Arbitration CAS 2022/A/8651 Edgars Gauračs v. Union des Associations Européennes de Football (UEFA), award of 14 June 2023 (operative part of 21 September 2022)

Panel: Prof. Martin Schimke (Germany), President; Mrs Yasna Stavreva (Bulgaria); Mr Jacopo Tognon (Italy)

Football
Match-fixing
Post-facto evidence
CAS power of review
Article 6 ECHR (criminal guarantees)
Doctrine of estoppel and action ultra vires
Article 12 UEFA DR (burden and standard of proof)
Article 12 UEFA DR (interpretation)
Probative value of expert reports
Proportionality of sanctions

1. **Article R57(3) of the CAS Code gives a CAS panel discretion, but not the obligation, to exclude evidence that was not produced in first instance. Consequently, the panel is not limited to considerations of the evidence that was adduced previously and can examine all new evidence produced before it. It should exclude evidence with restraint, only when there is a clear showing of abusive or inappropriate behaviour. In this context, a sports association does not behave abusively when it mandates new reports from integrity betting companies with a view to clarifying some diverging interpretations put forward by the appellant. For the same reasons, the jurisprudence on the prohibition of post-facto evidence is not relevant, it being specified that it would in any case not result in a finding of inadmissibility, but in a diminution of the probative value of the said reports.**

2. **CAS panels have full power of review when questioning witnesses and expert witnesses at the hearing. They are not required to limit themselves to specific questions about the disciplinary investigation and/or reports provided, in particular when the hearing schedule provides for long time slots regarding testimonies and the issues raised were already outlined in the parties' written submissions. They are also entitled to review the sanctions imposed by sports associations that are "evidently and grossly disproportionate", or simply "disproportionate".**

3. **The parties' procedural rights in disciplinary proceedings cannot, in principle, be determined from the point of view of criminal law concepts enshrined in Article 6 of the European Convention of Human Rights (ECHR). The strict application of the *in dubio pro reo* principle in disciplinary proceedings conducted by private associations without state coercive powers would prevent the fight against match-fixing from functioning**

properly. Similarly, the danger that the result of cooperation in fact-finding may at a later point trigger a criminal proceeding is – *per se* – not a valid justification to invoke the privilege of self-incrimination.

4. **Long delays and slowdowns in a sports association's disciplinary proceedings can, at least partly, be explained by the COVID-19 outbreak, the difficulties in interviewing some stakeholders, the willingness to complete a thorough investigation, and the need to review and translate the interview transcripts. They do not obviously indicate a desire to act secretly or contradictory behaviour in breach of the principle of estoppel. In the same way, the absence of a direct reference to a specific paragraph of a provision in the operative part of the first instance decision does not lead to a finding of action *ultra vires* by the appeal body, when that paragraph is mentioned elsewhere in the text and in previous investigation reports.**

5. **Article 12 of the UEFA Disciplinary Regulations (UEFA DR) governs the integrity of matches, competitions and match-fixing. The burden of proof regarding an alleged breach of such article lies with UEFA and the standard of proof is comfortable satisfaction pursuant these regulations. This is in line with CAS jurisprudence, which has constantly upheld this standard of proof in match-fixing cases defined as being greater than a mere balance of probability, but less than proof beyond a reasonable doubt.**

6. **Article 12(2) let. d and e of the UEFA DR require football stakeholders to immediately and voluntarily report a match-fixing offer or other potentially suspect activity. It constitutes a sufficient regulatory basis for sanctioning breaches of such duties, and does not contravene the doctrine of legal certainty and foreseeability when considered as a whole. Nevertheless, in the absence of a specific timeframe ("within the first 24 hours", or "at least 12 hours before the next match"), a schematic or categorical definition of the concept of "immediacy" is not desirable, and would have a counter-productive effect. Thus, particular circumstances, such as the fear of retaliation and the absence of a club director, may exceptionally justify a two-day delay before notifying UEFA. Similarly, the non-disclosure of the name of the person who made the offer is only punishable under let. e of the said regulations.**

7. **The interpretation of a suspicious message must take into account all the available evidence and the overall context of the case. Integrity reports from betting companies shall be put into perspective when their conclusions are undermined by other strong elements on file (general behaviour of the appellant, outcome of the criminal proceedings, relationship between the appellant and other stakeholders, etc.), as well as their own limitations. In principle, they must be signed by the main expert appointed, in order to enable the parties to assess his competence and experience.**

8. **The principle of proportionality under Swiss law implies the consideration of all aggravating and mitigating circumstances of each case, as well as relevant**

jurisprudence and legal writing. The failure to immediately provide a complete account of the facts related to a match-fixing approach should not be retained as an aggravating circumstance, as it is already accounted for a specific offence. Genuine safety concerns and collaboration with UEFA and/or the national associations may be considered as mitigating circumstances, while a lack of experience of a manager may counterbalance the increased obligations associated with its senior position.

I. INTRODUCTION

1. This appeal is brought by Mr Edgars Gauračs (Mr Gauračs or the "Appellant") against the *Union des Associations Européennes de Football* ("UEFA" or the "Respondent"). It aims to challenge UEFA Appeals Body's decision of 7 February 2022 ("the Appealed Decision") to sanction Mr Gauračs with a ban from exercising any football-related activity for three years for breaching Article 12 of the UEFA Disciplinary Regulations ("UEFA DR"), which governs the integrity of matches, competitions and match-fixing.

2. This decision retained that the Appellant breached the general prohibition of potentially harmful behaviour and the obligation of collaboration enshrined in Article 12(1) and the specific examples enumerated in Articles 12(2)(d) and (e) of the UEFA DR (failure to immediately and voluntarily report a match-fixing offer or other potentially suspect activity). However, it ruled out the application of Article 12(2)(a) of the UEFA DR (acceptance of a match-fixing offer), which was referred to in first instance.

II. PARTIES

A. The Appellant

3. The Appellant, Mr Edgars Gauračs is a former international football player of Latvian nationality. He is the General Director of the Latvian football club FK Spartaks Jurmala (the "Club"), which currently plays in the Latvian Virslīga, i.e. the top professional division in Latvia.

B. The Respondent

4. The Respondent, UEFA, is an association under Swiss law and has its registered office in Nyon, Switzerland. UEFA is the governing body of football at European level. It exercises regulatory, supervisory and disciplinary functions over national federations, clubs, officials and players in Europe.

III. FACTUAL BACKGROUND

5. Below is a short summary of the relevant facts and allegations based on the Parties' written and oral submissions and evidence. Additional facts and allegations 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 this Award only to the submissions and evidence it considers necessary to explain its reasoning.

6. On 9 July 2018, the Appellant was offered a large sum of money, namely between €300,000 and €500,000, to manipulate a UEFA Champions League ("Champions League") match against FK Crvena Zvezda (also commonly known as Red Star Belgrade) scheduled on 11 July 2018, at 7pm local time (the "First Match" or "Match 1"). He was asked to influence the result by making sure that his team loses by a two-goal difference.

7. On 11 July 2018, the Appellant informed the Club's President, Mr Marco Trabucchi, and then the UEFA Match Delegate, Mr A., about the offer, during the official pre-game lunch.

8. On 12 July 2018, the UEFA Match Delegate sent his report to UEFA. According to such report, the Appellant explained during their meeting that (a) he received a call via Signal; (b) the caller spoke Russian without dialect; (c) he rejected the offer; (d) he deleted the Signal application on the day of the match so that the caller could not reach him again; and (e) the call came from an unknown number. The UEFA Match Delegate's report further stated that *"[t]he match ended 0-0 and I could not see anything strange about the game or other incidents that could be linked to match manipulation"*.

9. On 17 July 2018, the return leg between the Club and FK Crvena Zvezda took place, this time in Belgrade, Serbia, at 8:30pm local time (the "Second Match" or "Match 2").

10. Following the (subsequent) forensic analysis of the Appellant's phone, the UEFA Integrity Unit discovered that the following communications took place between the Appellant and Mr Bagirovs, who is an Azerbaijani national living in Riga on the same day:

    (i) At 17:56 Belgrade time, the Appellant called Mr Bagirovs via WhatsApp and spoke to him for over one and a half minutes.

    (ii) At 17:58 Belgrade time, the Appellant texted Mr Bagirovs stating "Write";

    (iii) At 17:59 Belgrade time, the Appellant had a missed call from Mr Bagirovs;

    (iv) At 18:00 Belgrade time, Mr Bagirovs sent the Appellant an audio file where he stated as follows (the "audio file" or "voice recording"):

    "So, if you lose by 2 or 3 goals … 25,000,

    if 3 or 4 goals … 40,000

and if there are more than 3 or 4 goals in the match…50,000.

That's all for now. But nearer the match, I'll send you a message telling you how much it will be. That's it".

(v) At 18:45 Belgrade time, the Appellant called Mr Bagirovs and the two spoke for under one and a half minutes.

(vi) At 21:48 Belgrade time, Mr Bagirovs sent the Appellant a message stating *"Push them, Watching in Riga"*, to which the Appellant responded with a video of the match.

11. The Club ultimately lost this Second Match 2:0.

12. On 26 July 2018, the Appellant was interviewed by an UEFA-appointed investigator. He admitted that the person who called him on 9 July 2018 was his former teammate, Mr Dmitry Aydov, and accepted to hand over his phone for analysis.

13. On 22 November 2018, the Appellant was arrested by the Economic Crimes division of the Latvian police, and was released one day later. The relevant transcript of his testimony, as incorporated in a subsequent decision (see para 17), states as follows:

"When questioned as the person against whom criminal proceedings had been initiated, Edgars Gauračs testified that on July 17, 2018, he had received a voice message from an acquaintance, Ruslan Bagirov, but on July 17, 2018, he missed or carelessly overheard the message. It was only after his detention that he looked at the information stored on his phone and saw a text message from Mr. Bagirov on July 17, 2018, but he did not see an offer to arrange the result of the match in that message. Why Mr Bagirov sent him such a text message and what he meant by it he does not know".

14. On 2 April 2019, the UEFA Ethics and Disciplinary Investigator ("UEFA EDI") sent an email to the Appellant, in order to inform him of the opening of a disciplinary investigation and summon him for an interview, which states as follows:

"Dear Mr. Gauracs,

I am Mr B., UEFA Ethics and Disciplinary Inspector. I write in accordance with Article 31(5)(b) of the UEFA Disciplinary Regulations (DR) to inform you that I have initiated a disciplinary investigation against (sic)*, pursuant to Article 31(3)(a) DR.*

In the scope of the mentioned investigation, I hereby summon you to a personal interview that shall take place at UEFA Headquarters in Nyon, Switzerland on 11 April 2019 at 10:00. I kindly ask that you confirm your availability on that date and that you inform me if you require any translation […]*".*

15. On 11 April 2019, the Appellant was interviewed again at UEFA headquarters in Nyon, Switzerland. He was notably questioned about his relationship with Mr Bagirovs and the voice message received. The transcript of his testimony reads in its relevant parts as follows:

"Mr. Gauračs: As he explains, after the match when I spoke to him, these were bets that had already been placed, with fairly small sums, that there was no need to worry that this match was in some way fixed. Simply, that we're playing away, there are lots of fans and TV viewers and we want to win. This is not an offer from him, he and I never agreed on that. […]

Q: Can we just make sure; did you get this message to you?

A: Err, only recently when the police began to contact me, did I start listening. That day, I had a very packed day, the day of the match, I'm preparing the team, etc. I can't now remember hearing that on that specific day, the only thing I remember for sure is that Ruslan explained to me that having looked at some kind of coefficients, that I didn't need to worry about my team, that everything was fine. I remember that for sure".

16. On 4 and 14 October 2019, he was invited to sign and return the transcript of his interview, which he did.

17. On 21 October 2019, the Economic Crimes division of the Latvian police formally terminated the criminal proceedings against Mr Gauračs, on the ground that he was not instrumental in the attempts to manipulate the results of the First Match and the Second Match.

18. On 27 May 2020, upon request of the criminal prosecutor in Latvia, who had initiated a criminal procedure against Mr Bagirovs, the UEFA Integrity Unit solicited expert reports from Starlizard and Sportradar regarding the voice message sent by Mr Bagirovs to the Appellant on 17 July 2018. They were in particular requested to examine whether such message could be an overview of the bets that could be viewed on a betting related website, as claimed by Mr Bagirovs.

19. On 29 June 2020, Starlizard provided the following report:

"First of all, we consider "www.betfairxchench.com" to be an incorrect website address. Our comments below are made on the understanding that this is most likely to be a reference to the Betfair betting exchange.

The context is of course critical. In theory, the voice recording could indeed be someone verbalising a particular betting position on the fixture in question. The sums of money being spoken about do seem to make sense for a position on Betfair and are therefore plausible. […]

However, in order for us to be able to say more definitively that the voice recording can be defended in this way, we would need an extract of the Betfair amount matched history. […]

In answer to your question 'can this voice message be an overview of the bets that can be viewed on a betting related website?', the answer is yes: what we hear could be an overview of the traded volume seen on the website. However, it seems a very odd thing to post with little detail. It could be construed that the amounts stated are win amounts for the various scenarios, but the message specifically says 'if you lose', which is difficult for the defence to explain. Had the wording used been 'if Jurmala lose', then it could certainly be interpreted as someone observing markets or having a particularly large bet. In the event, what we hear on the voice recording is highly unusual and suspicious information to share with a player just before a game if you weren't attempting to influence anything.

With regard to the actual betting markets themselves, we assess that the game looks normal and we would not flag any concerns with the associated price movements (further details can be provided if required).

In summary, we conclude that there is nothing unusual about the betting market for this game, but the voice recording is most certainly suspicious. The amounts referred to would be a strange way to express an overview of bets, yet it also happens to match up as an adequate payment […]*".*

20. In July 2020, Sportradar in turn issued its report, with the following executive summary:

"The defendant's assertion that 'this was just a view of the bets on a site www.betfairxchench.com*' is fundamentally incorrect. The URL provided by the defendant is not a valid website, with the correct URL assumed to be* www.betfair.com/exchange.

It is highly unlikely that the audio file is referring to 'a view of the bets' due to the fact that the necessary liquidity in the betting markets on the Betfair exchange was not available for this fixture. Indeed, if the proposed bet exceeds the maximum available liquidity – which in this fixture they all did – then the bet cannot be placed on this particular platform.

The terminology used in the audio file is inconsistent with how established bettors would refer to a selection of bets. Indeed, by making no mention of the odds for each outcome in the audio file and/or the betting stakes, the two key components of how potential betting returns is calculated, it is not coherent to conclude that the audio file is referring to a selection of bets.

Ultimately, for the reasons mentioned above and detailed within, it is very unlikely that the audio file is as the defendant claims purely 'a view of the bets' on Betfair Exchange.

Based on our experience of prior match-fixing cases, it is far more likely that the margins of defeat and total goals were outcomes that were potentially to be targeted for manipulation in this match and that the sums of money referred to were prospective payments to the team and players to ensure the necessary result was achieved".

21. The Starlizard and Sportradar reports were subject of divergent interpretations by the Parties, and were, therefore, supplemented and clarified upon the Respondent's request in the context of the present proceedings. The updated reports will be discussed, where relevant, in the following sections of this Award.

IV. UEFA DISCIPLINARY PROCEEDINGS

22. On 17 August 2021, the UEFA EDI issued his report to the UEFA Control, Ethics and Disciplinary Body ("UEFA CEDB"), requesting as follows:

"I. that disciplinary proceedings be initiated against Edgars Gauračs and the UEFA [CEDB] *rule that:*

1. Edgars Gauračs is guilty of violating Article 12 of the UEFA Disciplinary Regulations;

2. *Edgars Gauračs is banned from all football-related activities for a period deemed appropriate by the UEFA* [CEDB].

II. *that the UEFA* [CEDB] *ask FIFA to extend the ban imposed on Edgars Gauračs to give it effect worldwide".*

23. On 19 August 2021, the Respondent opened disciplinary proceedings against the Appellant for a potential breach of Articles 12(2)(a), (d) and (e) of the UEFA DR.

24. On 18 October 2021, the UEFA CEDB rendered a decision by which it imposed a ten-year ban from any football-related activity on the Appellant, pursuant to Articles 12(2)(a), (d) and (e) of the UEFA DR:

"1. FK Spartaks Jūrmala official, Mr. Edgars Gauracs, is banned from exercising any football-related activity for ten (10) years starting from the date of the present decision, for the violation of Articles 12(2)(a), (d), (e) DR […]*".*

25. The UEFA CEDB justified its decision as follows:

"46. As a matter of fact, Mr. Gauracs was already contacted by his former teammate, [Mr. Aydov]*, two days before match 1 with an offer to take part in the manipulation of said match against FK Crvena Zvezda and to meet the people behind the attempted fix. However, Mr. Gauracs only talked to his club's president and to the UEFA match delegate the day of match 1. On the same token, the CEDB notes that not only did Mr. Gauracs come forward with this information late, but he also provided misleading and incomplete information, hiding important details of his previous contacts to the UEFA match delegate.*

47. In this regard, the CEDB notes that, as established by CAS, match-fixing touches the very essence of the principle of loyalty, integrity and sportsmanship because it has an unsporting impact on the result of the game by inducing players not to perform according to their real sporting capacities (cf. CAS 2009/A/1920, FK Pobeda v. UEFA). It is therefore vital that any information related to the manipulation of an UEFA competition match needs to be shared with UEFA immediately, i.e. without any undue delay, considering that such delayed reporting can keep a match fixing plot alive (cf. CAS 2018/A/5920 Emanuel Briffa v. UEFA), potentially leading to further approaches to officials, players or referees, thereby further endangering the integrity of the relevant match and competition. Already, such behaviour ought to be regarded as a serious violation of Article 12(1) DR in general, and of Article 12(2)(d) and (e) DR in particular.

48. However, the CEDB is further convinced that Mr. Gauracs did in fact accept an offer to fix match 2, as the evidence provided by the EDI in his report strongly indicates. […]

56. In view of all of the above, i.e. Mr. Gauracs' overall behaviour consisting in a) providing crucial information about match fixing approaches only late and in an incomplete way, b) hiding information by deleting data from his phone and repeatedly being untruthful to the UEFA match delegate, UEFA and the EDI, thereby obstructing the investigation, and c) exchanging messages where certain results with a certain goal difference being linked with certain amounts of money in exchange, the CEDB is comfortably satisfied that Mr. Gauracs accepted a bribe with the purpose to act in a manner that was likely to exert an unlawful or undue influence on the course

of an UEFA competition match with a view to gaining an advantage for himself and a third party, as per Article 12(2)(a) DR.

57. Considering the above, the CEDB concludes that Mr. Gauracs has violated Articles 12(2)(a), 12(2)(d) DR and Article 12(2)(e) DR and must be punished accordingly".

26. On 21 December 2021, the Appellant filed an appeal with the UEFA Appeals Body against that decision. He invoked numerous violations of Article 6 of the European Convention of Human Rights (ECHR) with regard to the procedure conducted by UEFA, the evaluation of evidence and the conclusions drawn thereto. He contested any breach of Article 12 of the UEFA DR, and emphasised that the information that he provided as a whistle-blower had greatly contributed to UEFA investigation. In the alternative, he sought a reduction in the imposed sanction.

27. On 7 February 2022, the UEFA Appeals Body rendered the operative part of the Appealed Decision, the grounds of which were notified on 7 March 2022.

28. The Appealed Decision partly confirmed the findings of the UEFA CEDB, ruling as follows:

"1. The appeal lodged by Mr. Edgars Gauracs is partially upheld.

2. The Spartaks Jūrmala official, Mr. Edgars Gauracs, is banned from exercising any football-related activity for three (3) years as of 19 October 2021 (i.e. the date that the UEFA Control, Ethics and Disciplinary Body's decision was notified), for the violation of Articles 12(2)(d) and (e) DR in connection with Article 12(1) DR.

3. To inform FIFA about the outcome of this appeal and request to extend worldwide the above-mentioned ban.

4. The costs of the proceedings, totalling €1,000 (minus the appeal fee), are to be paid by the Appellant".

29. The UEFA Appeals Body concurred, in essence, with the UEFA's analysis of the case regarding Match 1. However, it did not find the Appellant to have actively participated in the plot to manipulate Match 2, and thus considered that a ten-year ban would be excessive. It set out, *inter alia*, the following considerations:

(i) With respect to the Appellant's procedural complaints

- The proceedings conducted before UEFA disciplinary bodies are civil proceedings by nature and do not follow the same ratio as proceedings conducted by state authorities within the scope of criminal law (CAS 2017/A/5003, para 265; Articles 24 and 44 UEFA DR).

- UEFA did not breach the Appellant's procedural rights. In particular, the Appellant willingly attended the relevant interviews and gave his written consent for his mobile phone to be submitted for forensic analysis.

- In any case, any potential procedural flaw that might have occurred in the previous instance would be cured, as the UEFA Appeals Body's proceedings are conducted on a de novo basis (Article 65(2) UEFA DR).

- The UEFA CEDB did not breach the doctrine of estoppel, by retaining that the Appellant had breached the examples in Articles 12(2)(a), (d) and (e), whereas the Parties allegedly accepted that there was no violation of the general prohibition in Article 12(1) of the UEFA DR. To the contrary, the UEFA EDI and CEBD both held that the Appellant had breached all these provisions, since the UEFA EDI's report refers to Article 12 in full and the UEFA CEBD's decision includes references to Article 12(1) of the UEFA DR.

(ii) With respect to the breach of Articles 12(2)(d) and 12(2)(e), in conjunction with Article 12(1) of the UEFA DR, in relation to Match 1:

- The Appellant breached both the general prohibitions and obligations enshrined in Article 12(1) and the examples enumerated in Articles 12(2)(d) and (e) of the UEFA DR in relation to Match 1.

- The report made by the Appellant to the UEFA match Delegate on 11 July 2018 does not qualify as being made immediately, in the sense of Articles 12(2)(d) and 12(2)(e) of the UEFA DR.

- Commonly, the term "immediately" is understood as acting *"without any undue delay"* or *"without any culpable hesitation"* (see e.g. SFT 5A_400/2009). Such term has to be interpreted bearing in mind the *ratio legis* behind the obligation to cooperate with UEFA in its fight against match-fixing. It is only through immediate and voluntary reporting of match-fixing approaches to the competent authorities that a plot can be stopped from achieving its purpose or expanding to other people (CAS 2010/A/2266, para 24; CAS 2018/A/5800, para 139).

- The Appellant waited for two full days until the day when the possible fixture was supposed to take place before he reported the approach to the Club's President, without any compelling reasons.

- The reasons invoked by the Appellant for his delay (fear of repercussions, absence of the Club's President) are unconvincing. He did not provide evidence of any threat received and even described Mr Aydov as a *"friend"*, and was in constant exchange with his President via mobile phone.

- In any event, the interpretation of the term "immediately" must be assessed from the point of view of an objective observer, regardless of the person's earliest personal convenience.

- Further to that, the Appellant did not refrain from any harmful behaviour that could damage the integrity of matches and competitions nor complied with his

related obligation of "full cooperation" pursuant to Article 12(1) of the UEFA DR.

- In particular, the Appellant did not only wait for two days before reporting a match-fixing approach, but also failed to provide valid and complete information regarding the identity of the caller and the circumstances of the call.

- Finally, the Appellant cannot be considered a whistle-blower in light of UEFA regulatory framework and the present circumstances. He did not even meet the required threshold to comply with his obligations under Article 12 of the UEFA DR, nor provide any useful information to the Integrity Officer of the Latvian Football Federation (LFF).

(iii) With respect to the breach of Articles 12(2)(a), 12(2)(d) and 12(2)(e), in conjunction with Article 12(1) of the UEFA DR, in relation to Match 2:

- The Appellant breached both the general prohibitions and obligations enshrined in Article 12(1) and the examples enumerated in Articles 12(2)(d) and (e) of the UEFA DR in relation to Match 2.

- The voice message sent by Mr Bagirovs to the Appellant on the day of Match 2 was legally obtained and sent to forensic analysis, based on a written consent. Its inclusion in the file does not breach the Appellant's privilege against self-incrimination.

- The Appellant's contention, according to which Mr Bagirovs' message only meant to refer to an overview of the bets on a betting related website, is unconvincing and devoid of any contextual logic. It does not appear either that Mr Bagirovs was hired by the Appellant as an informant or betting expert.

- Both the Starlizard and Sportradar reports conclude that the voice recording is extremely suspect and unusual, and most likely constitutes an attempted manipulation of the match under scrutiny.

- The mere existence of very theoretical, alternative interpretations or a deviating possible of evidence does not *per se* trigger the application of the *in dubio pro reo* principle nor meet the threshold of comfortable satisfaction established in Article 24(2) of the UEFA DR.

- The Appellant's statement, according to which he did not understand the relevant voice message as a concrete match-fixing offer requiring him to contact UEFA pursuant to Article 12(1) and (2)(d) of the UEFA DR, is unconvincing. The language used and the numbers stipulated in this message can almost only make sense when expressed in connection with such an offer.

- Furthermore, even if one could assume that the Appellant did not understand such voice message as a concrete match-fixing offer, he should at least have been aware that this may fall within the scope of Article 12 of the UEFA DR generally. This interpretation would at least impose on him an obligation to report pursuant to Article 12(1) and 12(e) of the UEFA DR.

- Finally, some doubts remain as to exact relationship between the Appellant and Mr Bagirovs, and the possible link between the latter's offer and the loss of the Club by two goals. However, such circumstances are not sufficient to conclude, based on the applicable standard of comfortable satisfaction, that the Appellant had in fact accepted to manipulate the outcome of the match, in violation of Article 12(2)(a) of the UEFA DR.

(iv) With respect to the proportionality of the sanction:

- Considering that the Appellant is not guilty of violating Article 12(2)(a) of the UEFA DR, the ten-year ban imposed on the Appellant by the UEFA CEDB has to be reassessed accordingly.

- Nonetheless, the Appellant, by not immediately informing UEFA of the approach by Mr Aydov to manipulate Match 1, and by not informing UEFA of the approach, or at least not reporting the suspicious behaviour by Mr Bagirovs, breached Articles 12(2)(d) and (e), in connection with Article 12 of the UEFA DR.

- The Appellant later chose to only provide an incomplete report and partial information on the approach to fix Match 1. While, in accordance with CAS jurisprudence, it is not required *"to provide further details as to the names of the people involved in the match-fixing approach"* (CAS 2018/A/5800, para 105), in order to comply with the reporting obligation stipulated in Articles 12(2)(d) and (e) of the UEFA DR, this behaviour is unacceptable and needs to be regarded as an aggravating circumstance.

- Even if the Appellant did not delete the entire content of his mobile phone, as mistakenly assumed by the UEFA CEDB in its decision, the fact that the Appellant deleted the application by means of which he was contacted by Mr Aydov further contributes to his omission to report.

- The CAS award invoked by the Appellant, which resulted in the imposition of a 1,5 year-ban for an alleged similar non-reporting offence and passive violation (CAS 2018/A/5800, para 118), is of no avail. In this case, the indicted person was a young Under-21 player, whereas the Appellant is the CEO of a Club participating in the UEFA Champions' League. Such position demands impeccable integrity and an increased sense of responsibility.

- None of the mitigating circumstances set forth by the Appellant (fear for his family and his own safety, absence of charge for three years following the incidents under scrutiny, assistance in the fight against match-fixing in Latvia, principle of estoppel) are convincing.

- The Appellant did not provide any evidence for any threats or any dangers towards himself or his family. To the contrary, he stated during his interviews that Mr Aydov was a friend, which makes the hypothesis put forward rather unlikely.

- The Appellant continued to work as CEO of the Club, and was not provisionally suspended. Therefore, he did not face any negative consequences deriving from the duration of the investigation conducted by the UEFA EDI. Additionally, there were valid reasons for the delays in these proceedings.

- The Appellant did not provide any substantial assistance regarding the fight against match-fixing. Apart from complying (late) with his obligation to inform UEFA of the attempt to fix Match 1, he did not provide any evidence that he was in fact helping to uncover match-fixing activities in Latvia. Quite to the contrary, he failed to provide any useful information to the LFF Integrity Officer.

- Finally, the Appellant cannot benefit from the principle of estoppel due to the three years that allegedly lapsed between the incidents under scrutiny and the opening of the disciplinary proceedings. As per Article 10(2) of the UEFA DR, offences related to match-fixing are not subject to the statutes of limitations. Likewise, UEFA never stopped investigating this matter, including when the UEFA EDI made numerous attempts to interview Mr Aydov. Only once the investigation was complete could the EDI provide his report requesting the opening of disciplinary proceedings against the Appellant.

- In view of all the above, it is appropriate to ban the Appellant from exercising any football-related activity for three years as of 19 October 2021, i.e. from the date when the CEDB's decision was notified.

V. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT

30. On 9 February 2022, the Appellant filed a request for a stay of execution of the Appealed Decision pursuant to Article R37 of the Code of Sports-related Arbitration (2020 edition) (the "CAS Code") with the Court of Arbitration for Sport (the "CAS") against the Respondent.

31. On 24 February 2022, the Respondent filed its Answer to the Appellant's request for a stay, and concluded that it should be dismissed.

32. On 4 March 2022, the Deputy President of the CAS Appeals Arbitration Division (the "Deputy Division President") issued an Order on Request for a stay of execution, rejecting the Appellant's request.

33. On 7 March 2022, the Appellant filed his Statement of Appeal with the CAS against the Respondent with respect to the Appealed Decision in accordance with Articles R47 et seq. of the CAS Code. He nominated Ms Yasna Stavreva, Attorney-at-Law in Sofia, Bulgaria, as an arbitrator and requested that this matter be expedited in accordance with Article R52 of the CAS Code and that the operative part of the award be rendered as soon as possible.

34. On 10 March 2022, the Respondent objected to the Appellant's request that this matter be expedited and reserved its comments on whether the notification of the operative part of the award should be made in advance of the reasoned decision until later in the procedure.

35. On 11 March 2022, the CAS Court Office took note of the Parties' positions, and stated that, in the absence of the Respondent's agreement, no expedited procedure would be implemented, pursuant to Article R52(4) of the CAS Code.

36. On 14 March 2022, the Appellant filed its Appeal Brief, in accordance with Article R51 of the CAS Code. He requested, again, the stay of the Appealed Decision, and the production by UEFA of the audio recording of the LFF Integrity Officer, Mr C., who testified before the UEFA Appeals Body. He also asked the Panel to take *"whatever steps are legally available"* to assist him in obtaining the testimonies of Mr Bagirovs and Mr C., to summon *"the UEFA investigators, the EDI, and UEFA Disciplinary Lawyer that interviewed the Appellant"*. Finally, he invited the Respondent to make available the experts who prepared the Starlizard report (Mr D.) and the Sportradar report (name unknown) to testify at the hearing.

37. On 18 March 2022, the Respondent nominated Mr Jacopo Tognon, Attorney-at-Law in Padova, Italy, as an arbitrator.

38. On 24 March 2022, the Respondent filed its Answer to the Appellant's second request for a stay, and concluded that it should be dismissed.

39. On 11 April 2022, the Respondent filed its Answer to the Appeal Brief within the extended time-limit, in accordance with Article R55 of the CAS Code. It produced the content of Mr C. oral testimony as an exhibit and accepted to make available the experts who prepared the Sportradar and Starlizard reports. It provided the names of these experts, namely *"Mr E. (or any other expert)"* for Sportradar and *"Mr D. (or any other expert)"*, specifying that the precise experts who would attend would be confirmed closer to the hearing date.

40. On 12 April 2022, the CAS Court Office stated, *inter alia*, that the Parties would not be authorised to supplement or amend their requests or arguments, nor to produce new exhibits, nor to specify further evidence on which they intend to rely, unless the Parties agree or the President of the Panel orders otherwise on the basis of exceptional circumstances under Article R56 of the CAS Code.

41. In the same letter, the CAS Court Office noted that both Parties intended to examine witnesses and/or experts, and invited them to confirm whether they requested a hearing to be held in this matter, and in what form.

42. On 12 April 2022, the Appellant confirmed to the CAS Court Office that he requested a hearing to be held, preferably by video-conference, and asked the Panel to notify the operative part of the award as soon as practically possible after the hearing.

43. On 14 April 2022, the CAS Court Office, on behalf of the President of the CAS Appeals Arbitration Division (the "Division President"), informed the Parties that Prof. Martin Schimke, Attorney-at-Law in Dusseldorf, Germany, had been appointed as President of the Panel and that he had accepted his nomination.

44. On the same date, the Appellant filed a petition for challenge against the appointment of Prof. Schimke.

45. On 19 April 2022, the CAS Court Office acknowledged receipt of the petition for challenge, informed the Parties that Prof. Schimke had declined to withdraw spontaneously and invited the Respondent and the Panel to comment, which they did.

46. On 26 April 2022, the CAS Court Office invited the Appellant to state whether he maintained his petition for challenge.

47. On the same day, the Appellant informed the CAS Court Office that he maintained his petition for challenge.

48. On 12 May 2022, the Appellant informed the CAS Court Office that the Latvian Court had *"delivered a judgment acquitting Mr Bagirovs of all charges"*, and that he would provide the Panel with a copy of the relevant judgment based on exceptional circumstances under Article R56 of the CAS Code as soon as possible.

49. On 19 May 2022, the Challenge Commission of the Board of the International Council of Arbitration for Sport (the "Challenge Commission") issued an Order on Petition for challenge, rejecting the Appellant's request.

50. On the same date, the CAS Court Office informed the Parties that the Panel appointed to decide on the present matter was constituted as follows:

President:	Prof. Martin Schimke, Professor in Düsseldorf, Germany
Arbitrators:	Ms Yasna Stavreva, Attorney-at-law in Sofia, Bulgaria
	Mr Jacopo Tognon, Attorney-at-law in Padova, Italy

51. On 18 May 2022, the Respondent informed the CAS Court Office that it had taken note of the Appellant's willingness to provide the Panel with a copy of the Latvian Court judgment against Mr Bagirovs upon its receipt. It underlined that the Appellant should first seek to obtain the President's approval as to the existence of exceptional circumstances before taking any further steps. It further suggested that the Appellant should first be required to send a copy of the judgment to UEFA, such that UEFA would have an opportunity to answer on the admissibility and relevance of the document before the President admits the new evidence.

52. On 23 May 2022, the Appellant provided the CAS Court Office with a letter of the Latvian Court dated 19 May 2022. This letter confirmed, as per the translation attached, that Mr Bagirovs had been acquitted of the charges related to Articles 15(4) and 212(3) of the Criminal Law by judgment dated 9 May 2022, and stated that the relevant judgment would be available on 9 June 2022.

53. On 7 June 2022, the CAS Court Office informed the Parties that the Panel shall be assisted by Ms Alexandra Veuthey, Clerk with the CAS.

54. On the same date, the CAS Court Office advised the Parties that the Panel had decided to hold a hearing in this matter, by video-conference, and consulted the Parties regarding possible hearing dates. It also invited the Appellant to file, as soon as it is available, the full judgment rendered by the Latvian Court regarding Mr Bagirovs and to comment on the admissibility and relevance of this document. It finally stated that the Respondent would then be granted an opportunity to respond.

55. On 17 June 2022, the CAS Court Office apprised the Parties that, in view of their respective availabilities, a hearing would take place on 14 July 2022. It also invited them to provide a list of their hearing attendees. Finally, it confirmed that the Panel would be ready to issue the operative part of the Award shortly after the hearing and invited the Appellant to indicate whether he maintained his request for a stay of the execution of the Appealed Decision.

56. On 21 June 2022, the Appellant provided the CAS Court Office with the names of his hearing attendees, and reiterated his request for assistance from the Panel to obtain the testimony of Mr Bagirovs, [the Integrity Officer of the Latvian Football Federation], the UEFA investigators, the UEFA EDI, the UEFA Disciplinary Lawyer, Mr D. (who drafted the Starlizard report) and the drafter of the Sportradar report (name unknown). He also accepted to withdraw his request for a stay of the Appealed Decision.

57. On 22 June 2022, the Appellant sought similar assistance to obtain the decision issued by the Latvian Court in the case of Mr Bagirovs.

58. On 23 June 2022, the Respondent indicated to the CAS Court Office that it was not a party to the criminal proceedings involving Mr Bagirovs in Latvia and reiterated that it was not provided with a copy of the judgment thereto. It also referred to the position expressed in its Answer with respect to the witnesses called by the Appellant.

59. On 27 June 2022, the Respondent provided the CAS Court Office with the names of its hearing attendees. It also specified that it was also prepared, if necessary, to make the experts from Sportradar and Starlizard available for the hearing.

60. On 5 July 2022, the CAS Court Office liaised with the Riga City Latgale Suburb Court with a view to obtain a copy of the judgment rendered in the case of Mr Bagirovs on 9 May 2022. It wrote a similar letter to Ms Ligita Petersone, counsel for Mr Bagirovs, in order to kindly ask her to inform her client about the present proceedings and related hearing.

61. On the same date, the CAS Court Office provided the Parties with the aforementioned two letters, while underlining that each party was responsible for the availability of its witnesses and that the Panel would proceed with the hearing and render an award regardless of their presence.

62. In the same letter, the CAS Court Office invited the Appellant to liaise with [the Integrity Officer of the Latvian Football Federation] to secure his participation at the hearing. It also enjoined the Respondent to ensure that Mr F. (UEFA Integrity Investigator) and Mr B. (UEFA EDI) would be available for the hearing. Finally, it granted the Appellant's request to hear the experts who drafted the Starlizard et Sportradar reports and invited UEFA to ensure that they are available for the hearing and provide their contact details.

63. On 6 July 2022, the Riga City Latgale Suburb Court acknowledged receipt of the CAS Court Office's letter dated 5 July 2022.

64. On the same date, Ms Ligita Petersone, counsel for Mr Bagirovs, informed the CAS Court Office that the decision rendered by the Riga City Latgale Suburb Court was not final yet and that, therefore, her client had the right not to testify. She also emphasised that any request should be sent directly to the relevant court.

65. Still on the same date, the Appellant provided the CAS Court Office with a copy of a letter of the Riga City Latgale Suburb Court. This letter confirmed, as per the translation attached, that the criminal case against Mr Bagirovs under Articles 15(4) and 212(3) of the Criminal Law had been examined on the merits and that a summary of acquittal had been pronounced. It denied, however, the request for judgment communication, given that the decision had not yet entered into legal force.

66. On 11 July 2022, the CAS Court Office issued an order of procedure (the "Order of Procedure") and invited the Parties to return a signed copy of it.

67. On the same date, the Appellant provided the CAS Court Office with a signed copy of the Order of Procedure.

68. On 12 July 2022, the Respondent provided the CAS Court Office with a signed copy of the Order of Procedure and an updated list of the hearing attendees. He replaced Mr D. by Mr G., as an expert witness and representative of Starlizard.

69. On 13 July 2022, the Appellant objected to the testimony of Mr G. at the forthcoming hearing, highlighting the *"discrepancy"* in the Respondent's letters and submissions regarding the expert witnesses that would attend the hearing.

70. On 13 July 2022, the Respondent sent to a letter to the CAS Court Office. It attached some slides that Mr E., Sportradar Director of Operations, had prepared *"to more easily explain to the Panel during his witness testimony the way in which the Betfair exchange operates"*. It recalled that the Betfair exchange was relevant to the present case, as it was both referred to by Mr Bagirovs and the two expert reports in relation to the audio file sent to the Appellant on 17 July 2018. He

specified that Mr E. initially planned to present a live demonstration, but has later discovered that the Betfair website is not available in Switzerland.

71. On 14 July 2022, the Appellant objected to this *"late submission"*, pursuant to Article R56 of the CAS Code. He also underlined that he had summoned Mr E. to explain his report, rather than how the Betfair exchange operates.

72. On the same date, a hearing was held by videoconference. In addition to the Panel, Ms Alexandra Veuthey, CAS Clerk, and Ms Delphine Deschenaux-Rochat, Counsel to the CAS, the following persons attended the hearing remotely:

For the Appellant: Mr Edgars Gauračs, Appellant
Mr Georgi Gradev, legal counsel
Mr Marton Kiss, legal counsel
Mr Marco Trabucchi, witness
Mr C. [LFF Integrity Officer], witness
Mr F. [UEFA Integrity Investigator], witness
Mr B. [UEFA EDI], witness
Mr E. [Sportradar expert], expert witness
Mr G. [Starlizard expert], expert witness
Mr Krasimir Todorov, administrative assistant
Ms Anna Martinova, interpreter

For the Respondent: Dr Antonio Rigozzi, legal counsel
Ms Brianna Quinn, legal counsel
Dr Martin Bauer, internal counsel

73. At the outset of the hearing, the Appellant raised past and new objections regarding the constitution of the Panel, the presence of Mr G. as an expert witness and the inadmissibility of some documents filed by the Respondent.

74. The Panel heard the testimony of the Appellant. The Panel also heard evidence from the four witnesses and two expert witnesses called by the Appellant, Mr Trabucchi, Mr C. [the LFF Integrity Officer], Mr F. [the UEFA Integrity Investigator], Mr B. [the UEFA EDI], Mr E [Sportradar expert] and Mr G [Starlizard expert]. Furthermore, it was specified that Mr D. [the drafter of the Starlizard report] and Mr Bagirovs were not able to attend the hearing. All witnesses were invited by the President of the Panel to tell the truth subject to the sanctions of perjury under Swiss Law. They were cross-examined and could provide explanations regarding relevant factual evidence, their own witness statements and/or expert reports.

75. Both Parties raised objections regarding some of the questions asked by their colleagues and the scope of the interviews during cross-examination. Nevertheless, they agreed that the interviews should continue, provided that their admissibility was subsequently assessed by the Panel. The Appellant also invoked new arguments, the admissibility of which was not contested by the Respondent during the pleadings.

76. The Panel took due note of all objections and arguments, which will be addressed in the relevant parts of this Award (see sections X et seq.).

77. The Parties thereafter were given a full opportunity to present their case, submit their arguments and submissions and answer the questions posed by the Panel.

78. At the end of the hearing, the Parties confirmed that they were satisfied with the hearing and confirmed that their right to be heard has been fully respected.

VI. SUBMISSIONS OF THE PARTIES

A. The Appellant

79. In his Appeal Brief, the Appellant requests the following relief:

"Primary

1. Stay the UEFA Appeals Body Decision in case No. 34597 until notification of the final award.

Subsidiary

2. Annul the UEFA Appeals Body Decision in case No. 34597.

3. Alternatively, only if the above request is rejected, replace the three-year ban on the Appellant from exercising any football-related activity with a less severe measure at the Panel's discretion.

4. Order UEFA to reimburse the Appellant with EUR 1,000 for the UEFA appeal fee.

5. Order UEFA TO bear all the costs incurred with the present procedure.

6. Order UEFA to pay the Appellant a contribution towards his legal and other costs in an amount to be determined at the Panel's discretion" (emphasis in original).

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

(i) Panel's scope of review

- The Panel has full power to review the facts and the law based on Article R57.1 of the CAS Code. It is not limited to merely reviewing the Appealed Decision's legality but can issue a new decision based on the applicable rules.

- This full power of review means that the Panel can cure *"UEFA's numerous procedural flaws"*, apart from those listed below, which cannot be repaired.

(ii) Fair investigation and process

- UEFA breached the Appellant's right to a fair trial established in Article 6 ECHR, as well as fundamental principles of criminal law and criminal procedural law, which are also relevant in disciplinary proceedings (CAS 2017/A/5003; 2015/A/4304; CAS 2011/A/2426; 2011/A/2384 & 2386).

- In contradiction with the privilege of self-incrimination guaranteed by Article 6(1) ECHR, and the applicable jurisprudence, Article 12(1) of the UEFA DR demands that parties must fully cooperate with UEFA at all times in its efforts to combat match-fixing, failing which they will be sanctioned automatically (CAS 2018/A/5800, para 105; CAS 2017/A/5003, para 266).

- During the investigation, the Appellant was not instructed on his legal right to refuse to testify and to provide evidence that may incriminate him, despite the likelihood and then the existence of criminal proceedings in Latvia.

- Under these circumstances, the interviews that the Appellant gave to the UEFA investigators and the technical report on his phone were irregularly obtained and should be declared inadmissible.

- Likewise, the UEFA CEDB's considerations with regard to the voice message from Mr Bagirovs are contradicted by the Starlizard report where it was *inter alia* stated that *"[t]he amounts referred to would be a strange way to express an overview of bets, yet it also happens to match up as an adequate payment"*. Thus, the UEFA CEDB should not have assumed that the Appellant breached Article 12(2)(d) and (e) of the UEFA DR based on circumstances that may be likely, but are not certain to indicate a violation, when the reports of Starlizard and Sportradar point to different directions. The CEDB should have given the benefit of the doubt to the Appellant under Article 6(2) ECHR, hence breaching the in *dubio pro reo* principle (CAS 98/222, para 43; CAS 97/222, para 43; CAS 98/199, para 33; CAS 2008/A/1617, para 141; CAS 2005/C/976 & 986, footnote 78; CAS 2020/A/7026, para 77, and references; SFT 4A/600/2016, paras 3.3.4.2 ff).

- Additionally, UEFA *"secretly"* investigated the Appellant, and failed to expressly mention him as the person under investigation in its convocation of 2 April 2019, in contravention of Article 6(3) ECHR, which governs "prompt information". It also breached the doctrine of estoppel, which protects parties' legitimate expectations, by suddenly charging and banning him three years and one month after Match 2 (CAS 2020/A/7515; CAS 2020/A/7516; 2020/A/7252 and references; CAS 98/200, para 60).

- The chronology of events even shows that UEFA willingly slowed down its investigation, for instance by waiting six months to send the transcript of the

second interview to the Appellant, pending a hypothetical state judgment against him. It also prejudged his case by sharing information to the Latvian authorities.

- Finally, by referring for the first time to Article 12(1) of the UEFA DR in the Appealed Decision, the UEFA Appeals Body contravened, again, the doctrine of estoppel and acted *"ultra vires"*. As a charge based on Article 12(2) of the UEFA DR cannot stand alone, all charges against the Appellant should be dismissed without further consideration.

(iii) Burden and standard of proof

- The burden of proof to primarily demonstrate that the Appellant is responsible for match-fixing activities within the meaning of Article 12 of the UEFA DR lies on UEFA's side.

- The standard of proof to be applied in UEFA disciplinary proceedings is the "comfortable satisfaction" as per Article 24(2) of the UEFA DR.

(iv) The Appellant's procedural quality

- The Appellant brought to the attention of UEFA an attempt to manipulate the result of Match 1 before the kick-off. He would not have done so if he was somehow involved or was ever planning to get involved in illicit activities.

- The Appellant provided UEFA with vital information against match-fixers, one of which, an Armenian player, was banned for life by UEFA. His contribution was confirmed by the LFF.

- On 21 October 2019, the Latvia Senior Police closed the investigation on the Appellant regarding the potential manipulation of Matches 1 and 2, exonerating him of any wrongdoing. Also, the Appeals Body dismissed the charges of active match-fixing against the Appellant based on Article 12(2)(a) of the UEFA DR. Indeed, no evidence on file proves that the Appellant solicited or accepted a match-fixing offer before Match 2.

- Thus, the Appellant should be considered a whistle-blower rather than a perpetrator.

- By charging the Appellant, UEFA sends a wrong signal to potential whistle-blowers, discouraging them from stepping forward.

(v) Existence of a regulatory basis to sanction the Appellant

- Article 12(2) of the UEFA DR uses the negative form and merely indicates "examples", rather than "obligations". It should not be considered as binding, nor

should it entail any statutory obligation on the Appellant, in light of the principles of interpretation under Swiss law (CAS 2013/A/3365 & 3366; CAS 2017/O/5264, 5265 & 5266; CAS 2006/A/1152).

- UEFA cannot blame the Appellant for its failure to draft and apply its regulations with the required clarity, precision and legal certainty. These regulations should thus be interpreted against UEFA (*"in dubio contra proferentem"*).

- Article 12(1) of the UEFA DR includes statutory obligations, namely (a) refraining from conducts that harm or could harm the integrity of matches and competitions and (b) collaborating fully with UEFA in its efforts to combat such behaviours. These obligations were complied with by the Appellant.

- Article 12(1) of the UEFA DR does not include a reporting requirement, let alone the name of a specific UEFA body to which he should have reported. It does not stipulate a time requirement either.

- If UEFA wished to include a reporting requirement to a specific UEFA organ and fix a time limit for performance, it had to explicitly state so, as FIFA did in its regulations (CAS 2019/A/6301, para 100).

(vi) Articles 12(1), 12(2)(d) and 12(2)(e) UEFA DR in relation to Match 1

- The Appellant did not breach Article 12(2)(e) of the UEFA DR in relation to Match 1. This article is not relevant in this case, which is about an alleged failure to report an approach, rather than the failure to report knowledge of a match-fixing plot (CAS 2017/A/5800, para 105).

- The Appellant did not breach Article 12(2)(d) in conjunction with Article 12(1) of the UEFA DR either. In particular, he timely complied with his purported reporting obligations under the contextual circumstances of this case, by talking to the UEFA Match Delegate prior to Match 1, thus allowing UEFA to take precautions.

- The term "immediately" in Article 12(2)(d)-(e) of the UEFA DR shall not be understood as "instantaneous", but only "within a short time". It cannot completely disregard the circumstances of the case (CAS 2012/A/2762).

- The term "immediately" in Article 12(2)(2)(d)-(e) of the UEFA DR should be interpreted in such a way that the report of an approach must reach UEFA in time to allow for the match-fixing conspiracy to be killed and to prevent others from being approached.

- In the present case, the Appellant reacted promptly, within two days, despite the fears for his own safety and that of his family. He acted as soon as possible, upon the arrival of the President of the Club, Mr Trabucchi, who was traveling and only came back to Latvia on 11 July 2018. They were unanimous that the situation was dire and that they should address this issue at the official pre-match lunch that day.

- The Appellant also acted before the kick-off of Match 1, preventing thus any potential match-fixing attempt from being kept alive or further individuals from being contacted.

- The fact that the Appellant acted as a whistle-blower does not allow UEFA to sit back and let him do all the work for it (CAS 2015/A/4328, para 91). Yet, UEFA did not react in a proactive manner upon the Appellant's report, nor took any steps to protect the integrity of Match 1. Worse, it took three years to inform the Appellant about the charges against him. A quicker report would thus not have made any difference.

- The same is true about the caller's name, Mr Aydov, which the Appellant was not obliged to disclose to meet his report duty (CAS 2018/A/5800, para 105). In any case, the Appellant released his name to the UEFA Match Delegate quickly, during the first UEFA interview in Riga on 26 July 2018. If this information had been important to UEFA, it could have extracted it from the Appellant's phone data before Match 1.

- The Appeals Body's reliance on CAS 2018/A/5800 in this regard is misplaced, since the player in this case failed to report the approach before the relevant game.

- If the Appellant had not deleted Mr Aydov's contact details and application, the Appeals Body would have held this fact against him (CAS 2018/A/5920, para 124; CAS 2018/A/5906, para 110).

- Consequently, all the charges and sanctions based on Articles 12(1), 12(2)(d) and 12(2)(e) of the UEFA DR in relation to Match 1 should be annulled.

(vii) Articles 12(1), 12(2)(d) and 12(2)(e) UEFA DR in relation to Match 2

- The Appellant did not breach Article 12(2)(e) of the UEFA DR in relation to Match 2. This article is not relevant in this case, which is about an alleged failure to report an approach, rather than the failure to report knowledge of a match-fixing plot (CAS 2017/A/5800, para 105; see above).

- The Appellant did not breach Article 12(2)(d) of the UEFA DR either. He did not consider Mr Bagirovs' voice message as a bribing offer to fix Match 2. In fact,

he could not make sense of his message at all, which is why he had to call him back forty minutes later. He then understood that the message referred to betting patterns on the Spartaks' match against the Serbian club.

- The Appellant and Mr Bagirovs were already in touch prior to this message, and he thought that Mr Bagirovs could assist the LFF in its fight against match-fixing. They communicated at least twice before Match 1.

- The UEFA Appeals Body grounded its Decision on pure speculation, its subjective perceptions, and irregularly obtained evidence, namely a forensic examination of the Appellant's phone. Its reasoning is undermined by Mr Bagirovs' subsequent acquittal in criminal proceedings, and one of his messages (*"push them", meaning "crush them"*), which constituted an encouragement for the club to win.

- The UEFA Appeals Body failed to consider that the Appellant, like any other reasonable person, would not engage in match-fixing just a few days after reporting similar activity to UEFA.

- The UEFA Appeals Body wrongly assessed the relationship between the Appellant and Mr Bagirovs. Mr Bagirovs provided information regarding suspect match-fixing and betting patterns to the Appellant, who then forwarded it to the LFF Integrity Officer.

- The UEFA Appeals Body also relied on the Starlizard and Sportradar reports, which were commissioned by the prosecutor in the Latvian proceedings. These reports contradict each other, and disregard the context in which the message in question was sent.

- The Starlizard report rightly concludes that the message is *"an overview of the traded volume seen on the website"* or *"verbalising a particular betting position on the fixture in question. The sums of money being spoken about do seem to make sense for a position on Betfair and are therefore plausible"*.

- The Sportradar report, in contrast, concludes that *"it is far more likely that the margins of defeat and total goals were outcomes that were potentially to be targeted for manipulation in this match and that the sums of money referred to were prospective payments to the team and players to ensure the necessary result was achieved"*.

- The mere existence of alternative interpretations or a possible deviating assessment should trigger the application of the principle *"in dubio pro reo"* under the contextual circumstances of this case.

- Moreover, the Starlizard and Sportradar reports do not meet the prerequisites provided for in Article 5.2 of the IBA Rules on the Taking of Evidence in International Arbitration. For example, the Sportradar report does not contain the name of the appointed expert, a signature, and the exact date and place. As such, they have *"no probative value whatsoever"*.

- The Starlizard report also wrongly suggests that the Appellant was a player, which twists its assessment.

- The updated Sportradar and Starlizard reports, provided as part of these proceedings, contain post-facto evidence – betting platform, calculation of liquidity amounts –, which is not *"valid"* and should be disregarded (CAS 2021/A/7849, para 125). In any event, they are inconclusive as to their content. Sportradar does not provide the underlying figures used to calculate the betting liquidity amounts, which were then included unverified in the Starlizard report.

(viii) Proportionality of sanction

- Subsidiarily, the three-year ban imposed by the UEFA Appeals Body is grossly disproportionate in view of the circumstances and CAS jurisprudence.

- This sanction does not comply with the proportionality principle, as developed by CAS jurisprudence (CAS 2005/C/976 & 986, para 138).

- By way of comparison, other people indicted in similar or more serious cases received much lighter sanctions, going from suspended bans to two-year bans, with a 'standard sanction' of a 1.5-year ban being sometimes referred to by UEFA for passive match-fixing cases (CAS 2010/A/2266; 2010/A/2267, 2278, 2279, 2280, 2281, paras 1161-1162 and 1174; CAS 2018/A/5800, para 118).

- The sanction is also not in line with Article 23 of the UEFA DR, which requires the relevant disciplinary bodies to consider all aggravating and mitigating circumstances.

- The UEFA Appeals Body completely ignored mitigating circumstances, such as the substantial assistance provided by the Appellant in this case and previous cases, his fears for his family and own safety, his prompt reaction, his absence of experience regarding similar situations, his collaboration during the investigation, his confidential involvement within the Latvian police, his impeccable reputation and the three years that lapsed before the opening of disciplinary proceedings.

- Conversely, the UEFA Appeals Body considered untenable aggravating circumstances. This includes the absence of full and timely disclosure of the names of the people involved in the match-fixing approach, which is not a

compulsory requirement under Article 12 of the UEFA DR (CAS 2018/A/5800, para 105).

- The same is true for the deletion of the application that the Appellant used to communicate with Mr Aydov before Match 1, which only shows that he did not want to raise suspicions about this offer and/or was not interested in another proposal (CAS 2018/A/5920, para 124; CAS 2018/A/5906, para 110).

- Consequently, the sanction imposed on the Appellant should, at the very least, be reduced to the Panel's discretion. A suspended ban would seem to be appropriate.

B. The Respondent

81. In its Answer, the Respondent requests the following relief:

"1. Dismissing the Appellant's appeal and rejecting all of the prayers for relief put forward at page 48 of his Appeal Brief dated 14 March 2022.

2. Ordering that the Appellant shall bear all costs related to this arbitration.

3. Ordering the Appellant to pay a contribution towards UEFA's legal fees and other expenses incurred in connection with these proceedings".

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

(i) Panel's scope of review

- The Panel has full power of review the facts and the law according to Article R57.1 of the CAS Code.

- However, some level of deference should be given to an association's expertise and well-reasoned first instance decision, pursuant to CAS jurisprudence (CAS 2017/A/5299, paras 114-117, and references; CAS 2019/A/6665, para 157; CAS 2018/A/5800, para 73).

(ii) Fair investigation and process

- The Appellant's reference to Article 6 of the ECHR is misplaced. While Article 6(1) may be indirectly applicable, Articles 6(2) and 6(3) of the ECHR relate to criminal law and are irrelevant to civil proceedings (CAS 2016/A/4871; para 128; CAS 2010/A/2268, para 99). In any event, the Respondent did not breach these provisions.

- The evidence against the Appellant is fully admissible under Article 6(1) of the ECHR. The Appellant hid important information during informal interviews,

never refused to answer the UEFA investigator's questions, and signed a consent form which clearly stated how the data collected would be used.

- The Appellant was not the subject of criminal proceedings at the time of the first interview and forensic analysis. By the time of the second interview, he had already been arrested by the Latvian police and could not ignore the content of UEFA investigation.

- The Appellant wrongly refers to his *"right against self-incrimination"*. In fact, it appears that he wishes to invoke a right to be "instructed" or "informed" of such right. Yet, such right does not exist in a context of a UEFA investigation into match-fixing activities.

- The CAS jurisprudence invoked by the Appellant in this regard is of no avail. This jurisprudence does not allow witnesses to refuse to attend interviews in circumstances where there are ongoing criminal proceedings. In any case, he never refused to attend such interviews and the questions posed on this occasion, which makes his comparison inappropriate and prevents him from subsequently invoking this alleged privilege. Ultimately, he voluntarily submitted to UEFA regulations, which entail limited investigative powers and impose full cooperation for fact-finding (CAS 2017/A/5003, paras 260ff; CAS 2018/A/5769, para 136).

- In any event, Article 152(2) of the Swiss Civil Code of Procedure (CCP), which should be used as a guidance by the CAS Panel, provides that *"illegally obtained evidence shall be considered only if there is an overriding interest in finding the truth"*. Yet, the fight against match-fixing should be considered as an overriding public interest in Switzerland, based on the balance of interests' test (CAS 2009/A/1979; CAS 2011/A/2425, para 80).

- There is no scope for the application of the *in dubio pro reo* principle under Article 6(2) of the ECHR in this case. This principle should not apply in disciplinary proceedings, regardless of the CAS jurisprudence quoted by the Appellant, which is largely obsolete and inconsistent with the Swiss Federal Tribunal's jurisprudence (SFT 119 II 271).

- Moreover, there was and is no contradiction between the Starlizard and Sportradar reports. Contrary to the Appellant's contention, the Starlizard report clearly stated that Mr Bagirovs' message was anything but harmless. It emphasised that *"the voice recording is most certainly suspicious. The amounts referred to would be a strange way to express an overview of bets"*.

- The Respondent informed the Appellant at the appropriate time of the nature of the charges against him pursuant to Article 6(3) of the ECHR, even if it was formally not bound to do so. This is notably evidenced by the presence of an

interpreter during the second interview, the related transcript, which was duly signed by the Appellant, and other written communications.

- The Respondent never stopped proactively investigating the matter, with a view to obtaining a comprehensive picture of the case. It was only slowed down by the behaviour of the Appellant and other stakeholders, as well as the COVID-outbreak. In any event, the Appellant did not suffer from the length of the investigation, since he was not provisionally suspended and his case was not publicly revealed.

- The Respondent never *"conspired"* with Latvian authorities, but only fulfilled its duty of instruction and international cooperation.

- The Respondent was not estopped from bringing proceedings against the Appellant and convicting him of a breach of Article 12 of the UEFA DR *in toto*. It is self-evident that Article 12(1) of the UEFA DR is inherently breached in case of any alleged violation of the specific examples in Article 12(2)(a)-(e) of the UEFA DR.

- Moreover, the UEFA EDI's report requested the Appellant be held accountable of a violation of Article 12 of the UEFA DR, *"with no limitation on the specific sub-sections to be applied"*. It was followed by a letter from UEFA dated 19 August 2021 that informed the Appellant of the opening of disciplinary proceedings against him based on Article 12(2) or any other provisions that the UEFA CEDB would deem appropriate. Likewise, the UEFA CEDB's reasoned decision included several references to Article 12(1) of the UEFA DR.

- The Appellant's procedural complaints are groundless, only aim to prevent the Panel from considering the merits of this file and should be rejected.

(iii) Burden and standard of proof

- The Respondent bears the burden of proof to primarily demonstrate that the Appellant breached Article 12 of the UEFA DR. With that said, any party wishing to prevail on a disputed issue must discharge its burden of proof, in light of Article 8 of the Swiss Civil Code (CC) and CAS jurisprudence (CAS 2017/A/5299, para 119, and references; CAS 2003/A/506, para 54; CAS 2009/A/1975, paras 71ff).

- The standard of proof is to the Panel's comfortable satisfaction, pursuant to Article 24(2) of the UEFA DR. Nevertheless, in match-fixing cases where the evidence is typically concealed, the standard of proof cannot be too high, otherwise disciplinary actions would be meaningless. The paramount importance of fighting against corruption and the restricted powers of investigation of the sports governing bodies must also be considered (CAS 2011/A/2621, para 8.7; CAS 2010/A/2172, para 54; CAS 2017/A/5434 and references).

(iv) The Appellant's procedural quality

- The Appellant's (alleged) efforts to combat match-fixing are unsubstantiated and exaggerated at best.

- The Appellant cannot absolve himself of any liability based on the closure of the Latvian criminal proceedings. These proceedings were only discontinued because there was insufficient evidence to conclude that the Appellant was actively involved in, and thus criminally liable for, match-fixing violations under Latvian law. They did not examine in any way the Appellant's reporting and collaboration obligations under the UEFA disciplinary regulations.

- In any event, a whistle-blower is still bound by Article 12 of the UEFA DR, indeed blowing the whistle is inherent in a duty to report approaches and potential integrity breaches in the first place.

- To the extent that the Appellant can be considered a whistle-blower at all, the fact that he concealed important information about Mr Aydov's approach clearly has an impact on the extent to which he can ultimately be rewarded for coming forward about that approach;

- The Appellant' (limited) whistle-blower status was completely undermined by his failure to report Mr Bagirovs' behaviour and the approach made in the audio file.

- Thus, and considering that the Appellant breached Article 12 of the UEFA DR on two occasions, the starting point is rather to consider him a (at least passive) perpetrator and not a whistle-blower.

(v) Existence of a regulatory basis to sanction the Appellant

- In light of their respective ingredients, Articles 12(2)(a)-(e) of the UEFA DR clearly provide for "statutory obligations" and Article 12(1) of the UEFA DR includes both a reporting requirement and a time requirement to comply immediately.

- According to CAS' jurisprudence, all the examples in Article 12(2) of the UEFA DR automatically lead to a violation of the general prohibition set out in Article 12(1) of the UEFA DR (CAS 2018/A/5920, paras 73-74).

(vi) Articles 12(1), 12(2)(d) and 12(2)(e) UEFA DR in relation to Match 1

- Article 12(2)(e) of the UEFA DR is fully applicable to Match 1, as rightly retained in the Appealed Decision. The Appellant's attempts to distinguish between the duty to report approaches (Article 12(2)(d)) and the knowledge of a possible

match-fixing plot (Article 12(2)(e)), and to argue that partial reports are sufficient, are based on an uncomplete passage of a CAS award (CAS 2018/A/5800, para 105).

- To the contrary, the same actions (or rather inactions) can, in fact, lead to a breach of both Articles 12(2)(2)(d) and 12(2)(e), and result in a violation of the overarching Article 12(1) of the UEFA DR (CAS 2018/A/5920, para 122), as was the case here.

- The term "immediately" in Articles 12(2)(d)-(e) of the UEFA DR must be understood as requiring one to act "without undue delay" or "without culpable hesitation". It implies a "prompt, vigorous action" (see e.g. SFT 5A_400/200). The award quoted by the Appellant does not state the contrary, when read in its entirety (CAS 2012/A/2762, paras 108-109).

- The Panel's interpretation must give due weight to the intention of the rule maker (i.e. UEFA) to ensure that (a) there is a zero-tolerance approach to match-fixing; and (b) potential integrity concerns are reported immediately and voluntarily in order to protect the integrity of matches (CAS 2010/A/2266, para 24; CAS 2012/A/2762, para 108).

- The context may be relevant, but any delay in reporting can only be justified by legitimate reasons establishing that the person in question could not report the potential violation as soon as it became known (CAS 2012/A/2762, para 109), which gives the example of a power failure due to a stadium on fire). This does not entail a subjective interpretation of the term "immediately" nor discharge a person to act at the next possible opportunity.

- Likewise, the alleged fear of future threats, abstract in nature, is certainly not sufficient to exempt an individual from his reporting obligations (CAS 2018/A/5800, para 108).

- The failure to immediately report an approach to fix a match allows the relevant match-fixing plot to be potentially kept alive, and exposes further individuals to the plot.

- In the present case, the Appellant wrongly submits that he complied with his duty by reporting Mr Aydov's match-fixing offer of 9 July 2018. Quite the opposite, he did not inform anyone until hours before the match itself, namely on 11 July 2018. When he did inform UEFA, he concealed important information of which he was aware, i.e. the very identity of the alleged match-fixer, and deleted the information that could have helped identify Mr Aydov as the caller from his phone. He only revealed the identity of the match-fixer weeks later, in the course of an interview after he handed over his phone for forensic examination.

- The Appellant's defence, according to which he had compelling reasons for his two-day delay, that this delay made no concrete difference, and that UEFA itself should have been more proactive, cannot be accepted. He did not substantiate receiving any concrete threats against himself or his family from Mr Aydov, which he even considered as a friend, and he could have contacted the President of the Club by phone, despite his absence. He cannot claim that his behaviour had no adverse consequences, as it is not up to those approached with a match-fixing offer to decide whether their prompt reporting to UEFA would make a difference, let alone to criticize the action that should allegedly have been taken earlier by UEFA.

- The UEFA Appeals Body's reliance on CAS 2018/A/5800 regarding the timeframe is correct, since a failure to report an approach before the relevant game, and a report a few hours before such game, are both equally reprehensible.

- Consequently, all the charges and sanctions retained based on Articles 12(1), 12(2)(d) and 12(2)(e) of the UEFA DR in relation to Match 1 should be confirmed.

(vii) Articles 12(1), 12(2)(d) and 12(2)(e) UEFA DR in relation to Match 2

- Article 12(2)(e) of the UEFA DR is fully applicable to Match 2, as rightly retained in the Appealed Decision, and its application can be cumulated with Article 12(2)(d) and 12(1) of the UEFA DR, as was the case here (see above).

- The arguments invoked by the Appellant in his defence cannot, again, be sustained, starting with the alleged inadmissibility of the evidence gathered by UEFA during its investigation. The audio file incriminating the Appellant and his testimony were legally obtained.

- What matters is the point of view of an objective observer, rather than the Appellant's perception and understanding under the contextual circumstances. In any case, the Appellant's suggestion to the Latvian police (in November 2018) that he had not seen Mr Bagirovs' audio file nor understood his content is not consistent with (a) his responses during the 11 April 2019 interview and his witness statement (where he explained that he had in fact a discussion with Mr Bagirovs); and (b) the evidentiary record, which clearly establishes that the Appellant called Mr Bagirovs after he received his audio file.

- The Appellant did not demonstrate that he and Mr Bagirovs were fighting match-fixing rather than engaging in it, and even providing important information to the LFF President or the LFF Integrity Officer, Mr C. This factual allegation is unsupported and unsupportable, in light of the information on file, in particular [the LFF Integrity Officer's] statements. It was not raised either by the Appellant

to the UEFA Match Delegate and UEFA investigator in 2018, which indicates that he made up such argument retrospectively (CAS 2018/A/5800, para 104).

- Mr Bagirovs' recent criminal acquittal is not relevant, as its grounds are unknown. It stems from different provisions and standards than those relied upon as part of these proceedings.

- Mr Bagirovs' message *"push them"* cannot be given the meaning that the Appellant suddenly wants to give it.

- The Sportradar and Starlizard reports are consistent in that they both state that the explanation put forward by the Appellant is – with regard to the given circumstances – not plausible. Therefore, the principle *in dubio pro reo* would have no bearing in the present case, even if it were applicable from the outset (which is denied).

- The updated Sportradar and Starlizard reports filed as part of these proceedings are fully valid and conclusive. They were commissioned for the sole purpose of definitively dismissing the criticisms made by the Appellant during UEFA proceedings. Having been provided with the required "context" (namely the Betfair amount history that was already included in the first Sportradar report), Starlizard was reinforced in its finding that the contents of the audio file were suspicious. It thus confirmed that the audio file was highly unlikely to be referring to Betfair exchange sums and that Mr Bagirovs' (and by extension the Appellant's) defence was more than doubtful.

- Sportradar also confirmed its initial assessment. It was not required to provide the underlying figures used for calculation of the betting liquidity amounts, as they were never contested.

- For his part, the Appellant did not provide any report to support his interpretation.

- Consequently, all the charges and sanctions retained based on Articles 12(1), 12(2)(d) and 12(2)(e) of the UEFA DR in relation to Match 2 should be confirmed.

(viii) Proportionality of sanction

- The Appellant's arguments are insufficient to interfere with the UEFA Appeals Body's assessment that the gravity of the offences, the importance of the fight against match-fixing and the lack of mitigating factors warranted a three-year sanction.

- The UEFA Appeals Body complied with the general directions provided for by CAS jurisprudence, which puts particular emphasis on the obligation of sports managers to cooperate with the disciplinary authorities and to report match-fixing allegations on time, and the deterrent effect of sanctions (CAS 2014/A/3793, para 9.33; CAS 2010/A/2267, 2278, 2279, 2280, 2281, para 1160).

- The three-year sanction imposed on the Appellant for 'passive match-fixing' offences is in no way shocking in and of itself, when compared to sanctions imposed for 'active match-fixing' attempts, which usually range between ten years to life. It is also in line with recent awards rendered by CAS in proceedings involving violations of Article 12(2)(d) and 12(2)(e) of the UEFA DR, where sanctions of seven and two years were imposed (CAS 2018/A/5920; CAS 2018/A/5800).

- In any case, CAS Panels shall proceed to assess the present case based on its individual facts and circumstances, regardless of the standard sanction of a 1.5-year ban mentioned on an indicative basis in the jurisprudence (CAS 2018/A/5800, paras 118 and 121).

- The Appellant's violations involve various "aggravating" elements, starting with the concealment of important information regarding Match 1 (in particular Mr Aydov's name), the deletion of the application used to communicate with the latter and his contact details, and the report of his match-fixing offer only a few hours before the kick-off. To this are added the Appellant's leadership position and his concealment of Mr Bagirovs' match-fixing offer, which he continues to deny despite overwhelming evidence.

- Finally, as retained in the Appealed Decision, none of the mitigating circumstances invoked by the Appellant are convincing. In particular, he has not provided evidence that his so-called "inexperience" could have led him to make bad decisions, that he feared for his safety and that of his family, that he provided substantial information to the state and/or sports authorities and that he was adversely affected by the organisation and length of the investigation.

VII. JURISDICTION

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

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

84. In the present case, Article 62(1) of the UEFA Statutes (2021 edition) states that *"[a]ny decision taken by a UEFA organ may be disputed exclusively before the CAS in its capacity as an appeals arbitration body, to the exclusion of any ordinary court or any other court of arbitration"*.

85. In addition, the Parties have confirmed the jurisdiction of CAS in their submissions, and duly signed the Order of Procedure.

86. It follows from all the above that CAS has jurisdiction to decide on the present dispute.

VIII. ADMISSIBILITY

87. 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 in a previous agreement, the time limit for appeal shall be twenty-one days from the receipt of the decision appealed against. The Division President shall not initiate a procedure if the statement of appeal is, on its face, late and shall so notify the person who filed the document. […]*"*.

88. Article 62.3 of the UEFA Statutes provides for a time limit of ten days after notification to lodge an appeal against a decision adopted by one of UEFA's legal bodies, such as the UEFA Appeals Body.

89. The Appealed Decision was notified with grounds to the Appellant on 7 March 2022. The Appellant timely lodged its Statement of Appeal with the CAS Court Office on the same day, *i.e.* within the ten days allotted under the aforementioned provision.

90. In addition, the Respondent expressly admitted in its Answer that it did not challenge the admissibility of the appeal.

91. Consequently, the appeal shall be declared admissible.

IX. APPLICABLE LAW

92. Article R58 of the CAS Code provides as follows:

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

93. Article 56.2 of the UEFA Statutes read as follows:

"These Statutes shall be governed in all respects by Swiss law".

94. In accordance with the principle of *tempus regit actum*, an offence is to be judged on the basis of the substantive rules in force at the moment the alleged offence was committed, subject to the

principle of *lex mitior*. However, the procedural aspects of the proceedings are governed by the regulations in force at the time the appeal was lodged (see CAS 2018/A/5920 paras 64-69).

95. Accordingly, the Panel agrees with the Parties that the various regulations of UEFA are primarily applicable to the dispute. The UEFA DR (2017 edition) are primarily applicable to the merits, since the events that gave right to these proceedings occurred in July 2018. On the other hand, the UEFA DR (2020 edition) shall apply to procedural issues. Nevertheless, as all relevant provisions are the same in both versions, the Panel will refer to the UEFA DR without mentioning the applicable edition.

96. The Panel is satisfied with the subsidiary application of Swiss law, should the need arise to fill a possible gap in the various regulations of UEFA.

X. PRELIMINARY ISSUES

A. Constitution of the Panel

97. At the outset of the hearing, the Appellant maintained his objection regarding the President of the Panel, Prof. Schimke, despite the Challenge Commission's order of 19 May 2022, rejecting his request. He submitted that such order did not necessarily put an end to his objection, in light of the recent jurisprudence of the Swiss Federal Tribunal (SFT 4A_318/2020). He also underlined for the first time the alleged *"contractual ties"* between UEFA and Mr Tognon, co-arbitrator, who *"chaired the UEFA Academy during seven years"*. The Respondent considered these arguments to be groundless and belated, and declared that it had no objections as to the constitution of the Panel.

98. The Panel notes that the issue of Prof. Schimke's independence towards UEFA was already thoroughly addressed by the Challenge Commission, and sees no compelling reason to revisit it. The jurisprudence quoted by the Appellant is of no avail to keep his challenge alive, since it was issued following a review request that was filed by an athlete based on new facts, several months after the CAS award came into force (SFT 4A_318/2020, para 4.2., which refers to Article 190a of the Federal Act on Private International Law, PILA).

99. Furthermore, the Panel notes that the objection expressed by the Appellant against Mr Tognon should have been raised within seven days of his knowledge pursuant to Article R34 of the CAS Code. In this context, the parties are expected to carry out basic verifications, in particular by consulting the arbitrators' curriculum vitae on CAS website. In case of doubt, they should contact CAS and/or conduct their own investigations. Ultimately, the grounds for challenge must be based on valid reasons (see e.g. MAVROMATI/REEB, The Code of the Court of Arbitration for Sport: Commentary, Cases and Materials, Wolters Kluwer, Alphen aan den Rijn, 2015, ad Art. R34, p. 160-161; SFT 4A_458/2009, paras 3.2ff; SFT 4A 506/2007, paras 3.1ff).

100. In this case, Mr Tognon's acceptance and declaration of independence form was sent to the Parties on 24 March 2022, without eliciting any comments from the Appellant until the hearing

held four months later. In addition, while the form is silent on Mr Tognon's alleged links with UEFA, the relevant information was publicly available on the internet, in particular on the CAS website and on the professional networking site "LinkedIn". Consequently, the challenge is belated. Be this as it may, such challenge would, by all accounts, have been groundless, since the so-called "contractual ties" between Mr Tognon and UEFA were restricted to teaching specific courses and overseeing the UEFA Football Law Programme.

B. Admissibility of new documents

101. The Parties filed several documents outside the usual deadlines and procedural phases provided for this purpose, which raises the question of their admissibility.

a) The Riga Court's letters

102. The Appellant provided the Riga Court's letters related to Mr Bagirovs' summary of acquittal after the exchange of written submissions. The Respondent raised some doubts as to their admissibility, as well as that of any future judgment, in its letter dated 18 May 2022.

103. The Panel is cognisant that, pursuant to Article R56(1) of the CAS Code, the parties shall not be authorised to produce new exhibits and raise new legal arguments after the exchange of the written submissions, except by mutual agreement, or if the Panel so permits, on the basis of exceptional circumstances. Such circumstances exist, for instance, when the new evidence becomes available after the deadline for filing the appeal brief or answer (ARROYO M., Arbitration in Switzerland, the Practitioner's Guide, 2nd ed., Wolters Kluwer, Alphen aan den Rijn, 2018, ad Art. R56, p. 1651, and the references).

104. This is clearly the case here, since the Appellant filed his Appeal Brief on 14 March 2022, whereas the letters of the Riga Court attest that Mr Bagirovs was acquitted only two months later, by judgment of 9 May 2022.

105. Consequently, the Panel finds that the Riga Court's letters are admissible.

b) The Sportradar slides

106. On the eve of the hearing, the Respondent provided the CAS Court Office with some slides that Mr E., expert for Sportradar, intended to use in order to facilitate his testimony. The Appellant immediately objected to this request, in writing and then orally.

107. The Panel notes that this objection has become moot as the Respondent eventually agreed to waive the contentious slides at outset of the hearing. The Panel confirms that these slides were not added to the case file or reviewed.

c) The updated Sportradar and Starlizard reports

108. The Respondent attached updated versions of the Sportradar and the Starlizard reports with its Answer, with a view of clarifying the alleged contradictions raised by the Appellant during the UEFA proceedings. The Appellant retorted that these updated reports should be disregarded, as they postdate the decision of the UEFA CEDB of 18 October 2021.

109. The Panel understands that this controversy must first be examined in light of Article R57(3) of the CAS Code, which gives arbitrators the discretion, but not the obligation, to exclude evidence that was not produced before previous instance bodies. The Panel is not limited to considerations of the evidence that was adduced previously and can examine all new evidence produced before it. The Panel should exclude evidence with restraint, only when there is a clear showing of abusive or inappropriate behaviour (see e.g. CAS 2017/A/5256, paras 53ff).

110. The Panel considers that, in the present case, the Respondent did not behave abusively, but rather took steps to address the criticism raised by the Appellant himself. Moreover, it acted in line with the peculiarities of disciplinary cases, which sometimes require the production of additional reports in order to shed light on the technical issues at stake (see e.g. CAS 2021/A/7768, para 200). For the same reasons, the CAS jurisprudence on post-facto evidence is not relevant, it being specified that it would in any case not result in a finding of inadmissibility, but in a diminution of the probative value of the said reports (CAS 2021/A/7849, para 125).

111. The Panel concludes that the updated versions of the Sportradar and the Starlizard reports should be admitted to the case file and examined on the merits of this case.

C. Admissibility of new arguments

112. At the hearing, the Parties confirmed and built upon their written submissions. Notably, the Appellant raised several new arguments on the merits.

113. In his opening statement, the Appellant analysed, in more detail, the chronology of events, arguing that UEFA knowingly slowed down its investigation pending a hypothetical judgment against him, and had prejudged his case by sharing information with the Latvian authorities. He also relied on the summary of the acquittal rendered by the Riga Latgale Suburb City Court in respect of Mr Bagirovs on 9 May 2022 as evidence of his own good faith.

114. In his closing statement, the Appellant highlighted that the Sportradar reports did not provide the underlying figures used for the calculation of the betting liquidity amounts. He emphasised that the Respondent's theory regarding Mr Bagirovs was not only undermined by his recent acquittal, but also by one of his messages (*"push them", or "crush them"*), which undeniably constituted an encouragement for the Club to win the match. Finally, he provided additional jurisprudential references regarding the *in dubio pro reo* principle (CAS 98/199, para 33; CAS 2008/A/1617, para 141; CAS 2005/C/976 & 986, footnote 78; CAS 2020/A/7026, para 77, and references; SFT 4A/600/2016, paras 3.3.4.2ff).

115. The Panel recalls that, pursuant to Article R56(1) of the CAS Code, the parties shall, in principle, not be authorised to produce new legal arguments after the exchange of the written submissions. Nevertheless, some flexibility exists in practice, in light of the principle of "iura novit curia" and the right of the parties to expand their written submissions during their oral pleadings. This led some panels to retain that new arguments should only be excluded when it is obvious that they could have been raised at an earlier stage and when they put the other party at a procedural disadvantage. Similarly, new awards quoted at the hearing are generally accepted, especially when they are publicly available online (ARROYO M., op. cit., ad Art. R56, p. 1652ff, and the references; CAS 2020/A/7008 & 7009, para 37; CAS 2012/A/7694, para 95).

116. The Panel notes that some of the Appellant's arguments, such as the Sportradar reports' lack of underlying figures and Mr Bagirovs' summary of acquittals, could not have been raised earlier, since they emerged after the Appeal Brief was filed. Others, like the "conspiracy theory" between UEFA and the Latvian authorities, and the *"push them" or "crush them"* message, were in some way already outlined in the Parties' submissions. They can thus be seen as a continuation of the Appellant's written arguments. Finally, the new jurisprudence quoted is freely available on the internet.

117. The Panel further notes that the Respondent did not make much effort to challenge the admissibility of the Appellant's new arguments. The Respondent merely addressed the admissibility of the summary of acquittals in its letter of 18 May 2022, and objected to a question posed in relation to a possible "conspiracy theory" during [the UEFA Integrity Investigator]'s testimony. The Respondent did not reiterate its objections during the pleadings, responding primarily on the merits.

118. Based on the foregoing, the Panel finds that Appellant's new arguments are admissible and will give them the weight that it deems appropriate under the circumstances. It adds that none of these arguments were in any event determinative for the outcome of this dispute, but at most, partly reinforced the same. In other words, the Panel would have reached the same findings with or without them.

D. Evidentiary requests

119. The Appellant made several evidentiary requests in his Appeal Brief and subsequent communications. He notably requested the Respondent to provide the audio recording of [the LFF Integrity Officer's] testimony of 7 February 2022, and asked the CAS Court Office to liaise with his witnesses and the Riga Court.

120. For the sake of good order, the Panel confirms that these requests have been fulfilled.

E. Expert testimonies and scope of witnesses' interviews

a) Expert testimonies

121. The Appellant complained about the substitution of Mr D. by Mr G., expert for Starlizard, as an expert witness, but agreed to allow his testimony to take place, regardless of its admissibility and relevance.

122. The Panel has no doubt, however, as to the admissibility and relevance of Mr G. testimony, given that he was, according to his own statements, directly involved in the preparation of both Starlizard reports. Moreover, the Respondent expressly reserved the option of replacing Mr D. with another expert in its Answer.

b) Scope of witnesses' interviews

123. Both Parties raised objections regarding the scope of the witnesses' interviews during cross-examination, but agreed that the interviews could continue, provided that their admissibility was subsequently assessed by the Panel.

124. The Appellant argued that the Sportradar and Starlizard experts should not be questioned about the updated reports, whereas the Respondent submitted that [the UEFA EDI]'s testimony should be restricted to the Appellant's procedural rights and that [the UEFA Integrity Investigator]'s testimony should not address questions about the new "conspiracy theory".

125. The Panel retains that all the questions to the witnesses were admissible. In particular, the Sportradar and Starlizard experts were logically questioned about the updated reports, which were discussed in the Answer and pleadings. Likewise, [the UEFA EDI] should have expected to be questioned about the whole UEFA investigation, in light of his involvement and the hearing schedule, which allocated twenty minutes for his testimony. Finally, the "conspiracy theory" evoked during [the UEFA Integrity Investigator]'s testimony did not come entirely "out of the blue", as it was already sketched out by the Appellant in his written submissions.

XI. MERITS

126. In light of all the above, the main issues to be resolved by the Panel are the following:

A. What is the Panel's scope of review?

B. Were the Appellant's procedural rights violated in the UEFA proceedings and, if so, what should be the consequence thereof?

C. What are the burden and standard of proof to be applied?

D. Was there a valid regulatory basis to sanction the Appellant?

E. Did the Appellant violate Article 12 of the UEFA DR in relation to Match 1?

F. Did the Appellant violate Article 12 of the UEFA DR in relation to Match 2?

G. If so, is the sanction imposed on the Appellant proportionate?

A. Panel's scope of review

127. The Parties have differing opinions as to the Panel's scope of review. The Appellant argued that the Panel has a full power of review pursuant to Article R57 of the CAS Code, whereas the Respondent submitted that some level of deference should be given to an association's expertise in its first instance decision.

128. The Panel notes the well-recognised and consistent CAS jurisprudence according to which a hearing before a CAS Panel is a hearing *de novo*. However, the Panel should only review the applied sanction if the latter is considered *"evidently and grossly disproportionate"* to the offence (see e.g. CAS 2014/A/3467; CAS 2016/A/4840; CAS 2018/A/5800, paras 72ff). When reviewing such sanction, the Panel should always have regard and deference to the expertise of the association which imposed the sanction. The Panel is also aware of another CAS decision in which the threshold of review might be seen as somewhat lower: *"[t]here is well-recognized CAS jurisprudence to the effect that whenever an association uses its discretion to impose a sanction, CAS will have regard to that association's expertise but, if having done so, the CAS panel considers nonetheless that the sanction is disproportionate, it must, given its de novo powers of review, be free to say so and apply the appropriate sanction (see CAS 2015/A/4338, at para. 51)"* (see CAS 2017/A/5003; CAS 2020/A/7596, para 251).

129. Whether the threshold is that the sanction has to be *"evidently and grossly disproportionate"* or simply *"disproportionate"*, the decision set out below as to the sanction to be applied to Mr Gauračs would have been identical.

130. Finally, the Panel takes the opportunity to clarify that it will only examine the legal issues discussed in the Appealed Decision, pursuant to CAS longstanding jurisprudence. Therefore, it will not re-examine Article 12 of the UEFA DR in full, especially since the Parties do not wish to do so (see e.g. CAS 2016/A/4727, paras 186ff; CAS 2018/A/5920, para 74, *a contrario*).

B. Violation of procedural rights

131. The Appellant submitted that his procedural rights were not complied with during UEFA proceedings, which should lead to the invalidation of the evidence gathered against him and UEFA's overall assessment. He invoked a violation of the criminal guarantees under Article 6 ECHR, including the privilege against self-incrimination, the appropriate evaluation of evidence, the *in dubio pro reo* principle and the right to prompt information. He also complained that UEFA violated the doctrine of estoppel by charging and banning him after investigating *"secretly"* during three years, and abusively/questionably interacting with the Latvian authorities. Lastly, the Appellant claimed that the UEFA Appeals Body acted *ultra vires* by finding a violation of Article 12(1) of the UEFA DR, which was not discussed in the first instance.

132. The Respondent disputed the applicability of criminal guarantees to the present case and pointed out that the UEFA proceedings were in any case conducted in compliance with such guarantees. He subsidiarily argued that even irregularly obtained evidence should be considered when there is an overriding interest, such as the fight against match-fixing.

133. The Panel must thus undertake to examine whether the Appellant rightly referred to Article 6 ECHR, as well as the doctrine of estoppel and the prohibition on acting *ultra vires*.

a) Applicability of Article 6 ECHR

134. The Panel observes that Article 6 ECHR guarantees the right to a fair trial. It enshrines the right of a person charged with a criminal offence to be presumed innocent until proven guilty according to law, and to be informed promptly of the nature and cause of the accusations against him. To these are added the privilege against self-incrimination and the right to due process in the taking of evidence that are generally implicitly recognised as international standards that lie at the heart of the notion of a fair procedure under this provision.

135. The Panel comprehends, however, that the procedural rights in disciplinary proceedings cannot, in principle, be determined from the point of view of criminal law concepts. This was confirmed on several occasions by CAS and the Swiss Federal Tribunal in the context of doping and ethics violations (see e.g. CAS 2016/A/4871, para 128; CAS 2010/A/2268, paras 99ff; SFT 4A_178/2014, para 5.2; SFT 4A_488/2011, para 6.2; SFT 4A_644/2020, para 6.3).

136. As the Swiss Federal Tribunal rightly emphasised, the strict application of the *in dubio pro reo* principle in disciplinary proceedings conducted by private associations without state coercive powers would prevent the anti-doping system from functioning properly. In the Panel's view, this jurisprudence should be applied, *mutatis mutandis*, to the fight against match-fixing. The few specific cases cited by the Appellant in support of his position cannot be considered such as to overturn this conclusion, especially since some of them are not as peremptory as he suggests (see e.g. CAS 2005/C/976, 986, footnote 78, where the panel leaves the issue of the in *dubio pro reo* principle open; and SFT 4A/600/2016, para 3.3.4.2, where the tribunal states that the automatic application of criminal principles to arbitration is not *"self-evident"*).

137. The Panel also notes that CAS panels were reluctant to rely by analogy on other criminal law principles, such as the right to self-incrimination, in disciplinary proceedings, while acknowledging their relevance to Swiss procedural public policy and the need to avoid the misuse of information in concurrent disciplinary and criminal proceedings. They underlined that *"the danger that the result of* […] *cooperation in fact-finding may at a later point trigger a criminal proceeding is – per se – not a valid justification to invoke the privilege of self-incrimination"* (CAS 2017A/5003, paras 261ff and 266, and the references). It was further held that *"Only where there is a clear and imminent danger that the privilege against self-incrimination (applicable before public authorities) would be circumvented, could such privilege perhaps also extend to investigations conducted by sports organisation"* (CAS 2017/A/5003, para 267).

b) Breach of Article 6 ECHR

138. The Panel recognises that UEFA's investigation was conducted in a manner that may seem somewhat cavalier and that its officials were not able to recollect precisely the different steps of the investigation at the hearing. However, it is confident that Article 6 ECHR was, to the extent applicable, not breached, for the reasons set out below.

139. The Appellant mainly claimed that his right to presumption of innocence was breached because the UEFA bodies relied on the Sportradar and Starlizard reports which were contradictory and inconclusive. The Appellant based this argument on the *in dubio pro reo* principle. In this regard, the Panel reiterates that the *in dubio pro reo* principle, as explained above, cannot be strictly applied without compromising the proper functioning of the system put in place to prevent match-fixing. Further, the Panel notes that the UEFA bodies were at liberty to conduct an independent examination of the Sportradar and Starlizard reports as evidence presented before them and come to a conclusion thereupon. The Panel does not consider such an examination to be in contravention to the principle of presumption of innocence. The Panel also considers the fact that these reports were only contradictory to the extent that they relied on different premises, and formed only part of UEFA's argument. In any event, these reports were updated and globally clarified for the present (de novo) proceedings following the criticism raised by the Appellant before the UEFA Appeals Body, subject to specific flaws and limitations that will be discussed later. What is more, the Appellant did not explain how this presumption would interact with the "comfortable satisfaction" standard that he invokes in his submissions (see sections XI.C and XI. Fa.ii, in particular DIACONU/KUWELKAR/KUHN, "The Court of Arbitration for Sport jurisprudence on match-fixing: a legal update", 2021, p. 40, who expressly state that a criminal standard is inapplicable in the context of private associations).

140. The Appellant also failed to demonstrate how his privilege against self-incrimination was infringed, as there were no criminal proceedings against him when he was first interviewed by the UEFA-appointed investigator and handed over his phone for analysis on 26 July 2018. Moreover, he confirmed that he never raised any objections at any stage of UEFA investigation, and did not find it necessary to seek the assistance of a lawyer. The Panel finds that the Appellant appears to claim a right to be informed of the right against self-incrimination but he does not identify the legal basis for this alleged right.

141. The Appellant cannot pretend that he did not understand that he was under suspicion during the UEFA proceedings until August 2021, in light of the chronology of events as recalled below.

- On 22 November 2018, he spent one night in custody with the Latvian police.

- In April 2019, during his second interview with UEFA officials, he was expressly assisted by an interpreter. He was also informed that a formal investigation was ongoing, as confirmed by [the UEFA EDI] and the interview transcript, entitled *"disciplinary interview with Mr Gauračs"*.

- On 14 October 2019, he received an email indicating *"Should you miss this new deadline, we will consider the contents of your statement as accepted and will proceed with the opening of the disciplinary case against you at the UEFA Control, Ethics and Disciplinary Body (CEDB)"*.

142. Eventually, both [the UEFA EDI] and [the UEFA Integrity Investigator] peremptorily affirmed during their testimony that they had heard the Appellant as a party within the meaning of UEFA regulations. For the rest, it cannot be ruled out that UEFA's investigators wanted to wait to receive the reports from Sportradar and Starlizard, which were provided in the summer of 2020, in order to determine the exact extent of the facts that could possibly be alleged against the latter. As such, the Appellant cannot claim that his procedural rights were infringed, all the more so since he was not able to establish that there was a "clear and imminent" danger that the privilege against self-incrimination (applicable before public authorities) would be circumvented through the proceedings initiated by UEFA.

c) Doctrine of estoppel and action ultra vires

143. The Panel confirms, for the same reasons, that UEFA did not act secretly, in contradiction with the principle of estoppel.

144. The Panel cannot discern how UEFA would have abused its investigation. The Appellant did not provide any concrete evidence of any illegitimate agreement between UEFA and the Latvian authorities and/or a deliberate delay in the disciplinary procedure. The Panel finds, based on the evidence before it, that there is no reason to doubt UEFA's conduct in relation to the present case and that UEFA only collaborated with the state authorities, and vice-versa, as is customary in practice. Similarly, the Panel finds that the long delays and slowdowns in UEFA's proceedings can, at least partly, be explained by the pandemic, the difficulties in interviewing some stakeholders, the willingness to complete a thorough investigation, and the need to review and translate the interview transcripts.

145. The Panel finds, in the same way, that UEFA did not act beyond its powers by ultimately retaining a breach of Article 12(1) of the UEFA DR. While there is no direct mention to this paragraph in the operative part of the UEFA CEDB decision, there are multiple references to it in its body text and the UEFA EDI's report. In any event, Article 12(2) of the UEFA DR contains a non-exhaustive definition of what constitutes a violation of "integrity of matches and competitions", a concept which forms the basis of Article 12(1) if the UEFA DR. Consequently, it cannot be argued that a violation of any sub-article of Article 12(2) does not constitute a violation of Article 12(1) of the UEFA DR, as further explained below (section XI.D).

d) Consequences

146. The Panel finds that UEFA did not breach the Appellant's procedural rights, and that there is, therefore, no reason to invalidate the evidence gathered against the Appellant and UEFA's overall assessment on this ground. It can thus refrain from examining the Respondent's subsidiary arguments related to the admissibility of irregularly obtained evidence where there is

an overriding interest, while underlining that fight against match-fixing would in all likelihood justify an exemption.

C. Burden and standard of proof

147. The Panel concurs with the Parties that the burden of proof regarding the Appellant's alleged breach of Article 12 of the UEFA DR lies with UEFA and that the standard of proof is comfortable satisfaction (see Article 24 para 2 UEFA DR). This is in line with the CAS jurisprudence, which has constantly upheld this standard of proof in match-fixing cases defined as being greater than a mere balance of probability, but less than proof beyond a reasonable doubt (CAS 2016/A/4650, para 64; CAS 2017/A/5338, para 64; in the same vein, see DIACONU/KUWELKAR/KUHN, op. cit., p. 40, who reject the application of a criminal standard).

148. The Panel shall, in this context, bear in mind the seriousness of the allegation which is made, but also the paramount importance of fighting corruption of any kind in sport, the restricted powers of investigation of sports governing bodies and the inherent concealed nature of manipulation related cases (CAS 2010/A/2172, paras 20ff; CAS 2017/A/5338, para 65).

D. Existence of a regulatory basis to sanction the Appellant

149. The Appellant submitted that UEFA lacked legal basis to sanction him. He underlined that Article 12(1) of the UEFA DR does not include a reporting requirement nor specifies to which organ the approach or behaviour should be reported. Likewise, Article 12(2) of the UEFA DR merely lists examples, but fails to establish statutory obligations. The Appellant argued that by contrast, the relevant regulations issued by FIFA are much more explicit. The Respondent contested this view. It added that these paragraphs are interconnected and should not be considered separately, in light of CAS jurisprudence.

150. The Panel recalls that Article 12 of the UEFA DR states as follows:

> *"[1] All persons bound by UEFA's rules and regulations must refrain from any behavior that damages or could damage the integrity of matches and competitions and must cooperate fully with UEFA at all times in its efforts to combat such behaviour.*
>
> *[2] The integrity of matches and competitions is violated, for example, by anyone:*
>
> *a. who acts in a manner that is likely to exert an unlawful or undue influence on the course and/or result of a match or competition with a view to gaining an advantage for himself or a third party;*
>
> *b. who participates directly or indirectly in betting or similar activities relating to competition matches or who has a direct or indirect financial interest in such activities;*
>
> *c. who uses or provides others with information which is not publicly available, which is obtained through his position in football, and damages or could damage the integrity of a match or competition;*
>
> *d. who does not immediately and voluntarily inform UEFA if approached in connection with activities aimed at influencing in an unlawful or undue manner the course and/or result of a match or competition;*

e. who does not immediately and voluntarily report to UEFA any behaviour he is aware of that may fall within the scope of this article".

151. The Panel is of the opinion that the Appellant cannot legitimately avoid his general obligations by attempting to interpret the various paragraphs of this provision in isolation. Such an interpretation is clearly contrary to a spontaneous reading, but also to CAS jurisprudence, as quoted by the Respondent (CAS 2018/A/5920, para 73):

"Although the Panel acknowledges that an acceptance of a bribe constitutes a violation of Article 12(2)(a) UEFA DR, it finds that this provision is only an example of a violation of Article 12(1) UEFA DR (…). Accordingly, the examples enumerated in Article 12(2)(a)-(e) UEFA DR are not exhaustive and, while they may have varying degrees of seriousness, all lead to a violation of the general prohibition set out in Article 12(1) UEFA DR".

152. The Panel also considers that the jurisprudence invoked by the Appellant is of little relevance, as it concerns the extension of the scope of a provision governing player transfers and their related registration (CAS 2019/A/6301, paras 100ff).

153. The Panel is also not convinced by the Appellant's reference to FIFA regulations, in particular to Article 18(3) of the FIFA Disciplinary Code. This article simply contains different wording, without concrete examples. Its reference to the "Disciplinary Committee" as the body responsible for gathering information on match-fixing approaches is certainly welcome, but not mandatory as such. In any event, the UEFA administration could have provided more information upon request if necessary.

154. The Panel concludes that Article 12 of the UEFA DR constitutes a sufficient regulatory basis to sanction the Appellant in general.

155. Insofar as the definiteness and effectiveness of individual elements of the offence are at issue, these will be dealt with below in the context of the respective offence in question.

E. Violation of Article 12 of the UEFA DR in relation to Match 1

156. The Parties disagree as to whether the Appellant violated Article 12(2)(d) and (e) of the UEFA DR in conjunction with Article 12(1) of the UEDA DR with regard to Match 1.

157. The Appellant argued that he fully complied with his reporting obligations under Article 12(2)(d) and 12(2)(e) of the UEFA DR in the contextual circumstances, by informing UEFA of Mr Aydov's approach within two days, in line with the immediacy requirement. He submitted that he was not required to provide the name of the person who approached him, but pointed out that he did so after 17 days. He also disputed the relevance of Article 12(2)(e) of the UEFA DR, which governs the failure to report knowledge of a match-fixing plot. He concluded that he was not guilty of any violation in connection with Match 1.

158. The Respondent alleged that Articles 12(2)(d) and (e) of the UEFA DR are fully applicable and have cumulative effect. It argued that the Appellant delayed in contacting UEFA, improperly withheld Mr Aydov's name and even destroyed relevant data, in contradiction to his obligation to immediately report any incident under Article 12(2)(d) and (e) of the UEFA DR. It emphasised that these provisions must be interpreted narrowly and objectively in order to achieve their purpose. It concluded that the Appellant committed various violations in connection with Match 1.

159. The Panel decides to undertake a four-step approach to resolving this controversy, by proceeding as follows:

a. Was there an approach or reportable behaviour?

b. Did the Appellant "immediately" report such approach or behaviour?

c. Was the Appellant required to provide a minimum amount of information about the approach or behaviour (specifically, the name of the caller)?

d. What are the consequences thereof?

160. The Panel will take this opportunity to discuss the scope of Article 12(2)(d) and (e) of the UEFA DR, as well as their possible interaction.

a) Existence of an approach or reportable behaviour

161. The Panel observes that it is undisputed between the Parties that there was an approach aimed at influencing a game and/or reportable behaviour, in the context of Match 1, within the meaning of Article 12(2)(d) and (e) of the UEFA DR, and that the Appellant voluntarily reported it. The main contention is whether the Appellant reported such approach and/or behaviour "immediately" and whether the information provided was complete.

b) Immediate report of approach or reprehensible behaviour

162. The Parties devoted considerable attention to the definition and interpretation of the concept of "immediate" report within the meaning of Articles 12(2) (d) and (e) of the UEFA DR.

163. The Appellant reported Mr Aydov's offer to manipulate Match 1 in return for a payment of 300,000 to 500,000 Euros, within two days, on 11 July 2018, approximately five hours before the game. He explained that he decided to wait for the return of the Club's owner, Mr Trabucchi, and for him to talk to his players and UEFA officials at the pre-match lunch. He also claimed that he feared for his own safety and that of his family.

164. The Panel considers that, by acting as he did, the Appellant fully complied with his regulatory obligations. In reaching this conclusion, the Panel appreciates that the term "immediately"

commonly presupposes, from a legal perspective, a prompt reaction without undue delay, and connotes proximity in time (CAS 2012/A/2762, paras 108ff; SFT 5A_400/2009, para 4).

165. The Panel does not overlook that it must give due weight to the intention of the rule maker (i.e., UEFA) to ensure that there is a zero-tolerance approach to match-fixing and potential integrity concerns are reported immediately and voluntarily (CAS 2012/A/2762, para 109; CAS 2010/A/2266, para 24; CAS 2018/A/5800, para 139). The Panel does not ignore either the fact that the purpose of the reporting obligation is to thwart match-fixing as quickly and efficiently as possible in order to prevent current and future violations, and that the Appellant knew that a match was planned on 11 July 2018.

166. The Panel also understands UEFA's desire to objectify as much as possible the notion of immediacy used in its regulations, and to admit only very restrictive exceptions to the rule (by reference to CAS 2012/A/2762, para 109, which was rendered in a doping case and used the example of a stadium on fire).

167. The Panel holds, however, that UEFA's interpretation in this specific case is too harsh, both from an objective and subjective point of view, for the reasons stated below.

168. In this context, it should be noted that UEFA deliberately refrained from making specific provisions regarding the timeliness of a report. Instead, the wording in Art. 12(2)(e) of the UEFA DR is limited to *"who does not immediately* […] *report* […]*"* in order to determine when a reporting violation shall be deemed to have occurred. This leads first to the question of whether this wording is at all specific/definite enough to be binding and effective.

169. As regards the requirements of a prohibition and/or sanction provision (or elements of it), the Panel finds comfort in CAS 2013/A/3324 & 3369 and CAS 2017/A/5006 as well as CAS 2021/A/7701, where the panels provided a useful summary of the relevant principles of interpretation established by the CAS case law. Pursuant to CAS jurisprudence, the different elements of the rules of a federation shall be clear and precise, in the event they are legally binding on athletes (see CAS 2006/A/1164; CAS 2007/A/1377; CAS 2007/A/1437) whereas inconsistencies/ambiguities in the rules must be construed against the legislator as per the principle of *"contra proferentem"* (CAS OG 14/002; CAS 2017/A/5006; CAS 2013/A/3324 & 3369; CAS 94/129; CAS 2009/A/1752; CAS 2009/A/1753; CAS 2012/A/2747; CAS 2007/A/1437; CAS 2011/A/2612).

170. Furthermore, the Panel notes that when interpreting the rules, it is necessary to consider whether the spirit of the rule (in as much as it may differ from the strict letter) has been violated (see CAS 2001/A/354 & 355; CAS 2007/A/1437; CAS OG 12/002). It follows that an athlete or an official or a club (or anyone bound by the rules), when reading the rules, must be able to clearly make the distinction between what is prohibited and what is not (CAS 2007/A/1437).

171. In CAS 2007/A/1363, in line with many CAS awards, the panel protected *"the principle of legality and predictability of sanctions which requires a clear connection between the incriminated behaviour and the sanction and calls for a narrow interpretation of the respective provision"*. However, the internal control

upon the rules of the federation is manifestly put in perspective and relativised by the fact that various laws, whether CAS or national court jurisprudence, do not require a strict assurance of the elements provided for disciplinary sanctions of the sports federation, as required by criminal law. Such case law rather recognises general elements, which constitute the basis for disciplinary sanctions (CAS 2007/A/1437 and CAS 2021/A/7701).

172. In light of the above considerations, the Panel finds that the term *"immediately"* is clear and specific enough and does not contravene the doctrines of legal certainty and foreseeability. It is a permissible and customary generic term that is at least determinable enough. UEFA must, however, bear the consequences of its own wording, in application of the *contra proferentem* rule (CAS 2019/A/6636, para 139). If it wants to persist in requiring a certain time frame in its reporting obligations, it should simply express this more clearly, for instance by stating that the approach must be reported (in any case or certain circumstances) *"within the first 24 hours"* or *"at least 12 hours before the next (relevant) match"*.

173. As long as such concretisations (possibly also with case examples) are not to be found in the regulations, a schematic or categorical definition of "immediately" is forbidden. Applied to the case at hand, this means, that penalising a person who has, in fact, reported an offer of several hundred thousand euros simply because there was a two-day delay, is excessive and disproportionate. Moreover, such a rigid stance by UEFA could possibly discourage stakeholders from reporting violations. Then the rules would also be counterproductive in the sense of the above-mentioned principles of interpretation (see *"spirit of the rules"*). These considerations alone outweigh all other arguments raised by the Respondent.

174. The Panel also does not fail to recognise that UEFA has chosen the word *"immediately"* as the verbally strictest form of immediacy and timeliness and not terms such as *"promptly"*, *"without undue delay"* or the like. However, as already indicated above, the term *"immediately"* still leaves many options as to when a report in the sense of Article 12(2)(e) should be made. Should it be only a few hours or, for example, no more than 12 hours or one or two days. As described, the variety of options is to the detriment of the rule maker UEFA, with the consequence that only a case-by-case analysis, taking into account the specific circumstances of the individual case, can provide the answer as to whether a report is still "immediate".

175. It is therefore necessary to examine the circumstances of the present case. In doing so, the Panel acknowledges that there are certainly periods of time which in any event and indisputably can no longer be classified as "immediately". In the Panel's view, this cannot in any case include the period of only "two days" that is at issue here, so that the specificities of the present case must be taken into account.

176. In this regard, first, the reasons why the Appellant waited until the date of Match 1 to report the approach cannot be totally disregarded. It should be underlined that the Appellant had just taken up his position as General Director of the Club when he received the offer, and probably preferred to discuss this important matter face to face with his Club's owner. Moreover, he did not know exactly who he should contact at UEFA, which may have further convinced him to wait for the official pre-game lunch. Ultimately, he seemed genuinely concerned about the

potential repercussions of his collaboration with UEFA. In this connection, the Panel does not overlook the fact that the Appellant did not assert and prove concrete threats. However, it is known to the Panel that it is not uncommon (and therefore understandable) for someone who has obviously and suddenly come into contact with a (possibly) criminal environment to want – for fear of retaliation – to give himself some time to think before officially disclosing the (potential) crime, names of the perpetrators, etc. In addition, the Appellant's concerns are supported by the testimony of Mr Trabucchi, who reported their conversations at the hearing, as well as by the amount at stake (for more details, see sections XI.G.b. ff)

177. Secondly, it is difficult to understand what more UEFA could have done if the Appellant had reported the offer earlier, on 9 July or 10 July 2018. UEFA itself stated in its submissions that forensic examination of cell phones takes *"at least several days"*. Similarly, the monitoring of betting patterns and the warning of referees was still feasible on 11 July 2018. While it is primarily up to UEFA to decide what can and cannot be done, this finding is relevant to an overall assessment of the Appellant's behaviour and UEFA regulations. Consequently, there were also no compelling circumstances that necessarily required the offer to be reported (far) before two days.

178. Finally, the Appellant and the Club's owner talked to the all players and warned them that Match 1 would be closely monitored, as evidenced by Mr Trabucchi's oral statements. This arguably reduced the likelihood of the plot coming to fruition.

179. Taking into account all these circumstances and considering that the term "immediately" is in need of concretisation, the Panel is of the opinion – albeit after long and intensive discussions – that there is no violation of the immediate notification requirement of Article 12 (2)(e) of the UEFA DR.

c) Extent of minimum amount of information required

180. The Appellant disclosed the name of Mr Aydov on 26 July 2018, namely 17 days after the approach, and deleted the application used to communicate with him from his phone. He explained that he had done so out of fear of retaliation and to avoid further contact and suspicion.

181. The Panel observes that recent CAS jurisprudence has already touched upon the issue of the extent of the minimum amount of information required from football stakeholders under Article 12(2)(d) and (e) of the UEFA DR:

"Indeed, the Panel finds that the Player would have complied with his duty to report if he had reported the match-fixing approach anonymously. That is to say, even if the Player had failed to provide further details such as the names of people involved in the match-fixing approach, the Player could not have been found guilty of violating Article 12(2)(d) UEFA DR, as such provision cannot be stretched beyond its wording ("immediately and voluntarily inform UEFA if approached in connection with activities aimed at influencing in an unlawful or undue manner the course and/or result of a match or competition"). Article 12(2)(d) UEFA DR for instance does not require someone to provide a minimum amount of information, let alone to come forward against gambling

syndicates, mafia and other forms of organised crime (as suggested by the Player), but only to report the match-fixing approach. It should, however, be noted, that a failure to provide further information may arguably be a reason for UEFA to sanction under Article 12(2)(e) UEFA DR ("immediately and voluntarily report to UEFA any behaviour he is aware of that may fall within the scope of this article"), as this provision emphasises the duty to report behaviour, which necessarily requires one to provide certain details and therefore goes beyond the mere reporting of an approach. UEFA also appears to distinguish between "those who breach their duty to report approaches (Art. 12(2)(d) DR) or their knowledge of a possible match-fixing plot (Art. 12(2)(e) DR)". The latter provision is however not in play here" (CAS 2018/A/5008, para 105).

182. The Panel notes that the Parties draw different conclusions from this award. The Appellant alleges that he cannot be found in breach of Article 12(2)(d) of the UEFA DR, as this article does not cover the failure to disclose the name of the person involved in the match-fixing scheme. He submits that he is also not guilty of a violation of Article 12(2)(e) of the UEFA DR, as this article governs the failure to report knowledge of a match-fixing plot, whereas the present case is about the alleged failure to report an approach. Conversely, the Respondent argues that these two articles are both relevant and have a cumulative scope.

183. The Panel concurs with the Appellant that Article 12(2)(d) of the UEFA DR only obliges a person to report a match-fixing offer, without providing further details, in light of CAS jurisprudence, which has favoured its literal meaning. As a result, and considering the above finding that the Appellant fulfilled the requirement of immediate notification under Article 12(2)(d) of the UEFA DR, the Panel finds that this provision cannot be applied in the present case.

184. In contrast, the Panel considers that the Appellant cannot escape the application of Article 12(2)(e) of the UEFA DR on the basis that he had no knowledge of any match-fixing plot. Indeed, Mr Aydov contacted him on 9 July 2018 with the purpose of influencing the outcome of Match 1. The Panel feels comforted in this interpretation by the broad wording of Article 12(2)(e) of the UEFA DR (failure to immediately report *"any behaviour* […] *that may fall within the scope of this article"*), which is in any case intended to apply as an additional "catch-all" clause to be applied in the event that the remaining clauses were not triggered. The Panel understands that Article 12 (2) (e) UEFA DR comes into play when the more specific provisions of Article 12(2) (a) to (d) UEFA DR are not applicable.

185. The Appellant cannot rely on the fact that the award discussed above did not ultimately retain a violation of Article 12(2)(e) of the UEFA DR. The conduct discussed therein was based on the opposite situation (i.e., the absence of immediate report of an approach by a player under Article 12(2)(e) of the UEFA DR).

186. The Panel therefore finds that the Appellant violated Article 12(2)(e) of the UEFA DR, by acting in contradiction with the need for expediency that characterizes the fight against match-fixing. Beyond any legal quibbling, he also violated his general duty to fully cooperate, which is enshrined in Article 12(1) of the UEFA DR *("all people bound by UEFA regulations* […] *must cooperate fully with UEFA"*).

187. The Panel considers it necessary to specify that this violation is minor. As such, the Appellant's concealment of Mr Aydov's name lasted only a limited time and was, again, accompanied by various safeguards, including the warning to all his players and the voluntary surrender of his phone to UEFA. It can also be explained by the fear of possible retaliation mentioned earlier.

188. Finally, the Appellant provided explanations as to why he deleted the app from his phone, noting that he wanted to cease further contact and avoid raising suspicions about his willingness to accept the offer and/or receive new offers. The Panel finds the explanations provided by the Appellant to be convincing and as such, does not consider these actions to constitute any independent violations of Article 12 of the UEFA DR.

d) Final remarks

189. The Panel concludes that the Appellant complied with his reporting obligation under Article 12(2)(d) of the UEFA DR by reporting the approach within two days and five hours prior to Match 1. However, he committed a violation of Article 12(2)(e) of the UEFA DR, in conjunction with Article 12(1) of the UEFA DR, by not disclosing the name of the person involved until after 17 days.

F. Violation of Article 12 of the UEFA DR in relation to Match 2

190. The Parties hold opposing views as to whether the Appellant violated Article 12(2)(d) and (e) of the UEFA DR in conjunction with Article 12(1) of the UEDA DR with regard to Match 2.

191. The Appellant argued that he did not breach Article 12(2)(d) and (e) of the UEFA DR. He sustained that Mr Bagirovs did not send him a bribing offer, but rather provided him with information regarding betting patterns and even encouraged his team. He maintained that UEFA's position is based on speculation rather than concrete evidence and that the Sportradar and Starlizard reports are contradictory and flawed. He stressed that he would not engage in match-fixing just a few days after reporting a similar activity and that Mr Bagirovs had been acquitted in criminal proceedings. He reiterated that Article 12(2)(e) of the UEFA DR was not relevant to his case. He concluded that he was not guilty of any violation in connection with Match 2.

192. The Respondent asserted that Articles 12(2)(d) and (e) of the UEFA DR are fully applicable. It submitted that Mr Bagirovs' message should be interpreted as a bribing offer, in light of the Sportradar and Starlizard reports, which are consistent and conclusive. It maintained that the Appellant's defence is unsupported, contains various inconsistencies and has varied over time. It stated that Mr Bagirovs' criminal acquittal is not relevant, as its grounds are unknown and stem from different provisions and standards. It concluded that the Appellant committed various violations in connection with Match 2.

193. The Panel undertakes a three-step approach to addressing this controversy, by proceeding as follows:

a. Was there an approach or reportable behaviour from Mr Bagirovs?

b. If so, was the Appellant aware of such approach or behaviour?

c. What are the consequences thereof?

194. In this context, the Panel will pay particular attention to the different means of evidence advanced and discussed by the Parties.

a) Existence of an approach or reportable behaviour

195. The Appellant stated that Mr Bagirovs' message, received on 17 July 2018, the contents of which are recounted below, was part of his efforts to fight match-fixing:

"So, if you lose by 2 or 3 goals … 25,000,

if 3 or 4 goals … 40,000

and if there are more than 3 or 4 goals in the match…50,000.

That's all for now. But nearer the match, I'll send you a message telling you how much it will be. That's it".

196. The Respondent asserted that this message was on the contrary an attempt to fix Match 2.

197. The Panel recalls that the Respondent had the burden to prove its allegation to the degree of comfortable satisfaction. The majority of the Panel (hereinafter: "the Panel") considers that it failed to do so, since both Parties raised equally compelling arguments.

198. The Panel agrees with the Respondent that Mr Bagirovs' message, taken intuitively and out of context, seems suspicious, especially since there were multiple interactions between the Appellant and Mr Bagirovs on the match day.

199. The Panel further agrees that the Sportsradar and Starlizard reports both support, at first sight, UEFA's interpretation and are not contradicted by any other report on file. Their findings can be summed up as follows:

- The Sportradar report, issued in July 2020, concludes that the defence put forward by the Appellant, that the audio message received from Mr Bagirovs was about a *"betting view"* on the betting markets on 17 July 2018, is *"highly unlikely"*. It exceeds the liquidity required on the Betfair exchange betting market for that match, does not correspond to the total goals market and involves unusual terminology.

- The Sportradar updated report, dated 11 April 2022, re-examines the message in question, at UEFA's request, in the light of the further elements of context provided by the Appellant, including his relationship with Mr Bagirovs, his position, his witness interviews

and statements, and the chronological state of events. It fully endorses the conclusions of the first report.

- The Starlizard report, dated 29 June 2020, concludes that the voicemail is *"most highly unusual and suspicious"*. However, it also accepts that, depending on the context, the sums of money referred to may make sense for a position on Betfair and thus be plausible.

- The Starlizard updated report, dated 8 April 2022, re-examines the voice message in question, at UEFA's request, in the light of the additional elements provided by the Appellant, in particular the first version of the Sportradar report, which details the amounts matched on Betfair on 17 July 2018. It concludes on this basis that *"the contents of the audio file is not consistent with betting amounts at Betfair, thereby making the explanation of the audio file very unlikely to be a plausible one"*.

200. The Panel also acknowledges that the Appellant's allegations before the Latvian police and UEFA, which took place six months apart, seem to contradict each other. The Appellant first claimed, on 22 November 2018, that he had *"missed or carelessly overheard"* Mr Bagirovs' voice message and had only paid attention to it after his detention. He further stated that he did not know why Mr Bagirovs had sent him such voice message and what he meant by it. On 11 April 2019, he explained instead that he was in touch with Mr Bagirovs as a betting expert with a view to identifying suspicious matches and betting patterns, following the match-fixing offer received from Mr Aydov. He acknowledged that he had called Mr Bagirovs back after Match 2 to clarify his voice message, and that Mr Bagirovs had explained to him that everything was fine with the coefficients and betting amounts placed.

201. That being said, in the Panel's opinion, these arguments are undermined by other elements, including the behaviour of the Appellant and overall circumstances, the limitations of the Sportradar and Starlizard reports, the outcome of the Latvian criminal proceedings, and the relationship between Mr Bagirovs and the Appellant.

202. These four elements are addressed in turn below.

i) The behaviour of the Appellant and overall circumstances

203. The Panel observes that the Appellant's behaviour would be highly unusual for someone who allegedly received a match-fixing offer or perceived reportable behaviour. The following chronological account of events, as retrieved from the Parties' submissions and the technical report on the Appellant's phone provided by UEFA, is the best evidence of this.

- On 9 July 2018, the Appellant received a 300,000 to 500,000 worth match-fixing offer from Mr Aydov in relation to Match 1, which he refused and reported to UEFA.

- On 17 July 2018, the Appellant initiated contact with Mr Bagirovs approximately two hours and a half before the kick-off of Match 2. About forty-five minutes later, he very briefly called Mr Bagirovs, after receiving the alleged match-fixing offer.

- On the same date, the Appellant attended Match 2 with the President and Sports Manager of his team in the stadium. On this occasion, he received a message from Mr Bagirovs, stating *"Push them, watching in Riga"*, to which he responded with a video of the game.

- On 26 July 2018, the Appellant freely agreed to a technical analysis of his mobile phone.

204. Considering these circumstances, the Panel believes that the timing of the offer to fix the Match 2 would be extremely tight, if not unrealistic. Even keeping in mind his high position within the Club, it would have been practically very difficult for the Appellant to act only two hours and a half before kick-off and negotiate privately with players who were getting ready and probably highly motivated to qualify for the Champions League. By comparison, the offer to fix Match 1 was made more than two days in advance.

205. The Panel does not see either why the Appellant would have contacted Mr Bagirovs, declined his offer and then sent him a video of the game. The Panel also considers it relevant that the Appellant was in the stadium with his Club staff when he was texting, filming, and sending the video, whereas conversations related to match-fixing are generally done in a more private manner.

206. Further, the Panel agrees that Mr Bagirovs' message, in which he stated *"Push them, watching in Riga"* - or *"crush them"*, according to the Appellant's latest translation - appears more like an encouragement, which would make no sense if he had in mind to offer the Appellant a sum of money in exchange for his team's defeat.

207. Then, the fact that the Appellant called Mr Bagirovs after receiving the alleged match-fixing offer confirms the version he expressed before UEFA, according to which he did not understand his message at first, but was then explained that it was an analysis of the betting markets.

208. Last but not least, the Panel fails to understand why the Appellant would have refused a match-fixing offer of 300,000 to 500,000 Euros from someone he knew for a long time, and then considered or voluntarily hid an offer of 25,000 to 50,000 Euros, namely ten times lower, from an acquaintance. Such behaviour, eight days apart, seems inconsistent, not to say incomprehensible. Nor can it plausibly be explained by reference to another currency, as the conversation took place between two Latvians in 2018.

209. These considerations, on their own, cast serious doubts on UEFA's interpretation.

ii) The limitations of the Sportradar and Starlizard reports

210. The Panel considers that the Sportradar and Starlizard reports are not as peremptory and crystal clear as the Respondent claims, and contain certain limitations.

211. The Starlizard report does not exclude the possibility that Mr Bagirovs' message is an overview of the bets (see report, p. 5: *"In answer to your question 'can this voice message be an overview of the bets that can be viewed on a betting related website?', the answer is yes: what we hear could be an overview of the traded volume seen on the website"*). In addition, while the updated Starlizard and Sportradar reports conclude that the possibility of an overview of the bets is *"very unlikely" or "highly unlikely"*, they leave a residual probability. In doing so, they definitely shift their focus on the Betfair betting exchange without further explanation, ignoring other platforms, which, without fundamentally impacting their conclusions, may give the appearance of bias.

212. The lack of evidence regarding underlying figures used in the Sportradar report also raises some doubt. Mr E., expert for Sportradar, explained that his projections were based on application programming interfaces (APIs), which provide *"very accurate"* data, including liquidity amounts. When asked why he did not enclose this data, he merely replied that no one had requested it and that it would be inconvenient to do so. In fact, this data was only provided to Mr G., expert for Starlizard, who expressly admitted at the hearing that he had not verified its veracity.

213. Moreover, both the Sportradar report and the updated Starlizard report do not contain the name(s) of the main appointed expert(s), which could, at least a theoretically, affect their probationary value (CAS 2016/A/4788, paras 104ff; see also CAS 2012/A/2957, paras 4.8ff, CAS 2016/A/4803, paras 103ff and CAS 2017/A/5477, paras 100ff, which recall that an expert's standing and experience must be taken into account when assessing his report). While both Mr E. and Mr G. appeared highly professional and invested in their cases – which they evidently oversaw from start to finish, the fact remains that they did not sign off these reports nor mention precisely who had prepared them. Further, their oral testimony sometimes went in opposite directions. In particular, Mr. E. emphasised that the new background information provided was *"irrelevant"* and did not change his assessment, as his primary task was to focus on the audio file and the authenticity of the defence presented by the Appellant. His persistence in denying the relevance of the overall context of the case appears somewhat surprising, and at odds with Mr G.'s assessment.

214. Finally, all Sportradar and Starlizard reports suggest that there were no unusual betting patterns during the period under review and that, therefore, Match 2 was not rigged. This means that, even if Bagirovs' voicemail was to be considered a match-fixing offer, the Appellant likely declined it (or accepted it and was unsuccessful - of which there is no evidence).

iii) The outcome of the Latvian criminal proceedings

215. The Panel observes that the Latvian criminal proceedings were terminated against the Appellant and resulted in a summary of acquittal regarding Mr Bagirovs. The outcome of these proceedings has some limited value, since they are based on a higher standard of proof and different provisions. The Panel further notes that these proceedings did not involve an examination of the duty to report approaches to fix matches. In addition, it is not certain from the evidence before the Panel that Mr Bagirovs' summary of acquittal has, to date, come into effect, and its exact grounds remain unknown.

216. That being said, the outcome of the Latvian criminal proceedings cannot be totally ignored, and constitutes a body of evidence among others that tends to support the Appellant's good faith. It should also be recalled that part of the Respondent's argument regarding Match 2 is based on Mr Bagirovs' alleged guilt and match-fixing approach (see e.g. UEFA's Answer, p. 24: *"Mr Bagirovs' (and by extension, Mr Gauračs') defence is very unlikely to be plausible"*). Yet, this argument appears somewhat unsound in light of recent developments.

iv) The relationship between Mr Bagirovs and the Appellant

217. The Panel observes that Mr Bagirovs did not testify at the hearing as originally announced, and could not be cross-examined as to the exact meaning of his contentious message. There is, however, some limited evidence that Mr Bagirovs was assisting the Appellant with match-fixing.

218. The testimonies of [the Integrity Officer of the Latvian Football Federation] and Mr Trabucchi confirmed that the Appellant was collaborating with the Latvian police and the LFF regarding match-fixing. Although they did not fully elaborate on how he obtained this sensitive information, Mr Trabucchi stated that the Appellant had referred to Mr Bagirovs as an informant *"at some point"* during their conversations.

219. In any event, even assuming that Mr Bagirovs was not assisting the Appellant or giving him useful advice, this would not automatically mean that his message was an approach to manipulate the Match 2. Indeed, it cannot be entirely ruled out that Mr Bagirovs was mistaken in his calculations and predictions articulated in his message.

v) Summary

220. The Panel is not convinced by the Respondent's assertion that there was a match-fixing approach or behaviour that should have been reported pursuant to Article 12(2)(d) and (e) of the UEFA DR. The Panel considers that the scenario put forward by the Appellant is equally plausible, and that the Respondent thus failed to meet its burden of proof to the standard of comfortable satisfaction.

b) Appellant's awareness of the approach or behaviour from Mr Bagirovs

221. The Panel consents to accept, in the alternative, that the Appellant did not have demonstrable "knowledge" that Mr Bagirovs' message may fall within the scope of Article 12 of the UEFA DR *("any behaviour he is aware of"*).

222. Indeed, regardless of when the updated Sportradar and Starlizard reports were issued, Mr Bagirovs' message raised technical questions, which provoked various expert debates as to the relevant betting websites and liquidity amounts. As a result, it is possible that the Appellant did not fully understand them from the outset, despite the very short phone call that took place between him and Mr Bagirovs after the game.

c) Final remarks

223. In view of the above, the Panel retains that the Appellant did not commit any breach of the UEFA DR in relation to Match 2.

G. Proportionality of the sanction

224. The Panel next turns to assess the proportionality of the three-year ban on all football-related activities imposed on the Appellant by the UEFA Appeals Body.

225. As recognised by the CAS in various precedents (see *inter alia* CAS 2005/A/976 & 986), the principle of proportionality under Swiss law implies that there must be a reasonable balance between the misconduct of the actor and the applicable sanction. More specifically, the principle of proportionality requires that: *"(i) the measure taken by the disciplinary body is capable of achieving the envisaged goal; (ii) the measure is necessary to reach the envisaged goal; and (iii) the constraints which the affected person will suffer as a consequence of the measure are justified by the overall interest to achieve the envisaged goal"* (CAS 2019/A/6219; CAS 2019/A/6489). In other words, to be proportionate a measure must not exceed what is reasonably required in the search of a justifiable aim.

226. In addition, the principle of proportionality dictates that the most extreme sanction must not be imposed before other less onerous sanctions have been considered and rejected as insufficient. Ultimately, whether a sanction is proportionate depends of the circumstances of each case (CAS 2011/A/2670; CAS 2019/A/6220; CAS 2019/A/6489).

227. This is exemplified by Article 23 of the UEFA DR, which reads as follows:

> *"[1] The competent disciplinary body determines the type and extent of the disciplinary measures to be imposed in accordance with the objective and subjective elements of the offence, taking account of both aggravating and mitigating circumstances.*
>
> *[2] If the competent disciplinary body is of the opinion that information provided by the party charged has been decisive in uncovering or establishing a breach of UEFA's rules and regulations, it may exercise its discretionary powers and scale down its disciplinary measures or even dispense with them entirely.*
>
> *[3] Disciplinary measures can be reduced or increased by the competent disciplinary body on the basis of the circumstances of the specific case. In the case of offences related to Article 16(2)(e), the competent disciplinary body may take into consideration the immediate reaction of the host club or national association as a mitigating circumstance".*

228. In that instance, the UEFA Appeals Body's reasoning is premised on the fact that the Appellant breached Articles 12(2)(d) and (e) of the UEFA DR in conjunction with Article 12(1) DR in relation to both Match 1 and Match 2. It considered one aggravating circumstance: the failure to immediately provide a complete account of the facts related to the match-fixing approach, including the name of Mr Aydov and the deletion of the application by means of which he was contacted. It denied all the mitigating circumstances invoked by the Appellant, including his

alleged substantial assistance, safety fears, prompt reaction, absence of experience, collaboration during the investigation, confidential involvement within the Latvian police, impeccable reputation and the length of UEFA proceedings. It rejected the Appellant's comparison with other CAS awards, due to his senior position.

229. The Panel is of the opinion that the sanction imposed on the Appellant is grossly disproportionate and should be reduced, given that three of the four breaches identified at first instance were dropped, and that only one breach remained. The Panel considers that the circumstances of the case, the relevant jurisprudence and legal writing, as well as the weighting of interests involved, also point in this direction, as developed below.

a) Aggravating circumstances

230. The Panel finds, contrary to the Appealed Decision, that the partial information provided by the Appellant for Match 1 should not be retained as an aggravating circumstance, since this was already accounted for as a separate offence under Article 12(2)(e) of the UEFA DR. Any other solution would amount to punish the Appellant twice for the same lapse.

b) Mitigating circumstances

231. The Panel confirms that UEFA did not breach the principle of estoppel by investigating secretly and abusively, nor did it deliberately delay the proceedings. The Panel also accepts that UEFA's relatively long investigation and procedure did not impact the Appellant until he was suspended on 19 October 2021 and did not negatively influence his behaviour (CAS 2020/A/7596, para 258, *a contrario*).

232. The Panel determines, however, that several mitigating circumstances invoked by the Appellant, namely the safety fears and the assistance/collaboration in the fight against match-fixing, were overlooked by the UEFA Appeals Body, and should be considered while deciding the applicable sanction.

i) Safety fears

233. UEFA emphasised that a danger of an abstract nature, such as the one invoked by the Appellant in relation to Mr Aydov, was not sufficient to relieve an individual of his obligations to report match-fixing (CAS 2018/A/5800, para 108).

234. Notwithstanding the above, the Panel is convinced that the Appellant was genuinely frightened and intimidated. Although the Appellant allegedly referred to Mr Aydov as a "friend" during the UEFA proceedings, he made it clear at the hearing that Mr Aydov was only a former teammate and that he had no ongoing relationship with him. Whatever the nature of their relationship is, it is in any case plausible that the Appellant's refusal and subsequent collaboration with UEFA could have had negative consequences. This is also corroborated by the amounts at stake, and the testimony of Mr Trabucchi at the hearing, who confirmed that

the Appellant initially refused to disclose Mr Aydov's name because he was concerned about the safety of his family.

ii) Assistance and collaboration

235. UEFA maintained that the Appellant did not formally meet the conditions of a whistle-blower and substantial assistance under Article 23(2) of the UEFA DR, as he turned to be under suspicion in both the UEFA and the Latvian criminal proceedings and was in any case obliged to collaborate based on Article 12 of the UEFA DR. In any event, his assistance, if any, had no *"measurable results"*.

236. Nevertheless, the Panel notes that Appellant was ultimately cleared by the Latvian criminal court, and made numerous efforts to contribute to the fight against match-fixing during the past few years. This is evidenced by several elements:

- UEFA Match-fixing report of 1 April 2020

  This report includes, on pages 7-8, screenshots of text messages that were provided by the Appellant to the LFF and then UEFA in relation to an Armenian player who proposed him to fix a game and ultimately received a life ban.

- [the Integrity Officer of the Latvian Football Federation]'s testimony at the hearing

  The Integrity Officer of the Latvian Football Federation] confirmed that he was in touch with the Appellant regarding match-fixing with the LFF and Latvian police. Although he repeatedly denied receiving any *"useful information"* from the Appellant at UEFA and CAS hearings, he finally acknowledged forwarding the relevant screenshots to UEFA during his last testimony.

- Mr Trabucchi's testimony at the hearing

  Mr Trabucchi confirmed that the Appellant was in touch with the LFF in connection with match-fixing, and warned his players against any attempt to fix Match 1, which would be closely monitored.

- The Appellant's report of Mr Aydov's match-fixing offer

  The Appellant triggered UEFA disciplinary investigation by refusing and anonymously reporting Mr Aydov's substantial match-fixing offer regarding Match 1.

237. In view of the above, UEFA's assessment regarding the absence of substantial assistance may appear unfair, even though the conditions for such recognition are usually restrictive (see e.g. CAS 2018/A/5800, paras 80ff). In any event, the Appellant's attempts to combat match-fixing should at the very least be considered as a mitigating circumstance under Article 23(1) of the UEFA DR, regardless of their concrete outcome.

238. Finally, the Appellant fully cooperated with the UEFA disciplinary investigation. He participated willingly and personally in all interviews and at all stages of UEFA investigation and procedure – apart from the UEFA CEDB hearing, where he was represented – and even provided his mobile phone for analysis. By contrast, Mr Aydov, who approached the Appellant with a match-fixing offer and did not appear before UEFA at all, was given a sanction of three years by UEFA[1]. It certainly cannot be sustained that Mr Aydov and the Appellant deserve the same period of ban as a sanction.

c) Jurisprudence and legal writing

239. UEFA retained that the Appellant held a senior position, which required the highest degree of integrity and distinguishes his situation from that examined in other CAS awards.

240. The Panel does not fully adhere to such reasoning, which is outweighed by the Appellant's relative inexperience. It should be recalled that the Appellant had only been the Club's General Director for less than one month when he received the match-fixing offer in July 2018. This is confirmed by Mr Trabucchi's testimony, who indicated that he hired the Appellant straight after the end of his football career, in July 2018, despite his lack of work and academic background in sports management.

241. The Panel must also point out, as UEFA admitted in its Answer, that the "standard sanction" for passive match-fixing cases is a 1.5 year-ban:

> *"In general, passive match-fixing violations, such as the one committed by the Player in the matter at hand, shall in principle be sanctioned less severely than active match-fixing offences. This principle as such does however not appear to be disputed by UEFA, as UEFA argues that for active match-fixing a life-time ban is to be imposed, whereas for passive match-fixing violations a standard sanction of a 1.5 year ban shall in principle be imposed".* (CAS 2018/A/5800, para 118).

242. This solution also finds support in the recent legal writing and IOC recommendations (see KUWELKAR/DIACONU/KUHN, "Competition manipulation in international sport federations' regulations: a legal synopsis", The International Sports Law Journal, 2022 (22), p. 297, who suggest 0-2 years ban for a failure to report or cooperate, with reference to the IOC Sanctioning Guidelines; HAAS/HESSERT, "Sanctioning regime in match-fixing cases", Jusletter, 21 June 2021, Rz 23, who recommend 6-12 months).

243. The Panel does not see what would justify imposing a sanction twice as long as the "standard" sanction on the Appellant in this case, especially since he must, as previously mentioned, be given the benefit of various mitigating factors. On the contrary, and as he convincingly argued, other people indicted in similar or more serious cases received much lighter sanctions, going

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[1] See UEFA report entitled *"Control, Ethics and Disciplinary Body meeting"*, 23 March 2021, p. 5, which is available on UEFA website (cedb_decisions_-_panel_-_23.03.2021_20210413115940.pdf (uefa.com)).

from suspended bans to two-year bans (CAS 2010/A/2266; 2010/A/2267, 2278, 2279, 2280, 2281, paras 1161-1162 and 1174; CAS 2018/A/5800, para 118).

d) Weighting of interests

244. Once again, the Panel wishes to reiterate that it considers the fight against match-fixing as an extremely important issue and does not lose sight that every match-fixing offence is serious. However, the Panel determines that imposing a three-year sanction on the Appellant for the sole failure to (fully) report "behaviour" under Article 12(2)(e) of the UEFA DR in relation to Match 1 would be too severe, counterproductive and contrary to his legitimate interests.

245. In that respect, the Appellant's closing remarks were quite telling and seemed genuine. He pointed out that his whole life had so far been devoted to football, as a professional player and then as a manager. He had not been able to support his wife and two children since his ban from football ten month earlier. He emphasised that he felt deeply sorry about the current situation and that he had never personally harmed the integrity of football in any way. As a result, he simply hoped to clear his name and reputation and get back to work.

246. In this context, the Panel finds that a 15-month ban would already serve as an effective deterrent and represents a sufficiently strong punishment for the passive match-fixing offence committed by the Appellant. Further, by banning the Appellant for a period of 15 months, the Respondent's aims including adopting a *"zero tolerance"* approach to all forms of failures to report and collaborate and strongly dissuading recidivism and similar conduct by others, are fulfilled sufficiently. In other words, this sanction of a fifteen-month period of ineligibility is proportionate to the offence, since it does not exceed what is reasonably required in the search of a justifiable aim.

e) Final remarks

247. In summary, the Panel decides to reduce the sanction of a three-year ineligibility period imposed on Mr Gauračs by the UEFA Appeals Body to an ineligibility period of 15 months. For the sake of clarity, the Panel states that the period of ineligibility already served by the Appellant since 19 October 2021 shall be discounted.

XII. CONCLUSION

248. Based on the foregoing, and after taking due consideration of all the evidence produced and all arguments made, the Panel finds that:

    i. The Respondent did not breach the Appellant's right to a fair trial established in Article 6 ECHR, nor any other fundamental principles of criminal law and criminal procedural law, which are in any case not directly applicable in disciplinary proceedings.

ii. The Appellant breached Article 12(2)(e) of the UEFA DR, in conjunction with Article 12(1) of the UEFA DR in relation to Match 1, but did not commit any breach in relation to Match 2.

iii. The three-year period of ineligibility imposed on the Appellant pursuant to the Appealed Decision is grossly disproportionate, and shall be reduced to a fifteen-month period.

249. All other and further motions or prayers for relief are dismissed.

ON THESE GROUNDS

The Court of Arbitration for Sport rules that:

1. The appeal filed on 7 March 2022 by Mr Edgars Gauračs against the decision rendered by the UEFA Appeals Body on 7 February 2022 is partially upheld.

2. The decision of the UEFA Appeals Body of 7 February 2022 is amended as follows.

   "2. The Spartaks Jūrmala official, Mr Edgars Gauračs, is banned from exercising any football-related activity for 15 (fifteen) months as of 19 October 2021 (i.e. the date that the UEFA Control, Ethics and Disciplinary Body's decision was notified), for the violation of Articles 12(2)(e) DR in connection with Article 12(1) DR".

3. (…).

4. (…).

5. All further or different motions or prayers for relief are dismissed.