

UEFA CLUB FINANCIAL CONTROL BODY

Adjudicatory Chamber

DECISION

in case

AC-02/2018

FC Irtysk

Composition of the Adjudicatory Chamber:

- **J. N. Cunha Rodrigues, Chairman**
- **L. Peila, Vice-chairman**
- **C. W. A. Timmermans, Vice-chairman**
- **C. Flint QC, Member**
- **A. Giersz, Member**

Nyon, 6 March 2018

PART I – Introduction

1. On 5 February 2018, the Chief Investigator of the UEFA Club Financial Control Body (the “CFCB”) referred the case of Football Club Irtys Public Fund (“FC Irtys” or the “Club”) to the CFCB Adjudicatory Chamber.
2. In the present Decision, the CFCB Adjudicatory Chamber examines whether or not FC Irtys fulfilled the licensing criteria necessary to be awarded a licence to participate in UEFA club competitions during the 2017/18 season (a “UEFA Licence”), as established in the *UEFA Club Licensing and Financial Fair Play Regulations – Edition 2015* (the “CL&FFP Regulations”), and whether or not FC Irtys was eligible to participate in the 2017/2018 UEFA Europa League.
3. In summary, the CFCB Adjudicatory Chamber shall analyse whether or not the licence obtained by the Club was in accordance with the CL&FFP Regulations.
4. Unless otherwise stated, all figures referred to in this Decision have been rounded up or down (as the case may be) to the nearest thousand.

PART II – Reference by the CFCB Chief Investigator

5. On 31 May 2017, the Football Federation of Kazakhstan (the “FFK”) provided UEFA with its list of licensing decisions for participation in the 2017/18 UEFA club competitions.
6. This list of licensing decisions indicated that the Club had been granted the UEFA Licence by the club licensing first instance decision-making body of the FFK on 26 April 2017.
7. On 15 June 2017, the club was admitted to the 2017/2018 UEFA Europa League.
8. As part of the monitoring process (Article 57 *et seq.* of the CL&FFP Regulations), the Club submitted to the UEFA Administration its completed monitoring documentation (comprising financial information as at 30 June 2017), including self-declarations by the Club indicating total overdue payables of €1,800,000 as at 30 June 2017 towards social/tax authorities.
9. The CFCB Investigatory Chamber assessed the monitoring documentation of the Club and acknowledged the position regarding the Club’s overdue payables as at 30 June 2017.
10. On 15 September 2017, the CFCB Investigatory Chamber informed the Club that an investigation was opened against the Club because of the significant overdue payables as at 30 June 2017 and requested the Club to submit its updated monitoring documentation in accordance with Articles 65(2), 66(2) and 66bis(2) of the CL&FFP Regulations, in order to prove that it had no overdue payables towards other football clubs, in respect of employees and towards social/tax authorities as at 30 September 2017.

11. On the same occasion, the CFCB Investigatory Chamber imposed on the Club a conservatory measure consisting of temporarily withholding the UEFA revenues from the 2017/2018 UEFA club competitions that the club may be entitled to receive.
12. While performing a more detailed analysis of the overdue payables existing as at 30 June 2017, the CFCB Investigatory Chamber had some concerns on the validity of the UEFA licence which was received by the Club on 26 April 2017, because the declared overdue payables as at 30 June 2017 were indicated by the Club as being already overdue as at 31 March 2017, which corresponds to the assessment deadline for overdue payables for UEFA Club Licensing.
13. As a consequence, on 19 September 2017, the CFCB Investigatory Chamber requested the licensor, the FFK, to provide further comments with regard to the potential overdue payables of the Club as at 31 March 2017, including the payables position as at that date submitted by FC Irtysh for club licensing purposes
14. The FFK provided further documentation, including the external report on overdue payables submitted by the Club as part of its licensing documentation. The external report confirmed the existence of overdue payables in the amount of Kazakhstan Tenge (KZT) 611,000,000 (equivalent to approximately €1,800,000), as at the date of inspection, 10 February 2017. The report of the FFK's financial expert dated 17 April 2017 also indicated this fact, which confirmed the existence of overdue payables towards social/tax authorities amounting to KZT 609,000,000 (equivalent to approximately €1,800,000) as at 31 March 2017.
15. The Club submitted to the UEFA Administration, via the CL/FFP IT Solution and the FFK, its updated monitoring documentation (comprising financial information as at 30 September 2017), indicating that it had settled all payables that were overdue as at 30 June 2017, through different payments dated 1, 4 and 24 August 2017 as well as 28 September 2017. The Club further indicated no amount was overdue towards other football clubs, in respect of employees and towards social/tax authorities at 30 September 2017.
16. On 8 November 2017, the CFCB Investigatory Chamber met in order to assess the overall overdue payables position of the Club and confirmed that the Club had complied with the other monitoring requirements as defined in Articles 65, 66 and 66bis of the CL&FFP Regulations.
17. However, based on the identified overdue payables equivalent to €1,800,000 as at 31 March 2017, the CFCB Investigatory Chamber questioned the fulfilment by the Club of the UEFA Club Licensing Criteria which must be fulfilled to obtain the licence necessary to participate in the 2017/18 UEFA club competitions.
18. Consequently, the CFCB Investigatory Chamber decided to continue the investigation previously opened and invited the Club and the licensor, the FFK, to submit further observations and/or evidence with regard to the payables identified as overdue as at 31 March 2017. The Club was also informed that the conservatory measure consisting of withholding the UEFA revenues previously imposed would remain in force.
19. On 29 November 2017, the FFK confirmed the existence of overdue payables of €1,800,000 towards social/tax authorities as at 31 March 2017. The FFK stated that the Licensing Commission have considered the overdue payables and at the same time, it considered all the reasons that led to this problem, such as the financial crisis, the change of the legal status of the Club, amongst others. The FFK also stated that the Club paid all the overdue payables by September 2017.

20. On 4 December 2017, the Club submitted its observations and it did not contest having overdue payables towards social/tax authorities as at 31 March 2017. The Club held that the debt was due to a shortage of funds because of insufficient funding by sponsors.
21. On 8 December 2017, the CFCB Investigatory Chamber, headed by the CFCB Chief Investigator, Mr Yves Leterme, met in order to decide on the validity of the licence necessary to participate in the 2017/18 UEFA club competitions and the Club's fulfilment of the admission criteria to participate in the 2017/18 UEFA Europa League.
22. The CFCB Investigatory Chamber decided that FC Irtysk has not fulfilled the club licensing criterion defined in Article 50bis of the CL&FFP Regulations as a result of having overdue payables towards social/tax authorities equivalent to €1,800,000 as at 31 March 2017.
23. The CFCB Investigatory Chamber decided that, considering it was established a clear non-fulfilment of Article 50bis of the CL&FFP Regulations, the licence necessary to enter the UEFA club competitions which was granted to FC Irtysk by the FFK on 26 April 2017 was not issued in accordance with the CL&FFP Regulations. This means that the admission criterion defined in Article 4.01(c) of the *Regulations of the UEFA Europa League 2017/18 Season* (the "UEL Regulations") has not been fulfilled by FC Irtysk and as a consequence, the latter was not eligible to participate in the 2017/18 UEFA Europa League.
24. Based on the above findings, the CFCB Chief Investigator decided to refer the case to the CFCB Adjudicatory Chamber in accordance with Article 14(1)(d) of the Procedural rules governing the CFCB – Edition 2015 (the "Procedural Rules") and suggested that the CFCB Adjudicatory Chamber should impose a disciplinary measure on FC Irtysk consisting of withholding €440,000, corresponding to the UEFA Revenues the Club gained by participating in the 2017/2018 UEFA Europa League.
25. The CFCB Investigatory Chamber explained that it is appropriate to withhold all the UEFA revenues the Club gained by participating in the competition considering the fact that FC Irtysk should not have been admitted to the competition for failing to meet one of its admission criteria.
26. The CFCB Chief Investigator also decided, on the basis of Article 41 of the Procedural Rules, to extend the conservatory measure that was imposed on 15 September 2017 on FC Irtysk, consisting of temporarily withholding the UEFA revenues from the 2017/18 UEFA club competitions that the Club may be entitled to receive. This conservatory measure remains in force until the final decision of the CFCB Adjudicatory Chamber.

PART III – Jurisdiction of and procedure before the CFCB Adjudicatory Chamber

27. The jurisdiction of the CFCB Adjudicatory Chamber is derived from Article 19(1) of the Procedural Rules, which provides that the CFCB Adjudicatory Chamber has competence to decide on cases referred to it by the CFCB Chief Investigator.
28. On 7 February 2018, the CFCB Chairman informed the Club of the opening of the judgment stage in accordance with Article 19(3) of the Procedural Rules.

29. Pursuant to Article 20(1) of the Procedural Rules, the Club was asked to submit its written observations by no later than 19 February 2018.
30. The Club submitted its written submission (the "Observations").
31. The members of the CFCB Adjudicatory Chamber convened on 6 March 2018 to consider the Club's case.
32. The quorum required by Article 25(1) of the Procedural Rules being attained, the members of the CFCB Adjudicatory Chamber conducted their confidential deliberations in accordance with Article 24(1) of the Procedural Rules.

PART IV – Applicable rules and regulations

33. This case concerns a possible violation of the CL&FFP Regulations. In particular, the present case concerns whether the Club fulfilled the criteria necessary to be awarded a UEFA Licence and whether or not FC Irtysk was eligible to participate in the 2017/2018 UEFA Europa League. In summary, whether or not the licence obtained by the Club was in accordance with the CL&FFP Regulations.
34. Article 4.01(c) of the UEL Regulations states that, to be eligible to participate in the UEFA Europa League, clubs must *"have obtained a licence issued by the competent national body in accordance with the UEFA Club Licensing and Financial Fair Play Regulations and be included in the list of licensing decisions to be submitted by this body to the UEFA administration by the given deadline"*.
35. According to Article 4.06 of the UEL Regulations, *"If there is any doubt as to whether a club fulfils the admission criteria defined in Paragraph 4.01(c) and Paragraph 4.01(d), the UEFA General Secretary refers the case to the UEFA Club Financial Control Body, which decides without delay upon the admission in accordance with the Procedural rules governing the UEFA Club Financial Control Body. UEFA may carry out investigations at any time (even after the end of the competition) to ensure that these two admission criteria are or have been met until the end of the competition; if such an investigation reveals that one of these two criteria is or was no longer met in the course of the competition, the club concerned is liable to disciplinary measures in accordance with the Procedural rules governing the UEFA Club Financial Control Body". [emphasis added]*
36. The CL&FFP Regulations establish a club licensing system for UEFA club competitions and are (*inter alia*) intended to achieve the objectives set out in Article 2 of the CL&FFP Regulations:
 - "1 *These regulations aim:*
 - a) *to further promote and continuously improve the standard of all aspects of football in Europe and to give continued priority to the training and care of young players in every club;*
 - b) *to ensure that clubs have an adequate level of management and organisation;*
 - c) *to adapt clubs' sporting infrastructure to provide players, spectators and media representatives with suitable, well-equipped and safe facilities;*

- d) *to protect the integrity and smooth running of the UEFA club competitions;*
 - e) *to allow the development of benchmarking for clubs in financial, sporting, legal, personnel, administrative and infrastructure-related criteria throughout Europe.*
- 2 *Furthermore, they aim to achieve financial fair play in UEFA club competitions and in particular:*
- a) *to improve the economic and financial capability of the clubs, increasing their transparency and credibility;*
 - b) *to place the necessary importance on the protection of creditors and to ensure that clubs settle their liabilities with employees, social/tax authorities and other clubs punctually;*
 - c) *to introduce more discipline and rationality in club football finances;*
 - d) *to encourage clubs to operate on the basis of their own revenues;*
 - e) *to encourage responsible spending for the long-term benefit of football;*
 - f) *to protect the long-term viability and sustainability of European club football.”*
37. The Chapter 3 of the CL&FFP Regulations regulates the Licensing Criteria – Articles 16 to 52.
38. As per Article 16(1) of the CL&FFP Regulations the criteria defined in Chapter 3 must be fulfilled by clubs in order for them to be granted a licence to enter the UEFA club competitions.
39. Article 50bis of the CL&FFP Regulations is worded as follows:
- “1 *The licence applicant must prove that as at 31 March preceding the licence season it has no overdue payables (as defined in Annex VIII) towards social/tax authorities as a result of contractual or legal obligations in respect of its employees that arose prior to the previous 31 December.*
- 2 *The licence applicant must submit to the auditor and/or the licensor a social/tax table showing:*
- a) *the amount payable (if any) to the competent social/tax authorities as at 31 December of the year preceding the licence season;*
 - b) *any claim/proceedings pending.*
- 3 *The following information must be given, as a minimum, in respect of each payable towards social/tax authorities, together with explanatory comment:*
- a) *Name of the creditor;*

- b) *Any payable as at 31 December, including the due date for each unpaid element;*
 - c) *Any payable as at 31 March (rolled forward from 31 December), including the due date for each unpaid element, together with explanatory comment and supporting evidence; and*
 - d) *Amounts subject to any claim/proceedings pending.*
- 4 *The licence applicant must reconcile the total liability as per the social/tax table to the figure in the financial statements balance sheet for 'Accounts payable to social/tax authorities' or to the underlying accounting records.*
- 5 *The social/tax table must be approved by management and this must be evidenced by way of a brief statement and signature on behalf of the executive body of the licence applicant."*
40. According to Article 54(1) of the CL&FFP Regulations, *"The monitoring process starts on submission by the licensor of the list of licensing decisions to the UEFA administration and ends at the end of the licence season"*.
41. Article 72 of the CL&FFP Regulations reads as follows:
- "1 The UEFA Club Financial Control Body at all times bears in mind the overall objectives of these regulations, in particular to defeat any attempt to circumvent these objectives.*
 - 2 Any breach of these regulations may be dealt with by UEFA in accordance with the Procedural rules governing the UEFA Club Financial Control Body."*
42. Annex VIII of the CL&FFP Regulations defines the notion of "overdue payables" as follows:
- "1. Payables are considered as overdue if they are not paid according to the agreed terms.*
 - 2. Payables are not considered as overdue, within the meaning of these regulations, if the licence applicant/licensee (i.e. debtor club) is able to prove by 31 March (in respect of Articles 49, 50 and 50bis) and by 30 June and 30 September (in respect of Articles 65, 66 and 66bis) respectively that:*
 - a) it has paid the relevant amount in full; or*
 - b) it has concluded an agreement which has been accepted in writing by the creditor to extend the deadline for payment beyond the applicable deadline (note: the fact that a creditor may not have requested payment of an amount does not constitute an extension of the deadline); or*
 - c) it has brought a legal claim which has been deemed admissible by the competent authority under national law or has opened proceedings with the national or international football authorities or relevant arbitration tribunal contesting liability in relation to the overdue payables; however, if the*

decision making bodies (licensor and/or UEFA Club Financial Control Body) consider that such claim has been brought or such proceedings have been opened for the sole purpose of avoiding the applicable deadlines set out in these regulations (i.e. in order to buy time), the relevant amount will still be considered as an overdue payable; or

- d) *it has contested to the competent authority under national law, the national or international football authorities or the relevant arbitration tribunal, a claim which has been brought or proceedings which have been opened against it by a creditor in respect of overdue payables and is able to demonstrate to the reasonable satisfaction of the relevant decision-making bodies (licensor and/or UEFA Club Financial Control Body) that it has established reasons for contesting the claim or proceedings which have been opened; however, if the decision-making bodies (licensor and/or UEFA Club Financial Control Body) consider the reasons for contesting the claim or proceedings which have been opened as manifestly unfounded the amount will still be considered as an overdue payable; or*
- e) *it is able to demonstrate to the reasonable satisfaction of the relevant decision making bodies (licensor and/or UEFA Club Financial Control Body) that it has taken all reasonable measures to identify and pay the creditor club(s) in respect of training compensation and solidarity contributions.”*

43. According to Article 3(1) of the Procedural Rules, the CFCB is competent to:

- a) *determine whether licensors have fulfilled their obligations and whether licence applicants have fulfilled the licensing criteria as defined in the UEFA Club Licensing and Financial Fair Play Regulations at the time the licence was granted;*
- b) *determine whether, after the licence has been granted, licensees continue to fulfil the licensing criteria as defined in the UEFA Club Licensing and Financial Fair Play Regulations;*
- c) *determine whether, after the licence has been granted, licensees fulfil the club monitoring requirements as defined in the UEFA Club Licensing and Financial Fair Play Regulations;*
- d) *impose disciplinary measures as defined in these rules in the event of non-fulfilment of the requirements set out in the UEFA Club Licensing and Financial Fair Play Regulations;*
- e) *decide on cases relating to club eligibility for the UEFA club competitions to the extent provided for by the regulations governing the competitions in question.”*

44. Article 14(1) of the Procedural Rules provides that:

“ At the end of the investigation, the CFCB chief investigator, after having consulted with the other members of the investigatory chamber, may decide to:

- a) *dismiss the case; or*

- b) *conclude, with the consent of the defendant, a settlement agreement; or*
- c) *apply, with the consent of the defendant, disciplinary measures limited to a warning, a reprimand or a fine up to a maximum amount of €100,000; or*
- d) *refer the case to the adjudicatory chamber.”*

45. Under Article 27 of the Procedural Rules:

“The adjudicatory chamber may take the following final decisions:

- a) *to dismiss the case; or*
- b) *to accept or reject the club’s admission to the UEFA club competition in question;
or*
- c) *to impose disciplinary measures in accordance with the present rules; or*
- d) *to uphold, reject, or modify a decision of the CFCB chief investigator.”*

46. Under Article 28 of the Procedural Rules, *“The adjudicatory chamber determines the type and extent of the disciplinary measures to be imposed according to the circumstances of the case.”*

47. Article 29(1) of the Procedural Rules provides the following scale of disciplinary measures that may be imposed on a club (being a defendant who is not an individual):

- “a) warning,*
- b) reprimand,*
- c) fine,*
- d) deduction of points,*
- e) withholding of revenues from a UEFA competition,*
- f) prohibition on registering new players in UEFA competitions,*
- g) restriction on the number of players that a club may register for participation in UEFA competitions, including a financial limit on the overall aggregate cost of the employee benefits expenses of players registered on the A-list for the purposes of UEFA club competitions,*
- h) disqualification from competitions in progress and/or exclusion from future competitions,*
- i) withdrawal of a title or award.”*

48. According to Article 29(3) of the Procedural Rules, such disciplinary measures may be combined.

PART V – Factual and legal appreciation by the CFCB Adjudicatory Chamber

49. To be eligible to participate in the UEFA Europa League in the 2017/18 season, the Club must have a UEFA Licence. As explained in Article 16(1) of the CL&FFP Regulations, such licence can only be validly granted if all of the UEFA club licensing criteria in the CL&FFP Regulations are satisfied.
50. In the Observations, the Club recognizes having breached article 50bis of the CL&FFP Regulations, but states that it did disclose the correct financial information to the FFK during the licensing process. The Club explains that it paid all debts in respect of employees at the beginning of March 2017 and that tax arrears were paid in September 2017. The Club accepts that it had debts in respect of employees and towards the social/tax authorities in January 2017 invoking deficit of financial resources due to insufficient financing from sponsors.
51. The Club states it incurred financial costs due to its participation in the 2017/2018 UEFA Europa League, including the reconstruction of stadium and other projects.
52. The Club requests a lenient disciplinary measure as well as reduction in the withholding of the UEFA revenues, allowing the Club to bear the costs incurred.
53. Having considered the evidence, in particular the findings of the CFCB Chief Investigator and the Observations, the CFCB Adjudicatory Chamber considers that:

Article 50bis of the CL&FFP Regulations – No overdue payables towards social/tax authorities

54. In its Observations, the Club expressly recognized the existence of overdue payables towards the social/tax authorities as at 31 March 2017.
55. The CFCB Adjudicatory Chamber considers that the efforts of the Club to pay all payables overdue towards social/tax authorities before September 2017 does not change the fact that the Club breached its obligations established in the CL&FFP Regulations, having overdue payables as at 31 March 2017.
56. As already confirmed by the Court of Arbitration for Sport (CAS), *“the clubs must not only fulfil the material requirements set in the regulations, but they also need to meet these conditions on a certain date”*. The CAS further explained the following:

“In this regard, the Panel stresses that for the good organization of any competition, strict deadlines are inevitable. As stated by another CAS Panel (CAS 2008/A/1579), “[t]he matter of deadlines has to be considered under the principles of equality of treatment; it is a must to treat all the clubs and the national football associations the same way”. In addition, the purpose of the deadline set forth in Article 50 of the CL&FFP Regulations is also to serve the interests of legal certainty and security, taking into consideration that UEFA Europa League first qualifying round usually takes place in early July.- CAS 2013/A/3233 PAE PAS Giannina 1966 v. UEFA - para. 80)

57. On this basis, the CFCB Adjudicatory Chamber accepts the finding of the CFCB Investigatory Chamber (as set out in Paragraph 22 of this Decision) that the Club has failed to satisfy the requirements of Article 50bis of the CL&FFP Regulations as a result of having overdue payables towards social/tax authorities equivalent to €1,800,000 as at 31 March 2017.
58. It has been already confirmed by the CAS that *“The mere existence of overdue payables is indeed sufficient to declare the Appellant ineligible”* to a UEFA club competition.

“The CL&FFP Regulations set out licensing criteria. As mentioned above, one of these requirements consists in the absence of overdue payables towards employees and social/tax authorities (Article 50bis of the CL&FFP Regulations). Another one consists in the provision of annual financial statements, which must meet minimum disclosure requirements as per Annex VI and comply with accounting principles set out in Annex VII (Article 47 of the CL&FFP Regulations). In case of non-fulfilment of one of the above conditions the licence must therefore be refused and the club cannot be admitted to the UEFA competition.” - CAS 2013/A/3233 PAE PAS Giannina 1966 v. UEFA - para. 84)

Conclusions

59. The CFCB Adjudicatory Chamber determines that the Club has:
- (i) failed to satisfy the requirements of Article 50bis(1) of the CL&FFP Regulations; and
 - (ii) based on the foregoing, it obtained the licence issued by the FFK not in accordance with the CL&FFP Regulations.

PART VI – Admission matters and disciplinary measures

Admission to the 2017/2018 UEFA Europa League

60. The CFCB Adjudicatory Chamber stresses the importance of the objectives of the CL&FFP Regulations which aim, *inter alia*, to protect the integrity and smooth running of the UEFA club competitions. This aim is of the utmost importance and is clearly threatened when clubs that have not met the UEFA licensing criteria are granted a UEFA Licence and then subsequently compete in the competitions. Such situations create a great deal of risk and uncertainty for UEFA, as competition organiser, and can undermine the sporting integrity of the competitions.
61. According to Article 4.01(c) of the UEL Regulations, to be eligible to participate in the competition, clubs must *“have obtained a licence issued by the competent national body in accordance with the UEFA Club Licensing and Financial Fair Play Regulations and be included in the list of licensing decisions to be submitted by this body to the UEFA administration by the given deadline”*.
62. Article 4.06 of the UEL Regulations establishes that *“UEFA may carry out investigations at any time (even after the end of the competition) to ensure that these two admission criteria (4.01(c) and (d) of the UEL Regulations) are or have been met until the end of the competition; if such an investigation reveals that one of these two criteria is or was*

no longer met in the course of the competition, the club concerned is liable to disciplinary measures in accordance with the Procedural rules governing the UEFA Club Financial Control Body”.

63. In the present case, FC Irtysh was granted a licence by the FFK to participate in the 2017/2018 UEFA Europa League not in accordance with the CL&FFP Regulations, since it has been established that the Club failed to satisfy the requirements of Article 50bis(1) of the CL&FFP Regulations.
64. Following its admission to the 2017/2018 UEFA Europa League, the Club participated in the first and second qualifying rounds, and has already been eliminated from the competition.
65. The CFCB Adjudicatory Chamber has made it clear in a number of cases that the CL&FFP Regulations are underpinned by the principle that all clubs must be treated equally (in this regard, see paragraph 100 of case AC-01/2016, *Galatasaray Sportif Sina ve Ticari Yatirimlar A.S.*).
66. This principle is of particular importance when it comes to assessing the eligibility of clubs for UEFA Licences. All clubs are subject to the same requirements and all clubs must be assessed on the same basis. To show undue leniency to a club that has not satisfied UEFA’s club licensing criteria would be inconsistent with the inherent equality of the licensing system and must be avoided in order to maintain the value and integrity of the process.
67. On this basis and having regard to the fact that the Club has failed to satisfy one of the requirements of the CL&FFP Regulations, the CFCB Adjudicatory Chamber considers that the Club should not have been granted a UEFA Licence by the FFK. It should therefore not have been admitted to the 2017/2018 UEFA Europa League.
68. Consequently, considering that FC Irtysh has not fulfilled the club licensing criterion defined in Article 50bis (1) of the CL&FFP as a result of having overdue payables towards social/tax authorities equivalent to €1,800,000 as at 31 March 2017, in accordance with Article 27(c) of the Procedural Rules, the CFCB Adjudicatory Chamber shall impose disciplinary measures in accordance with Article 29 of the Procedural Rules.
69. The CFCB Investigatory Chamber suggests that the CFCB Adjudicatory Chamber imposes disciplinary measure on the Club consisting of withholding €440,000, amount corresponding to the UEFA revenues the Club gained by participating in the 2017/2018 UEFA Europa League.
70. The Investigatory Chamber, on 15 September 2017, decided to impose a conservatory measure on the club temporarily withholding the UEFA revenues from the 2017/2018 UEFA Europa League the club may be entitled to receive, which in case of FC Irtysh corresponds to the amount of € 440’000.
71. As previously mentioned, the CL&FFP Regulations are underpinned by the principle that all clubs must be treated equally. Therefore, the CFCB Adjudicatory Chamber deems necessary to take into account the particular circumstances of the case and the seriousness of the offence and respect the principles of equal treatment and proportionality, while assessing the appropriate disciplinary measure(s) to be imposed.
72. The CFCB Adjudicatory Chamber highlights the risk of incurring in unequal treatment by imposing only a financial sanction in opposition to a sporting sanction for the same

breach, i.e. the non-fulfilment of the licensing criteria established in the CL&FFP Regulations, only depending on the moment the breach is detected/verified.

73. The CFCB Adjudicatory Chamber also considers that the sanction must serve as a sufficient deterrent to discourage clubs from breaching these rules and the disciplinary measures imposed must also be fair to those clubs who have participated in UEFA competitions in full compliance with these rules.
74. The seriousness of the breach of Article 50bis(1) of the CL&FFP Regulations and the fact that the Club participated in the 2017/2018 UEFA Europa League in breach of the CL&FFP Regulations shall be taken into account when determining the appropriate disciplinary measure(s).
75. In view of the circumstances of the case, the CFCB Adjudicatory Chamber decides to impose the disciplinary measure consisting in the withholding of the UEFA revenues the Club gained by participating in the 2017/2018 UEFA Europa League, i.e. €440,000.
76. However, the CFCB Adjudicatory Chamber considers that taking into account the significant overdue payables towards social/tax authorities as at 31 March 2017 amounting to approximately €1,800,000, the withholding of the UEFA revenues gained by participating in the 2017/2018 UEFA Europa League is not enough and will not have the desired deterrent effect.
77. In view of the circumstances of the case, it decides to also impose on FC Irtysh an exclusion from participating in the next UEFA club competition for which it would otherwise qualify in the next three (3) seasons (i.e. the 2018/19, 2019/20 and 2020/21 seasons). However, taking into account that the Club had properly disclosed to the licensor the correct and accurate financial information required, the exclusion is deferred for a probationary period of (3) years. This exclusion must be enforced in case the Club participates again in a UEFA club competition having not fulfilled the licence criteria required to obtain a UEFA licence in accordance with the CL&FFP Regulations.
78. In addition, costs of three thousand Euros (€3,000) are required to be paid by the Club, in accordance with Article 32(2) of the Procedural Rules.

PART VII – Operative part

79. The CFCB Adjudicatory Chamber hereby decides:
 1. **FC Irtysh failed to satisfy the requirements of Article 50bis(1) of the CL&FFP Regulations and it obtained the licence issued by the FFK not in accordance with the CL&FFP Regulations.**
 2. **To withhold four hundred and forty thousand Euros (€440,000) corresponding to the UEFA revenues FC Irtysh gained by participating in the 2017/2018 UEFA Europa League.**
 3. **To exclude FC Irtysh from participating in the next UEFA club competition for which it would otherwise qualify in the next three (3) seasons (i.e. the 2018/19, 2019/20 and 2020/21 seasons). This sanction is deferred for a probationary period of (3) three years. This exclusion must be enforced in case the Club participates again in a UEFA club competition having not fulfilled the licence criteria required to obtain the UEFA licence in accordance with the CL&FFP Regulations.**

4. **FC Irtysh is to pay three thousand Euros (€3,000) towards the costs of these proceedings.**
5. **The costs of proceedings must be paid into the bank account indicated below within thirty (30) days of communication of this Decision to FC Irtysh.**
6. **This Decision is final and shall be notified to:**
 - a) **FC Irtysh;**
 - b) **the FFK;**
 - c) **the CFCB Chief Investigator; and**
 - d) **the UEFA Administration.**

80. This Decision may be appealed in writing before the Court of Arbitration for Sport (the "**CAS**") in accordance with Article 34(2) of the Procedural Rules and Articles 62 and 63 of the *UEFA Statutes*. According to Article 62(3) of the *UEFA Statutes*, the time limit for an appeal to CAS is ten (10) days from the receipt of this Decision.



J. N. Cunha Rodrigues

CFCB Chairman

UEFA's bank details:

**Union Bank of Switzerland
CH-3001 Bern
Acc. No. 235-90 186'44.6
Bank Code 235
Swift: UBS WCH ZH 80A
IBAN CH30 00235235901**