



TAS / CAS

TRIBUNAL ARBITRAL DU SPORT
COURT OF ARBITRATION FOR SPORT
TRIBUNAL ARBITRAL DEL DEPORTE

CAS 2022/A/8709 Football Union of Russia (FUR) v. Union of European Football Associations et al.

ORDER

on Request for a Stay and for Provisional Measures

issued by the

**President of the Appeals Arbitration Division of the
Court of Arbitration for Sport**

in the arbitration between

Football Union of Russia, Moscow, Russia

Represented by Messrs Yury Zaytsev, Alexandre Zen-Ruffinen, Ilya Chicherov and Yury Yakhno, Attorneys-at-Law with SILA International Lawyers, Neuchatel, Switzerland, and Moscow, Russian Federation

Appellant

v.

Union of European Football Associations, Nyon, Switzerland

Represented by Prof. Dr Antonio Rigozzi and Ms Brianna Quinn, Lévy Kaufmann-Kohler, Geneva, Switzerland

First Respondent

and

Hellenic Football Federation, Athens, Greece

Second Respondent

Association Belarus Football, Minsk, Belarus

Third Respondent

Danish Football Association, Brøndby, Denmark

Fourth Respondent

Luxembourgish Football, Mondercange, Luxemburg

Fifth Respondent

Austrian Football Association, Wien, Austria

Sixth Respondent

Malta Football Association, Ta' Qali, Malta

Seventh Respondent

Portuguese Football Federation, Cruz Quebrada – Dafundo, Portugal

Eight Respondent

The Football Association, London, United Kingdom

Ninth Respondent

Spanish Football Association, Las Rozas Madrid, Spain

Tenth Respondent

Irish Football Association, Belfast, Northern Ireland

Eleventh Respondent

French Football Association, Paris, France

Twelfth Respondent

I. THE PARTIES

1. The Football Union of Russia (the “Appellant” or the “FUR”) is the governing body of football in the Russian Federation. It has its seat in Moscow, Russian Federation, and is a member of the Union of European Football Association (“UEFA”) and the Fédération Internationale de Football Association (“FIFA”).
2. UEFA (also referred to as the “First Respondent”) is the governing body of European football. It is an association incorporated under Swiss law with its registered office in Nyon, Switzerland.
3. The Hellenic Football Federation (the “Second Respondent”) is the governing body of football in Greece. It has its seat in Athens, Greece, and is a member of UEFA and FIFA.
4. The Association Belarus Football (the “Third Respondent”) is the governing body of football in Belarus. It has its seat in Minsk, Belarus, and is a member of UEFA and FIFA.
5. The Danish Football Association (the “Fourth Respondent”) is the governing body of football in Denmark. It has its seat in Brøndby, Denmark, and is a member of UEFA and FIFA.
6. The Luxembourgish Football (the “Fifth Respondent”) is the governing body of football in Luxembourg. It has its seat in Mondercange, Luxembourg, and is a member of UEFA and FIFA.
7. The Austrian Football Association (the “Sixth Respondent”) is the governing body of football in Austria. It has its seat in Wien, Austria, and is a member of UEFA and FIFA.
8. The Malta Football Association (the “Seventh Respondent”) is the governing body of football in Malta. It has its seat in Ta' Qali, Malta, and is a member of UEFA and FIFA.
9. The Portuguese Football Federation (the “Eight Respondent”) is the governing body of football in Portugal. It has its seat in Cruz Quebrada – Dafundo, Portugal, and is a member of UEFA and FIFA.
10. The Football Association (the “Ninth Respondent”) is the governing body of football in England. It has its seat in Londong, United Kingdom, and is a member of UEFA and FIFA.
11. The Spanish Football Association (the “Tenth Respondent”) is the governing body of football in Spain. It has its seat in Las Rozas Madrid, Spain, and is a member of UEFA and FIFA.
12. The Irish Football Association (the “Eleventh Respondent”) is the governing body of football in Northern Ireland. It has its seat in Belfast, Northern Ireland, and is a member of UEFA and FIFA.
13. The French Football Association (the “Twelfth Respondent”) is the governing body of football in France. It has its seat in Paris, France, and is a member of UEFA and FIFA.
14. Respondents 2 to 12 are also referred to as the “Other Respondents”.
15. The Appellant and the Respondents are collectively referred to as the “Parties”.

II. FACTUAL BACKGROUND

16. The elements set out below are a summary of the main relevant facts as established by the President of the Appeals Arbitration Division (the “Division President”) of the Court of Arbitration for Sport (the “CAS”) based on the Parties’ submissions and documents on file.
17. The present Appeal has its roots in the current wartime events unleashed with the beginning, on 24 February 2022, of the military invasion of Ukraine by the Russian Government. In view of the sensitivity of the subject, this Order will not go into further details of the ongoing war events, deferring to what is widely reported by the international press.
18. The International Community immediately and vehemently condemned the invasion of Ukraine by the Russian Government, and a series of sanctions against the Russian Federation have been imposed. The world of sport also voiced its condemnation of the actions taken by the Russian Government.
19. In particular, on 28 February 2022, the Executive Board of the International Olympic Committee (IOC) issued the following resolution (the “IOC Resolution”):
 - “1. *In order to protect the integrity of global sports competitions and for the safety of all the participants, the IOC EB recommends that International Sports Federations and sports event organisers not invite or allow the participation of Russian and Belarusian athletes and officials in international competitions.*
 2. *Wherever this is not possible on short notice for organisational or legal reasons, the IOC EB strongly urges International Sports Federations and organisers of sports events worldwide to do everything in their power to ensure that no athlete or sports official from Russia or Belarus be allowed to take part under the name of Russia or Belarus. Russian or Belarusian nationals, be it as individuals or teams, should be accepted only as neutral athletes or neutral teams. No national symbols, colours, flags or anthems should be displayed.*
 3. *Wherever, in very extreme circumstances, even this is not possible on short notice for organisational or legal reasons, the IOC EB leaves it to the relevant organisation to find its own way to effectively address the dilemma described above.*
 4. *In this context, the IOC EB considered in particular the upcoming Paralympic Winter Games Beijing 2022 and reiterated its full support for the International Paralympic Committee (IPC) and the Games.*
 5. *The IOC EB maintains its urgent recommendation not to organise any sports event in Russia or Belarus, issued on 25 February 2022.*
 6. *The IOC EB has, based on the exceptional circumstances of the situation and considering the extremely grave violation of the Olympic Truce and other violations of the Olympic Charter by the Russian government in the past, taken the ad hoc decision to withdraw the Olympic Order from all persons who currently have an important function in the government of the Russian Federation or other government-related high-ranking position [...]”.*

20. Also, on 28 February 2022, the UEFA Executive Committee issued, by means of a Circular addressed to all Member Federations, the following decision (the “Appealed Decision”):

“Since the last meeting of the UEFA Executive Committee that took place on 25 February 2022, where the topic of the situation related to Russia and Ukraine was discussed and some decisions were taken, the situation in Ukraine has continued to drastically escalate and the international community, including sport organisations, have taken a strong stance against these military interventions. UEFA, has continued evaluating the situation, especially, in the framework of its statutory values, mission and objectives.

In addition, an increasing number of UEFA national associations publicly voiced their intention to not participate in matches against teams from the Russian Football Union (RFU).

Further, the general public’s reaction has the consequence that, even if matches against Russian teams would be staged on a neutral territory, there are serious concerns about the ability to ensure the safety and security for all those involved, i.e. delegations, players, supporters etc. This is of paramount importance for UEFA.

Equally, it has become known that several governments and the EU institutions have imposed flight bans from or to the Russian territory. This would have an additional considerable impact on the smooth staging and running of UEFA competition matches.

Following the above-mentioned reasons, it becomes regrettably evident that UEFA is no longer in a position to fully achieve its objectives as stipulated in the UEFA Statutes under Article 2 par. 1(b) [“promote football in Europe in a spirit of peace, understanding and fair play, without any discrimination on account of politics, gender, religion, race or any other reason”] and Article 2 par. 1(d) [“organise and conduct international football competitions and tournaments at European level for every type of football whilst respecting the players’ health”].

Therefore, the UEFA Executive Committee met today and decided that, in order to be able to achieve its statutory objectives, all Russian representative teams and clubs are suspended from taking part in UEFA competition matches, until further notice.

As far as the upcoming Round of 16 matches of the 2021/22 UEFA Europa League between the German club, RB Leipzig, and the Russian club, FC Spartak Moskva, scheduled to take place on 10 and 17 March 2022 are concerned, it is uncertain when and if the suspension of Russian representative teams and clubs will be lifted.

Accordingly, in view of this uncertainty and taking into consideration that all pairings for the round of 16 of the relevant competition have been made, the UEFA Executive Committee has decided that RB Leipzig is automatically qualified to the next round of the competition.

The UEFA Executive Committee will continue to assess the developments of the situation and may meet again in the following days to potentially take further decisions.”

21. As a consequence of the Appealed Decision, the Appellant's national teams have been removed from the following competitions (the "Competitions"):
- 1) UEFA Women's U17 Championship: the Appellant's national representative was due to participate in the first game of the second round of this competition on 13 March 2022.
 - 2) UEFA U17 European Championship: the Appellant's national representative was due to participate in the first game of the Elite round on 23 March 2022.
 - 3) UEFA U19 European Championship: the Appellant's national representative was due to participate in the first game of the Elite round on 23 March 2022.
 - 4) UEFA U21 European Championship: the Appellant's national representative was due to participate in the first game of the qualifying rounds on 25 March 2022.
 - 5) UEFA Women's European Futsal Championship: the Appellant's national representative was due to participate in the semi-final on 25 March 2022.
 - 6) UEFA U19 Futsal Championship: the Appellant's national representative was due to participate in the UEFA U19 Futsal Championship 2021-22 on 16 March 2022.

III. SUMMARY OF THE ARBITRAL PROCEEDINGS BEFORE THE CAS

22. On 7 March 2022, the Appellant lodged an appeal with the CAS against the Respondents with respect to the Appealed Decision. In its Statement of Appeal, the Appellant included a Request for Provisional Measures and for a Stay of the Appealed Decision (the "Request") pursuant to Article R37 of the Code of Sports-related Arbitration (2020 edition) (the "Code"), asking for Order to be issued by 11 March 2022.
23. On 8 March 2022, the CAS Court Office initiated the present procedure and invited the Respondents to, *inter alia*, file their comments on the Request by 10 March 2022.
24. On 10 March 2022, UEFA filed its Answer to the Request (the "UEFA's Answer"). The Other Respondents did not file any comment.
25. On 11 March 2022, the CAS Court Office served a copy of the UEFA's Answer to the other Parties. Furthermore, the Parties were advised that the CAS Court Office fee was not received yet and that, therefore, the Order on the Appellant's Request would have not been issued until receipt of such payment.

IV. SUMMARY OF THE PARTIES' SUBMISSIONS

A. THE APPELLANT

26. With its Request, the Appellant prays for the following interim relief:

“Grant the suspensive effect to the present Appeal and/or, if needed, order UEFA to take all necessary measures to reinstate immediately all Russian teams, whether national representative teams or club teams, for participation in UEFA competitions, including, but without limitation, in the competitions mentioned in the present Statement of Appeal. In support of his Request, the Appellant submits the following”.

27. The Appellant's Request may be summarized as follows:

28. As to the irreparable harm, the Appellant submits that as a consequence of the Appealed Decision, the *“Appellant's teams have been suspended”* from participating in the Competitions, which will cause *“long term sporting consequences and other non-sporting consequences as well, notably financial and in terms of the Appellant's associative rights”*. Given the *“length of time between issuing an order on provisional and conservatory measures and the scheduled hearing or final award”*, such harm would only be compound. The Appellant relies on some CAS precedents according to which missing major sports events represents irreparable harm and argues that *“if the stay is not granted and the appeal is finally upheld, it would be complicated, if not impossible, to include the Appellant's representative team to UEFA competitions and even restore the chance to promote to final stages of some tournaments on sporting merits. In other words, the Appellant's team will highly likely be effectively and finally deprived of the right to take part in the UEFA competitions”*.

29. The Appellant further argues that *“[t]he effects of the exclusion will also be felt in subsequent tournaments in which the Appellant's national teams may participate, as its UEFA ranking will have been impacted, exposing it to more difficult draws”*. In the Appellant's view, such *“disadvantage [...] typically a damage that cannot be quantified”*. In addition, *“[b]y losing the opportunity to compete against opponents of high standard in the major tournaments, the Appellant also loses the chance to gain international experience and to raise its sporting level”*, which would represent a damage that cannot be quantified.

30. It is advanced by the Appellant that *“the stay of the Appellant's suspension would not prevent the CAS from confirming the Appellant's exclusion if the appeal would be dismissed. Should it be the case, the Appellant's representative teams may be replaced in the final stage of any final tournament, or may be forfeited, as the case may be”*.

31. Finally, the Appellant submits that there would not be any irreparable harm for the other Respondents, since they *“are not involved in the situation occurred between Russia and Ukraine (i) being not domiciled within Russia or Ukraine and (ii) being non-governmental institutions which should maintain political neutrality as per UEFA Statutes, irrespective of the approach of their countries' governments”*. Hence, the Other Respondents' interests *“to gain positive result for them on sporting merits”* would not be affected by a stay of the Appealed Decision.

32. As to the likelihood of success, the Appellant first submits that “*it suffices that the likelihood of success on the merits “cannot be denied” or “cannot be definitively discounted”*”.
33. The Appellant further advances that the Appealed Decision is not justified by any “*superior decision*”. In particular, the Appellant argues that the IOC Recommendations, which the Appellant identifies as the basis for the Appealed Decision, shall not have any binding effect on UEFA.
34. Furthermore, the Appellant submits that the Appealed Decision violates the Statutes of UEFA, for the following grounds:
- The Appealed Decision violates the provisions relating to suspension of member associations, since a member association can only be suspended if it “*has committed a serious breach of these Statutes or regulations or decisions made under them*”: in the case at hand, no such breach has been committed by the Appellant;
 - The Appellant has a statutory right to take part in the UEFA Competitions;
 - The Appealed Decision violates the duty of political neutrality imposed by the Statutes of UEFA, since the Appealed Decision was taken “*under pressure of member associations, which publicly announced that are not going to play with the Appellant’s representative teams whatsoever*”;
 - The Appealed Decision, which infringes the Appellant’s personality rights, further violates the prohibition of discrimination and is disproportionate;
 - Finally, the Appealed Decision is clearly a disguised disciplinary sanction and, as such, the Appellant’s procedural guarantees, including the right to be heard, should have been respected.
35. The Appellant further submits that the balance of interest clearly tips in its favour, since the possible harm that the Appealed Decision may cause to the Appellant outweighs any other interest at stake.
36. In this regard, the Appellant advances that the interest of the Other Respondents “*are not harmed by participation of the Appellant’s representative teams. As provided by the Statutes, these should be politically neutral organizations which refrain from any “solidarity” with the positions of their respective states of domicile unless a binding decision of international body such as UN is passed (which is not the case yet). More, the respective states of the [Other Respondents] are not involved in any military action and have opportunity to play football*”.
37. The Appellant further argues “*that it is even in UEFA’s interests to provide the Appellant with an opportunity to play the matches. The international tournaments under the auspices of UEFA (especially youth ones) are to the great extent provide the opportunity to young players to test their skills among the best fellows from the other countries, and serve as a good start for promising careers of those who are going to devote all their life to football*”.
38. As further argument, the Appellant submits that “*there is still an opportunity to organize matches on a neutral pitch*”, as already made by UEFA in the past “*in case political reasons prevent the host or guest team to play on the territory of one-member association*”.

39. It is also argued by the Appellant that although Russian aircrafts have been banned from all European countries, *“Turkish air space is still open for both flights of Russian and EU crafts”*, which should enable to organize matches with the Appellant’s teams. In addition, the Appellant submits that *“the matches can be conducted without spectators and with enforced security measures. Given that the Appellant’s representatives are more vulnerable in this aspect considering the current political situation, additional expenses for security measures may be covered for the host by the Appellant”*.
40. The Appellant finally reiterates that *“the stay of the Appellant's suspension would not prevent the CAS from confirming the Appellant's exclusion if the appeal would be dismissed and would not prevent UEFA from issuing respective directions on replacement of the Appellant’s team or their forfeit, as the case may be”*.

B. THE RESPONDENTS

a) UEFA

41. In its Answer, UEFA requested to issue an Order:

“1. Dismissing the Football Union of Russia’s request for a stay of execution of the Appealed Decision and further provisional measures contained at paragraph 43 and page 35 of its Statement of Appeal.

2. Condemning the Appellant to pay UEFA compensation for the costs incurred in connection with the Appellant’s Request as part of the final decision on costs.”

42. UEFA’s position can be summarized, in essence, as follows:

43. There is no risk of irreparable harm, since:

- a) In general, the risk of not being able to participate in a competition does not represent, *per se*, irreparable damage, as such damage can in any event be remedied by means of financial compensation;
- b) The Appellant cannot rely on its possible future results in the competitions at stake in order to establish irreparable damage in these proceedings;
- c) Any additional potential damage, such as loss of visibility, is perfectly quantifiable and can be repaired.

44. UEFA further submits that there is no likelihood of success on the merits. In this regard, UEFA first points out that *“[t]he Appealed Decision was not based on any “superior decision or order [...] but on UEFA’s exercise of its own prerogatives”*.

45. Furthermore, it is UEFA’s position that the Appealed Decision does not violate its Statutes. In particular, UEFA submits that the Appellant’s teams *“have been suspended as the result of the objective situation created by Russia’s invasion of Ukraine, not because UEFA politically agrees with Ukraine”*. UEFA further submits that there is *“a tangible risk that allowing Russian teams to continue to compete in UEFA competitions will create a security risk to players (of*

both the opposing team and the FUR's own players), officials, fans and even host cities and countries. Allowing such a risk would certainly not be in line with UEFA's objective to stage its competitions "whilst respecting the players' health".

46. As to the alleged violation of the provisions relating to the suspension of member associations, UEFA stresses that the Appealed Decision "*did not suspend the FUR's membership but rather suspended "all Russian representative teams and clubs [...] from taking part in UEFA competition matches, until further notice"* and that such decision was taken within the prerogatives of the Executive Committee, in accordance with the Statutes of UEFA.
47. UEFA further submits that there is no "absolute right" to participate in its competitions, as such "right" can be limited for "any number of legitimate reasons", as the present case.
48. UEFA also rejects the Appellant's allegations of a breach of the duty of political neutrality or of the prohibition of discrimination, since the Appealed Decision is not based on political considerations.
49. Finally, UEFA claims that the balance of interest tips in its favour.
50. First, the Statutory objectives of UEFA to "*promote football in Europe in a spirit of peace, understanding and fair play, without any discrimination on account of politics, gender, religion, race or any other reason [...] whilst respecting the players' health"* outweigh any other possible interest.
51. In fact, UEFA submits that "*safety and security of UEFA Competitions – and all individuals engaged in same must be paramount*". In particular, UEFA argues that playing on neutral pitch without spectator cannot be a solution. It must indeed be considered the "*impact that such measures would have on the Appellant's opponents in the relevant competitions, nor the likely detrimental effects on such competitions if Russian teams were permitted to participate*". In addition, UEFA advances that "*there is simply no way to ensure the security of all participants in the UEFA competitions at stake should the Russian teams be permitted to participate*".
52. Furthermore, UEFA warns that it is not possible to "*disregard the likelihood of travel difficulties that could in turn disrupt the event and thus indirectly harm both opponents and hosts*" and that it cannot even be discounted that "*the relevant host cities and countries themselves would refuse to host the matches on the basis of legitimate security concerns, which would then harm both UEFA and the opponents ('players')*".

V. JURISDICTION OF THE CAS

53. In accordance with Article 186 (1) of the Swiss Private International Law ("PILA"), the CAS has the power to decide upon its own jurisdiction.
54. The extent of the jurisdictional analysis at this point is to assess whether, on a *prima facie* basis, the CAS can be satisfied that it has jurisdiction to hear the appeal. The final decision on jurisdiction will be made by the Panel in the Award.
55. Article R47 of the CAS Code states that "[a]n appeal against the decision of a federation, association or sports-related body may be filed with the 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 him before the appeal, in accordance with the statutes or regulations of that body.”

56. In the absence of a specific arbitration agreement, for the CAS to have jurisdiction to hear an appeal or a request for provisional and conservatory measures, the statutes or regulations of the sports-related body from whose decision(s) the appeal is made must expressly recognize the CAS as an arbitral body of appeal.
57. In the case at hand, the Appellant relies on Article 62 of the UEFA Statutes, according to which “[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”.
58. None of the Respondents contested the jurisdiction of the CAS
59. Based on the foregoing, the Division President considers that, on a *prima facie* basis and without prejudice to any other findings of the Panel at a later stage of the present proceedings, the CAS has jurisdiction to hear the dispute.

VI. ADMISSIBILITY

60. 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. When a procedure is initiated, a party may request the Division President or the President of the Panel, if a Panel has already been constituted, to terminate it if the statement of appeal is late. The Division President or the President of the Panel renders her/his decision after considering any submission made by the other parties.”

61. Pursuant to Article 62(3) of the UEFA Statutes, the time limit to file an appeal is 10 days of receipt of the Appealed Decision.
62. The Appealed decision was issued on 28 February 2022. The Appellant filed his Statement of Appeal on 7 March 2022.
63. Therefore, the Division President is satisfied that, on a *prima facie* basis and without prejudice of any different decision that the Panel may take in this regard once constituted, the Appeal is admissible.

VII. LEGAL DISCUSSION

64. Pursuant to Article 183 PILA, an international arbitral tribunal in Switzerland is empowered to order provisional or conservatory measures at the request of one party: *“Unless the parties have otherwise agreed, the arbitral tribunal may, on motion of one party, order provisional or conservatory measures”*.

65. Pursuant to Article R37(3) of the Code, the Division President is competent to consider an application for a stay prior to the file having been transferred to the Panel.
66. In accordance with Article R37 of the Code and CAS jurisprudence (*CAS 2007/A/1370-1376*; *CAS 2006/A/1088*; *CAS 2004/A/780*; *CAS 2004/A/708-709*; *CAS 2003/O/486*; *CAS 2002/A/378*; *CAS 2001/A/324*), when deciding whether an application for a stay should be ordered, the Division President should, in general, consider the following factors:
- (a) whether the stay is necessary to protect the applicant from irreparable harm (“irreparable harm” test): the applicant must demonstrate that the requested stay is necessary to protect its position from damage or risks that would be impossible, or very difficult, to remedy or cancel at a later stage;
 - (b) whether the Applicant has reasonable chances to succeed on the merits (“likelihood of success” test): the applicant must demonstrate that its position is not obviously groundless and that it has reasonable chances eventually to win the case;
 - (c) whether the interests of the applicant outweigh those of the opposite parties and third parties (“balance of convenience” test): the applicant must demonstrate that the harm or inconvenience it would suffer from the refusal of the requested stay would be comparatively greater than the harm or inconvenience other parties would suffer from the granting of the stay.
67. The Division President notes that the three requirements for the grant of a stay (i.e. irreparable harm, likelihood of success on the merits of the appeal and balance of interests) are cumulative (*CAS 2007/A/1403*; *TAS 2007/A/1397*; and *CAS 2010/A/2071*). Those requirements will be examined in turn.

IRREPARABLE HARM

68. In accordance with CAS jurisprudence, as a general rule, when deciding whether to grant the requested provisional measures, the Division President considers whether the measure is useful to protect the applicant from substantial damage that would be difficult to remedy at a later stage (“irreparable harm” test): *“The Appellant must demonstrate that the requested measures are necessary in order to protect his position from damage or risks that would be impossible, or very difficult, to remedy or cancel at a later stage”* (*CAS 2007/A/1370-1376*, *CAS 2008/A/1630*).
69. Furthermore, the Division President notes that *“without any concrete evidence to justify damages (or potential damages as the case may be) general allegations of potential harm do not suffice to establish irreparable harm”* (*CAS 2014/A/3642*).
70. In light of the above, as a first step in examining the Appellant’s Request, the Division President needs to determine whether the Appellant established the risk of suffering irreparable harm if the Appealed Decision is not stayed, i.e. if the Appellant’s national teams are not reinstated in the Competitions.
71. As summarized above, for the Appellant the irreparable harm is represented, in essence, by the fact of being deprived of the possibility to compete in major sporting events, i.e. the UEFA Competitions: any reinstatement of the Appellant at a later stage would be impossible, and the Appellant’s loss would be irreparable. In addition, the Appealed Decision irremediably jeopardizes also the Appellant’s visibility and future performances, since its ranking would

- severely be affected by the Appealed Decision, increasing the risk of facing stronger opponents.
72. As to the arguments put forward by the Appellant in connection with its ranking and the Appellant's future performances, the Division President agrees with UEFA: the effect of the Appealed Decision on the Appellant's ranking and future draws is purely speculative and unsubstantiated. It is not possible to affirm that the Appellant's ranking would improve – or not deteriorate – if the Appealed Decision is stayed, since such aspect is strictly connected with the results – which are by definition unknown – of the Appellant's teams. It is not even possible to affirm that the future performances of the Appellant's teams – which, again, cannot be predicted – could be affected by the risk of facing stronger teams. Accordingly, the alleged impact on the Appellant's ranking and future performances is unsubstantiated and does not constitute irreparable harm.
73. As regards the alleged loss of visibility and sponsorship opportunities, the Division President considers that such harm – besides of not being supported by any evidence – is purely financial and therefore by definition cannot be considered as irreparable because such damage may be remedied by means of financial compensation (CAS 2012/A/2802; TAS 2012/A/2830; CAS 2014/A/3703).
74. With respect to the loss of the opportunity to compete in the Competitions, the Division President recalls that according to CAS case law concerning the suspension of individual athletes, it is not in itself sufficient that an athlete is prevented from competing in sports events to justify a stay in itself (CAS 2008/A/1569). The mere risk of not being able to participate in a few matches, whether it may or may not have a significant sporting impact on the results, is generally insufficient to establish irreparable harm as such (CAS 2021/A/7851; CAS 2020/A/6796; CAS 2019/A/6477; CAS 2014/A/3642). However, a suspension (subsequently found to be unjustified) can cause irreparable harm (see Preliminary Decisions in CAS 2008/A/1453; CAS 2014/A/3571; CAS 2016/A/4710), especially when it bars the athlete from participating in a major sports event (CAS 2019/A/6163) or if the athlete is unable to compete in qualifying events necessary to compete in such major events (CAS 2015/A/3925). That said, the Division President recalls that in accordance with CAS recent case law, the loss of the possibility to participate in a major sporting event does not represent, *per se*, an irreparable damage (CAS 2021/A/7829).
75. Now, in the case at hand, although some of the Competitions in which the Appellant's teams were supposed to take part are held on an annual basis, it can still be accepted that they can be considered as important events, in particular considering that they are dedicated to categories of athletes who may not have other major competitions outside these. Therefore, the Division President can accept that the loss of the opportunity to continue competing in the Competitions may represent, from a mere sporting point of view, an important harm.
76. Be that as it may, the Division President considers that the questions as to whether the Appellant could suffer irreparable harm if the Appealed Decision is not stayed can be left unanswered, since, as it will be discussed below, the Appellant did not demonstrate that its interests prevail over the interests of the Respondents.

LIKELIHOOD OF SUCCESS

77. In accordance with CAS jurisprudence, as a general rule, when deciding whether to grant a stay, the Applicant “*must make at least a plausible case that the facts relied upon by him and rights which he seeks to enforce exist and that the material criteria for a cause of action are fulfilled*” (the “likelihood of success” test) (CAS 2000/A/274, CAS 2004/A/578, CAS 2014/A/3751).
78. First of all, the Division President emphasises that her analysis is based on the file as it stands at the moment of the present Order and, therefore, this Order is rendered without prejudice to the final decision of the Panel, once constituted.
79. The Division President, while having considered the Parties’ rival positions, does not consider that she disposes of all the necessary elements for a complete assessment of the merits of the Appeal, which shall be left to the Panel, once constituted.
80. Hence, at this stage the Division President limits herself to determine that, on a *prima facie* basis and without any prejudice of any future consideration of the Panel, the Appellant’s likelihood of success on the merits cannot be definitely discounted (CAS 2006/A/1137, order of 31 August 2006, CAS 2006/A/1141, order of 31 August 2006).

BALANCE OF INTERESTS

81. In accordance with CAS jurisprudence, as a general rule, when deciding whether to grant a stay, the CAS considers whether the interests of the applicant outweigh those of the opposite party or parties, and/or of third parties (the “balance of interests” test): “[i]t is then necessary to compare the disadvantages to the Appellant of immediate execution of the decision with the disadvantages for the Respondent of being deprived such execution” (CAS 2008/A/1453, CAS 2008/A/1630, CAS 2008/A/1677).
82. While it is undisputed that the Appellant’s teams have a legitimate interest in participating in the UEFA Competitions, on the other hand, the Division President shall assess the interest of UEFA, the Other Respondents and other third parties.
83. In this regard, the Division President agrees with UEFA that it has an undeniable interest in maintaining and ensuring the smooth running of its Competitions, guaranteeing the safety of all stakeholders.
84. Apart from UEFA, none of the Respondents have provided any comments on the Appellant’s request for provisional measures. However, the Division President is aware that some member federations of UEFA have publicly announced their decision not to play against representatives of the Appellant. In addition, the Division President is also aware of the wave of the vehement condemnations voiced against the actions of the Russian Government by practically all European Countries, with protests organized in almost all European cities and capitals.
85. Against this background, the Division President accepts UEFA’s contention according to which the participation of the Appellant’s teams in the Competitions would severely jeopardize the smooth and safe conduct of these, even if the matches involving the Appellant’s teams would be staged on neutral pitch with no spectators. In this regard, it must first be assured to find a city willing to host a match involving the Appellant’s teams: Because of the

worldwide outrage and condemnation provoked by the events currently unfolding in Ukraine, this is far from a foregone conclusion. Furthermore, it is highly doubtful whether enhanced security measures would be sufficient to guarantee the security of all interested stakeholders (players, coaching staff, other team personnel, officials, security personnel, etc.): It must be indeed noted that the safety issue goes far beyond the mere boundaries of the playing pitch and stadium, since it involves the whole relevant hosting city. In addition, the disruption of the air connections from Russia would jeopardize the concrete possibility of the Appellant's teams to reach the selected hosting city.

86. Lastly but most importantly, the Division President accepts that the major risk for the integrity of the Competition is represented by a wave of defections from the other member federations in case of presence of the Appellant's teams in the Competitions.
87. All the above considerations lead to the conclusion that the presence of the Appellant's teams would concretely risk creating situation which would have devastating disruptive effects on the integrity of the Competitions and their proper and safe conduct, thus jeopardizing UEFA's objectives and interests, as well the interests of the Other Respondents and all involved stakeholders.
88. In view of the above, the Division President determines that the balance of interests test tips decisively against the Appellant.
89. Accordingly, the Appellant's application for provisional measures is rejected.

VIII. COSTS

90. According to standard CAS practice, the costs of this part of the proceedings will be settled in the final award or in any other final disposition of this arbitration.

ON THESE GROUNDS

The President of the CAS Appeals Arbitration Division, *in camera*, rules that:

1. The Request for Provisional Measures and for a Stay of the Decision passed on 28 February 2022 by the UEFA Executive Committee filed by Football Union of Russia in the arbitration CAS 2022/A/8709 *Football Union of Russia v. Union of European Football Associations et al.*, is dismissed.
2. The costs of the present Order shall be determined in the final Award or any other final disposition of this arbitration.

Lausanne, 8 April 2022

Operative part notified on 15 March 2022

THE COURT OF ARBITRATION FOR SPORT

Ms Corinne Schmidhauser
President of the Appeals Arbitration Division