal, insofar as it is considered admissible, should be dismissed and that the Appealed Decision should be confirmed.

79. Thus, the main issues to be resolved by the Panel are:

- A) Does UEFA have standing to be sued alone?
- B) Did the UEFA AB have jurisdiction to issue the Appealed Decision?
- C) If B) is answered in the affirmative: Are the rules enforced by the UEFA AB in the Appealed Decision illegal? And if not:

D) Who was responsible for the Match not being played, and did UEFA violate the Appellant's right to equal treatment?

**A) Does UEFA have standing to be sued alone?**

80. The Panel initially notes that it is undisputed that the present case is – in principle – of a disciplinary nature, and UEFA, having issued the disciplinary measure in question, has thus standing to be sued in respect of the Appellant's request to set aside such a measure.

81. However, the Parties differ with respect to the request submitted by the Appellant, according to which the Appellant seeks to have UEFA “[...] ordered to immediately reinstate FC Drita into the UEFA Champions League competition of the sporting season 2020/2021 taking all the necessary measures to facilitate such reinstatement”.

82. While the Appellant submits that it is the obligation of UEFA to reintegrate the Appellant into the competition if the Appealed Decision is considered invalid and/or unlawful, UEFA submits that since other clubs participating in the UCL 2020/2021, and even in the EL 2020/2021, would be affected by such reintegration, UEFA lacks standing to be sued alone, and instead the Appellant should have also directed its appeal not only against UEFA, but against all other participants in the competition, as well.

83. The Panel notes that the question of whether or not a party has standing to sue (or to be sued) is – according to well-established CAS jurisprudence (cf. CAS 2020/A/6694; CAS 2016/A/4602; CAS 2013/A/3047; 2008/A/1639) – an issue of substantive law.

84. In the absence of specific provisions on the standing to be sued in the rules and regulations of the Respondent, this lacuna must be filled in by Swiss law (supra para. 73).

85. As such, the Panel refers to Article 75 of the Swiss Civil Code (“SCC”), which reads as follows:

*“Any member who has not consented to a resolution which infringes the law or the articles of association is entitled by law to challenge such regulation in court within one month of learning thereof”.*

86. Although the wording of Article 75 of the SCC is ambiguous with regard to challenges against decisions taken by an association other than resolutions of a general assembly, it is uncontested that the said provision applies *mutatis mutandis* to decisions of other organs of the association. The wording of Article 75 of the SCC implies that an appeal, in principle, must be directed against the association that rendered the challenged decision (cf. BGE 136 III 345, no. E.2.2.2; RIEMER H. M., BK-ZGB, Art. 75, no. 60; SCHERRER/BRÄGGER, BSK-ZGB, Art. 75, no. 21).

87. However, CAS jurisprudence allows for an exception to the above rule, in particular where the appealed decision is not of a disciplinary nature, i.e. where the sports association merely acts as an adjudicatory body in relation to a dispute between its members. Thus, when deciding who is the proper party to defend an appealed decision, CAS panels proceed by a balancing of the interests involved and by taking into account the role assumed by the association in the

specific circumstances. Consequently, one must ask whether a party “stands to be sufficiently affected by the matter at hand in order to qualify as a proper respondent within the meaning of the law” (cf. CAS 2017/A/5227, para. 35). Similarly, the CAS panel in CAS 2015/A/3910 held as follows:

“[T]he Panel holds that in the absence of a clear statutory provision regulating the question of standing to be sued, the question must be resolved on basis of a weighing of the interests of the persons affected by said decision. The question, thus, is who [...] is best suited to represent and defend the will expressed by the organ of the association” (para. 138).

88. Based on the above, the Panel finds, just as the Sole Arbitrator in CAS 2020/A/7456 has doubts as to whether the Respondent’s position holds true, that the Appellant – in pursuing its request for reintegration into the competition – should have directed its claim to all clubs participating in the UCL 2020/2021 competition.
89. These other clubs derive their rights in the UCL 2020/2021 competition solely from UEFA as the major event organiser and sports governing body of European club football. Their legal position can therefore not be stronger than or different from the legal position held by UEFA itself.
90. Thus, these other clubs are only indirectly affected in the case at hand, and it is UEFA that is best suited to solely defend the common interests of the participants in this competition.
91. This is all the more true considering that the reintegration of the Appellant into the competition cannot affect, at least in theory, the other clubs more seriously than declaring the Match forfeited by the Appellant. If, however, UEFA could decide the latter without including the other clubs in the proceedings, it is difficult to understand why the *actus contrarius* should be qualified or handled any differently. In saying this, the Panel, just as the Sole Arbitrator in CAS 2020/A/7456, does not ignore the risk that the reintegration of a club into a competition may cause difficulties. These difficulties, however, originate solely from the decision taken by UEFA and, therefore, cannot be shifted to the Appellant by denying it effective access to justice.
92. However, and as was the case in CAS 2020/A/7456, the Panel can leave the question of whether or not UEFA has standing to be sued alone undecided if the UEFA AB was correct in issuing the Appealed Decision.

**B) Did the UEFA AB have jurisdiction to issue the Appealed Decision?**

93. The Panel initially notes that the applicability of the UCL Regulations, including Annex I, is not disputed by the Parties.
94. Article 1.01 of the UCL Regulations states as follows:



*“The present regulations govern the rights, duties and responsibilities of all parties participating and involved in the preparation and organisation of the 2020/21 UEFA Champions League including its qualifying phase and play-offs (hereinafter the competition)”.*

while the preamble of Annex I states the following:

*“NB: If there is any discrepancy between the rules of this Annex and the provisions to be found in the present regulations or in any other sets of rules adopted by the Executive Committee, the rules below prevail”.*

95. With reference to Annex I, the Appellant submits that the CEDB is the competent legal body to issue decisions pursuant to the provisions of this annex and that the UEFA AB is nowhere mentioned as the first instance body for such decisions.
96. However, and even if the Appellant, in line with Annex I, was informed that the matter was initially transferred to the CEDB for a decision, the case was eventually referred to the UEFA AB for a decision, which, according to UEFA, was in accordance with the UEFA DR due to the urgent nature of the matter.
97. The Appellant submits, that there is no room for the application of the UEFA DR in this case since the provisions of Annex I are *lex specialis* and, therefore, prevail over the more general provisions of the UEFA DR.
98. Furthermore, the provisions of Annex I do not refer to the applicability of the UEFA DR, which thus cannot form the basis for a change of competence between the legal bodies of UEFA.
99. Consequently, the Appellant finds that the UEFA AB had no jurisdiction to issue the Appealed Decision and that the *de novo* hearing of the CAS is not sufficient to cure such a procedural flaw.
100. UEFA, on the other hand, submits that the applicable procedural framework makes it clear that in urgent matters, as the one regarding the Match, it is possible – and warranted – to submit the case directly to the UEFA AB.
101. Annex I is not to be considered as *lex specialis* and does not create any sort of general replacement of the UEFA DR. Furthermore, it does not replace the general procedural framework before the Disciplinary Bodies of UEFA.
102. The UEFA Statutes provide the underlying statutory basis for the functioning of the disciplinary bodies of the UEFA, and Annex I provides neither rules on jurisdiction, nor rules on the delimitation of competence between the CEDB and the UEFA AB.
103. Annex I.2.1 and Annex I.3.1 of the UCL Regulations state, *inter alia*, as follows:

*“2.1*

*If it is not possible to reschedule the match in accordance with the deadlines set out in Annex I.3.1, the club that cannot play the match will be held responsible for the match not taking place and the match will be declared by the UEFA Control, Ethics and Disciplinary Body to be forfeited by the club, which will be considered to have lost the match 3-0”.*

*“I.3 Completion of the qualifying phase and play-offs*

*I.3.1*

*In any case, the UEFA administration may reschedule matches of the qualifying phase or play-offs if this ensures a match is played and does not jeopardise the schedule of any forthcoming matches in the competition. Such decisions of the UEFA administration are final. The rescheduling of matches is subject to the following deadlines for the different stages of the competitions:*

*UCL PR: 14 August 2020;*

*[...]”*

Furthermore, Article 1, Article 5, Article 29(5) and Article 30(3) of the UEFA DR state, *inter alia*, as follows:

*“Article 1 Subject and objectives*

*1 These regulations contain the substantive and formal provisions governing the punishment of disciplinary offences falling within their scope of application. They describe the infringements, regulate the application of penalties and govern the organisation and actions of the disciplinary bodies and the procedure to be followed before these bodies.*

*[...]”.*

*“Article 5 Applicable law*

*The disciplinary bodies base their decisions:*

- a. primarily on UEFA’s Statutes, regulations, directives and decisions, and the Laws of the Game; and*
- b. subsidiarily on Swiss law and any other law that the competent disciplinary body deems applicable.*

*[...]”*

*V - Organisation and competence*

*[...]”.*

*“Article 29 Control, Ethics and Disciplinary Body*

*[...]”*

*3 The Control, Ethics and Disciplinary Body has jurisdiction to rule on disciplinary and ethical issues and all other matters which fall within its competence under UEFA’s Statutes and regulations. In particularly urgent cases (especially those relating to admission to, or exclusion from, UEFA competitions), the chairman may refer the case directly to the Appeals Body for a decision. [...]”.*

*“Article 30 Appeals Body*

*[...]”*

*3 The chairman of the Appeals Body, one of its vice-chairmen or one of its members acting as ad hoc chairman may take a decision as a judge sitting alone:*

*a. in urgent or protest cases;  
[...]*”.

104. First of all, the Panel notes that it is both obvious and undisputed that the matter regarding the status of the Match was of an urgent nature. And while the Parties do not dispute that Annex I is applicable to the matter at hand, the Parties are in dispute with regard to the possible simultaneous application of certain rules of the UEFA DR, the applicability of which depends on the interpretation of the rules and the regulations in question.
105. As correctly stated in CAS 2020/A/7456, it is generally admitted that rules and regulations of international sports federations are subject to the methods of interpretation applicable to statutory provisions rather than contracts (see e.g. RIEMER H. M., BK-ZGB, Systematischer Teil, no. 331; SFT 114 II 193, E.5a; SFT 4A\_600/2016, E.3.3.4.1; CAS 2010/A/2071, para. 20; CAS 2016/A/4602, para. 101).

Consequently, the CAS panel in CAS 2010/A/2071 rightly found as follows:

*“The interpretation of the statutes and rules of a sport association has to be rather objective and always to start with the wording of the rules, which falls to be interpreted. The adjudicating body – in this instance the Panel – will have to consider the meaning of the rule, looking at the language used, and the appropriate grammar and syntax. In its search, the adjudicating body will have further to identify the intentions (objectively construed) of the association which drafted the rule [...]*”.

106. In accordance with the above, the meaning of Annex I.2.1 and the UEFA DR must be determined in accordance with the principles of interpretation applicable to statutory provisions, i.e. literal interpretation, teleological interpretation, systematic interpretation and historical interpretation.

In this regards, CAS 2013/A/3365 – CAS 2013/A/3366 stated: *“Under Swiss law, the methods of interpretation to be applied are the following: the literal interpretation (“interprétation littérale”), the systematic interpretation (“interprétation systématique”), the principle of purposive interpretation (“interprétation téléologique”), the principle of so-called “compliant interpretation” (“interprétation conforme”). As a rule, although the starting point is the wording of the text to be interpreted, there is no hierarchy among the methods listed above”. Moreover, regarding associations: “... As regards the statutes of larger entities, it may be more appropriate to have recourse to the method of interpretation applicable to the law ...”.*

107. The Panel initially notes that it follows from a literal reading of Annex I.2.1. that – subject to certain conditions – *“the match will be declared by the UEFA Control, Ethics and Disciplinary Body to be forfeited by the club, which will be considered to have lost the match 3-0”.*
108. However, the Panel notes that this does not automatically imply the consequence that the CEDB is exclusively competent to deal with the matter at hand regarding the Match.
109. First of all, neither the said provision nor any other provision of Annex I states that this provision on jurisdiction overrules the general provision as set out in the UEFA DR,

according to which the chairman of the CEDB may refer an urgent case directly to the UEFA AB.

110. Moreover, and taking into consideration that Annex I forms part of a set of regulations concerning the extraordinary and exceptional situation in Europe due to the COVID-19 pandemic, which was approved by the UEFA Executive Committee with the primary aim of ensuring that the qualifying phase of the UCL 2020/2021 could be staged in the new 2020/2021 football season.
111. When enacting these provisions, UEFA was without a doubt well aware of the urgency of the disputes that would arise due to the tight deadlines for rescheduling postponed matches pursuant to Annex I.3 to the UCL Regulations. It is for this reason that the deadlines for protests and appeals have been shortened in compliance with Annex I.4 to the UCL Regulations. These deadlines differ from the ones set out in the UEFA DR and therefore replace the respective provisions of the UEFA DR.
112. No similar provision can be found in Annex I relating to the jurisdiction of the UEFA judicial bodies. Unlike the rules and regulations pertaining to the deadlines, there appears to be no difference with respect to jurisdiction in the different set of rules because the CEDB, also under the UEFA DR, is the default first instance judicial body to deal with disciplinary matters.
113. Furthermore, nothing in Annex I indicates that UEFA wanted to abolish appeals. Annex I does not provide that a decision of the CEDB must be final and binding.
114. Instead, Annex I.4.1(b) expressly declares that *“a declaration of appeal against a decision by the UEFA Control, Ethics and Disciplinary Body must be lodged within 24 hours [...]”*. In doing so, Annex I – obviously – refers to the provisions on appeals in the UEFA DR.
115. Thus, Annex I does not intend to amend the structure of the internal judicial bodies of UEFA for disputes related to COVID-19. This finding is further supported by the fact that Annex I.4.1 to the UCL Regulations expressly refers to the UEFA DR.
116. If, however, Annex I is based on the existence of two internal instances, the exhaustion of both legal remedies might be problematic in cases of extreme urgency. It is for this type of cases, when there is no time to exhaust both internal instances, that Article 29(3) of the UEFA DR provides for the possibility of the CEDB to refer the matter to the Appeals Body, allowing the latter to decide as a single instance.
117. The Panel agrees with UEFA that it would be against the idea of procedural efficiency and effective access to justice if Annex I was to be interpreted such as to prohibit the application of Article 29(3) of the UEFA DR in COVID-19-related disputes.
118. Thus, the Panel agrees with the Sole Arbitrator in CAS 2020/A/7456 that *“an interpretation based on the reasonable interests of the parties and the overall structure of the rules cannot conclude that Article 29(3) UEFA DR is superseded by the Annex I”*.

119. Based on the above, the Panel finds that the CEDB was entitled – and perhaps even warranted in so doing – to refer the matter of the Match to the UEFA AB Appeals Body because of the extreme urgency of the matter.

120. Furthermore, the Panel finds that the chairman of the UEFA AB had jurisdiction to issue the Appealed Decision.

**C) Are the rules enforced by the UEFA AB in the Appealed Decision illegal?**

121. The Appellant submits that the rules applied by the UEFA AB to condemn the Appellant cannot be legally enforced.

122. Annex I.2. provides for a strict liability for a club, which will be sanctioned with a forfeit by the score of 0-3, even without fault or negligence, for having one or more players infected by COVID-19 and for having followed an order of an authority to go into quarantine causing a match not to be played or rescheduled.

123. Even if the Appellant does not dispute that sports associations under Swiss law have disciplinary powers over its members, the Appellant submits that such powers cannot rest on public law or penal law, but only on civil law.

124. However, by basing the Appealed Decision on a quarantine imposed by a public authority, UEFA inserts elements of public law into its own civil law rule, rendering it impossible for the Appellant to challenge the decision regarding the quarantine due to the compulsory nature of a decision made by a public authority.

125. Such a rule cannot be implemented into sporting regulations, thus making the rule illegal, from which it follows that the Appealed Decision, based on this illegal provision, must be annulled.

126. UEFA, on the other hand submits that this alleged illegality of the rule in question has no legal basis and that the Appellant fails to submit anything to support such an allegation.

127. In any case, UEFA neither inserts decisions of state authorities, nor does it outsource its decision-making process to such authorities.

128. However, this does not mean that UEFA may not refer to decisions or matters that have originally been of a public nature and then draw its own conclusions within the applicable UEFA regulations from such a decision or matter.

129. Annex I.2.1 and Annex I.3.1 of the UCL Regulations state, *inter alia*, as follows:

*“I.2 Testing and player eligibility*

*I.2.1*

*If one or more players or officials of a club test positive for COVID-19 in the tests required by the UEFA Return to Play Protocol, the match will take place as scheduled unless the national/ local authorities of one or*

*both clubs involved or of where the match will take place (in case of a neutral country) require a large group of players or the entire team to go into quarantine. If at least 13 players registered on the A list (including at least one goalkeeper) are available, the match must go ahead on the scheduled date. If less than 13 players registered on the A list or no registered goalkeeper are available, UEFA may allow a rescheduling of the match within the deadlines set out in Annex I.3.1, if the relevant national/local authority seeks new tests to allow a sufficient number of players (at least 13 including at least one goalkeeper) to participate in the match. Alternatively, the club may field players who have not been registered with UEFA within the deadlines stipulated in the present regulations, provided that these players (i) are duly registered with their national association as playing for the club concerned in accordance with the association's own rules and those of FIFA and (ii) are tested negative in accordance with the UEFA Return to Play Protocol.*

*If it is not possible to reschedule the match in accordance with the deadlines set out in Annex I.3.1, the club that cannot play the match will be held responsible for the match not taking place and the match will be declared by the UEFA Control, Ethics and Disciplinary Body to be forfeited by the club, which will be considered to have lost the match 3-0.*

*[...]*”.

130. Initially, the Panel notes that issues arising in connection with the COVID-19 pandemic cause new legal challenges that have never been experienced before, not only within football but also within every aspect of life. To face these issues and ensure the smooth running of the competition, UEFA decided to approve the new regulations about the venue and country restrictions imposed by the relevant national/local authorities, testing and player eligibility, potential rescheduling of matches and specific rules aimed at reducing the deadlines for protests and appeals.
131. Along these lines, the following has been emphasised in the Protocol, which states, *inter alia*, as follows:

*“[T]he evolution of the COVID-19 situation is dynamic and unpredictable, both in terms of its epidemiology and the nature of the countermeasures imposed by national governments, and while it is impossible to establish a completely risk-free environment, the aim is to lower the risk as far as possible by applying current medical advice and best practice. [...] Minimising the risk to UEFA competitions from COVID-19 relies on thorough and robust preparations and on-site organisation, but also to a large extent on the cooperation, behaviour and understanding of the teams, their players, officials and technical staff, as well as the UEFA referees, the UEFA venue staff and all target groups involved in the matches”.*
132. Moreover, the Panel notes and appreciates that the Parties dispute neither the test requirements introduced to the clubs in order to participate in the UCL 2020/2021, nor the decision of the Swiss authorities to order the Appellant's team to go into quarantine due to the results of the test for COVID-19.
133. Furthermore, the Panel notes that it is not disputed, that sports associations, like UEFA, under Swiss law have disciplinary powers over its members, even if such powers are not unlimited.

134. It follows from Annex I.2.1 that even if one or more players or officials of a club are tested positive in a mandatory COVID-19 test, a match will be played unless the relevant authority requires a large group of players or the entire team to go into quarantine.
135. And even if a large group of players or the entire team is not able to participate in a match due to a COVID-19 quarantine imposed by the relevant authority, the provision allows for the match to be played or rescheduled under certain conditions, including a possible rescheduling of the match in order for players not already registered with the UEFA to play the match.
136. As such, it appears to the Panel that the provision is drafted in a manner which tries to open as many doors as possible in order to have a match played, even in a situation where players and/or officials of a team are tested positive for COVID-19, thus aiming to safeguard the interests of the clubs and UEFA and the rest of the football loving public.
137. Moreover, the Panel does not find that a decision of a relevant authority regarding a possible quarantine imposed on a large group of players or even on an entire team, as was the case in the matter at hand, in any case excludes UEFA from deciding that a match is to be played anyway, subject to the corporation of the team in question.
138. Based on that, the Panel does not find that a rule of a public law nature is inserted in Annex I.2.1 in a manner which, as alleged by the Appellant, makes it impossible for the members of UEFA to challenge the subsequent decision of UEFA with regard to the status of a match, even if such a decision is based on circumstances caused by a decision regarding quarantine issued by a public national health authority.
139. As such, the Panel agrees with UEFA that Annex I.2.1 is not to be considered as a provision which “*out-sources*” the decision-making process of the UEFA, which, accordingly, still is to make its own internal private decision as a sports association under Swiss law.
140. Based on that, the Panel finds no grounds for considering Annex I.2.1 illegal or legally unfounded and, thus, finds no grounds for concluding that the Appealed Decision has to be annulled.

**D) Who was responsible for the Match not being played and did UEFA violate the Appellants right to equal treatment?**

141. Annex I.2.1 and Annex I.3.1 of the UCL Regulations state, *inter alia*, as follows:

*“If it is not possible to reschedule the match in accordance with the deadlines set out in Annex I.3.1, the club that cannot play the match will be held responsible for the match not taking place and the match will be declared by the UEFA Control, Ethics and Disciplinary Body to be forfeited by the club, which will be considered to have lost the match 3-0.*

[...]

*I.3 Completion of the qualifying phase and play-offs*

*I.3.1*

*In any case, the UEFA administration may reschedule matches of the qualifying phase or play-offs if this ensures a match is played and does not jeopardise the schedule of any forthcoming matches in the competition. Such decisions of the UEFA administration are final. The rescheduling of matches is subject to the following deadlines for the different stages of the competitions:*

*UCL PR: 14 August 2020;  
[...]*”.

142. With regard to the impossibility to play the Match or to have it rescheduled within the deadline of 14 August 2020, the Appellant submits that such impossibility derived from a compulsory order of a Swiss state authority, which excludes at all any liability, whether strict liability or fault or negligence, of the Appellant.
143. Orders from state authorities that cannot be disregarded are considered *factum principis*, which goes hand in hand with the concept of *force majeure*, which made the Appellant’s obligation to play the Match within the set deadline impossible when the team was ordered into quarantine by the Swiss health authorities.
144. As such impossibility caused by this *factum principis* operates at a higher level than the analysis of strict liability of the applied provision, the existence of any liability of the Appellant is precluded.
145. Moreover, the Appellant did all in its power to have the Match rescheduled and the request for the rescheduling was in compliance with the applicable rules, and the impossibility to reschedule the Match was caused either by the applicable rules themselves or by external circumstances beyond the control of the Appellant.
146. The Appellant was relying on UEFA to decide in good faith to reschedule the Match, but UEFA lacked any proactive attitude towards such a possibility, which, apparently even according to UEFA’s own point of view, was impossible from the beginning due to the strict deadlines.
147. As such, UEFA breached its own regulations to the detriment of the Appellant, and UEFA cannot validly argue that the Appellant cannot be reinstated at this point since several rounds have now been played.
148. Finally, it must be stressed that the exclusion of the Appellant from the UCL 2020/2021 constitutes a violation of the principle of equal treatment, since other teams were in fact allowed to participate in the UCL 2020/2021 matches played in other countries, even with one or more players tested positive for COVID-19.
149. UEFA, on the other hand, submits that the reason why the Match could eventually not be played was not the alleged “*impossibility*”, but instead the fact that the Appellant decided to



travel home without seeking to field 13 new players and to reschedule the Match in accordance with the provisions set out in Annex I.

150. As a private association established under Swiss law, UEFA has the autonomy to pass specific regulations to operate its own competitions, including defining the consequences, if a match cannot be played. This is the case with Annex I, which regulates the complex circumstances under which the UEFA competitions currently take place to the benefit of public health and to the benefit of football.
151. In addition, UEFA never violated the principle of equal treatment since it is of no relevance to the Appealed Decision, whether other national testing authorities may take other approaches than the Swiss authorities, or whether a different match did take place or not.
152. Finally, UEFA did in fact have a proactive attitude and did in fact ask the Appellant to forward information to UEFA regarding its plans “*in order to support you*”.
153. However, the Appellant failed to act in due time, and the rescheduling of the Match to be played before the deadline of 14 August 2020 was simply impossible when the request was finally received from the Appellant, only after the notification of the Appealed Decision.
154. Initially, and as already mentioned under C), the Panel notes that it is undisputed that UEFA, as a private association under Swiss law, within certain limits, has disciplinary powers over its members and that UEFA has the autonomy to pass specific regulations to operate its own competitions, including the definition of the consequences if a match cannot be played.
155. The Panel further appreciates that both the Protocol and Annex I have been drafted with the aim of providing a set of rules in order to – if in any way possible – safeguard, *inter alia*, the completion of the UCL 2020/2021 in a safe and sporting fair manner.
156. As such, the Panel finds that, given the extremely unusual and challenging circumstances caused by the COVID-19 pandemic, the provisions of Annex I aim to provide the clubs participating in the qualifying phase and play-offs of the UCL 2020/2021 with a set of provision regulation to solve at least some of the potential challenges which can originate from the completion of the PR matches.
157. The Panel appreciates that even if specifically, the deadlines set out in Annex I.3.1 for matches to be played might seem harsh to the participating clubs, the Panel has an understanding for the need for such deadlines to be short in order for UEFA to safeguard the smooth running of its competition, and the Panel further notes that such deadlines were communicated to the relevant clubs before the first PR match was played.
158. Furthermore, and even if the Panel is of the opinion that perhaps the rules regarding a possible rescheduling of a match could have been drafted in a different manner, thus making the process for a club seeking such rescheduling a little more flexible, the Panel does not find that a rescheduling of a match or, even more specifically, the rescheduling of the Match, was

impossible from a legal point of view with reference to the applicable provision, even after the decision of the Swiss health authorities regarding the quarantine of the Appellant's team.

159. As such, the Panel does not agree with the Appellant that the impossibility to play the Match or to have it rescheduled was caused by a *factum principis* overriding UEFA's rules as set out in, *inter alia*, Annex I.
160. With reference to the undisputed facts of the case, pointed out that the tournament had been organized in Switzerland just because of the well-known Covid pandemic, the Panel notes that the Appellant, immediately after the receipt of the decision of the Swiss health authorities to put the delegation of the Appellant into quarantine, was contacted by UEFA, which offered its support to the Appellant, and that the Appellant later on was duly informed by UEFA with regard to the disciplinary proceedings opened before the CEDB, in which connection the Appellant was informed about the deadline for submitting any statement or evidence. Furthermore, the Appellant was duly informed about the referral of the matter to the UEFA AB.
161. Even if the Panel finds that the wording of the initial email from UEFA to the Appellant stating, *inter alia*, "... could you please inform us about your plans in order to support you" perhaps could have been more specific and helpful in guiding the Appellant with regard to the possibilities of having the Match rescheduled in accordance with Annex I.2.1, the Panel finds it uncontested that the Appellant never requested that the Match be rescheduled before the matter was actually decided on by the UEFA AB.
162. During the hearing, the Appellant confirmed that even the letter from FKK received on the day of 12 August 2020 at 17.29 was not to be considered a formal request for the rescheduling of the Match.
163. Based on these circumstances, and on the fact that the Appellant on several occasions had informed UEFA about its plans to return to Kosovo as quickly as possible, the Panel finds no grounds for concluding that the UEFA AB, at its meeting on 12 August 2020 at 17.00, could have made a decision other than the decision to consider that the Match could not be rescheduled to be played on or before 14 August 2020.
164. The Panel does not find that the request for the rescheduling of the Match received from the Appellant on 13 August 2020 at 22.06 changes this in any way, not least and in any case since the deadline for the Match, as set out in Annex I, means that the Match must be played on or before 14 August 2020.
165. The Panel notes that, based on the circumstances, it is not up to the Panel to decide whether or not a rescheduling of the Match to be played within the set deadline would in fact have been possible from a practical point of view since such a request was never received before the set deadline and before the matter was decided by the UEFA AB.

166. Furthermore, and taking into consideration the need to ensure the smooth running of its completion, which is also in the interests of the other participating clubs, the Panel does not find any basis for concluding that the Appealed Decision was made prematurely, thus violating the Appellant's right to be heard and to submit a timely request for the rescheduling of the Match.
167. Based on that and since it was the Appellant which could not play the Match, the Panel furthermore finds that the UEFA AB had no other opportunity than to decide that the Match was to be declared forfeited by the Appellant and thus considered lost 0-3.
168. With regard to the submission of the Appellant that the exclusion of the Appellant from participating in the Match constitutes a violation of the principle of equal treatment, the Panel finds that it is up to the Appellant to discharge the burden of proof to establish that this is the case.
169. In doing so, the Panel adheres to the principle of *actori incumbit probatio*, which has been consistently observed in CAS jurisprudence and according to which "*in CAS arbitration, any party wishing to prevail on a disputed issue must discharge its burden of proof, i.e. it must meet the onus to substantiate its allegations and to affirmatively prove the facts on which it relies with respect to that issue, In other words, the party which asserts facts to support its rights has the burden of establishing them (...) The Code sets forth an adversarial system of arbitral justice, rather than an inquisitorial one. Hence, if a party wishes to establish some fact and persuade the deciding body, it must actively substantiate its allegations with convincing evidence*" (e.g. CAS 2003/A/506, para. 54; CAS 2009/A/1810 & 1811, para. 46 and CAS 2009/A/1975, paras. 71ff).
170. However, the Panel finds that the Appellant has not adequately discharged the burden of proof to establish to the comfortable satisfaction of the Panel that the exclusion of the Appellant from participating in the Match constitutes a violation of the principle of equal treatment.
171. In doing so, the Panel notes that it does not find it relevant for the Appellant's right to equal treatment whether other national testing and health authorities might have had different approaches than those applied by the Swiss authorities with regard to whether or not a delegation of a team is subject to quarantine or other precautions or, if a different match did in fact take place or not, is subject to rules of health authorities in another jurisdiction.
172. Based on the foregoing and after taking into consideration the applicable regulations and all evidence produced and all arguments submitted, the Panel finds that the UEFA AB was correct in issuing the Appealed Decision and that the Appeal filed by the Appellant should be dismissed and the Appealed Decision upheld.
173. Based on that, the Panel finds no need to decide on the matter regarding UEFA's disputed standing to be sued alone.

## ON THESE GROUNDS

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

1. The appeal filed on 15 August 2020 by FC Drita against the decision rendered on 12 August 2020 by the Appeals Body of the *Union des Associations Européennes de Football* is dismissed.
2. The decision issued on 12 August 2020 by the Appeals Body of the *Union des Associations Européennes de Football* is confirmed.
3. (...).
4. (...).
5. All other and further motions or prayers for relief are dismissed.