

UEFA CLUB FINANCIAL CONTROL BODY

Adjudicatory Chamber

DECISION

in case

AC-11/2018

Football Club Vardar AD Skopje

Composition of the chamber:

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

Nyon, 6 December 2018

PART I – Introduction

1. On 15 November 2018, the Chief Investigator of the UEFA Club Financial Control Body (the “**CFCB**”) referred the case of Football Club Vardar AD Skopje (“**Vardar**” or the “**Club**”) to the CFCB Adjudicatory Chamber.
2. In the present Decision, the CFCB Adjudicatory Chamber examines whether Vardar has breached Articles 66(1) and 66bis (1) of the *UEFA Club Licensing and Financial Fair Play Regulations – Edition 2018* (the “**CL&FFP Regulations**”) as a result of having overdue payables:
 - (a) in respect of employees as at 30 June 2018 and 30 September 2018; and
 - (b) towards social/tax authorities as at 30 June 2018 and 30 September 2018.
3. 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

4. On 8 June 2018, Vardar was admitted to the 2018/19 UEFA Europa League.
5. By 16 July 2018, Vardar submitted to the UEFA Administration, via the CL/FFP IT Solution and the Football Federation of Macedonia, its completed monitoring documentation (comprising financial information as at 30 June 2018) in accordance with the set deadline.

This monitoring information included self-declarations by the Club indicating total overdue payables of € 122k as at 30 June 2018 as follows:

- overdue payables in respect of employees of € 70k; and
 - overdue payables towards social/tax authorities of € 52k.
6. On 6 September 2018, the CFCB Investigatory Chamber informed the Club that an investigation was opened against Vardar because of the significant overdue payables as of 30 June 2018 and the latter was requested to submit its updated monitoring documentation in accordance with Articles 65 (2), 66 (2) and 66bis (2) of the UEFA CL&FFP in order to prove that it had no overdue payables towards other football clubs, in respect of its employees and towards social/tax authorities as at 30 September 2018. Such updated monitoring documentation had to be submitted to the UEFA Administration by no later than 15 October 2018.
 7. A conservatory measure consisting of temporarily withholding the UEFA revenues from the 2018/19 UEFA club competitions that the Club was entitled to receive, was also imposed on Vardar.
 8. By 15 October 2018, the Club submitted to the UEFA Administration, via the CL/FFP IT Solution and the Football Federation of Macedonia, its updated monitoring documentation (comprising financial information as at 30 September 2018) in accordance with the set deadline. This monitoring information included self-declarations by Vardar indicating total overdue payables of €1,116 as at 30 September 2018 as follows:
 - Overdue payables in respect of employees of €893k; and

- Overdue payables towards social/tax authorities of €223k.
9. On 24 October 2018, further to the review of the Club's above-mentioned updated monitoring documentation, the UEFA Administration requested Vardar to reconfirm the overdue amounts and to provide supporting documents for any subsequent payments.
 10. On 26 October 2018, the Club reconfirmed the declared overdue amounts as of 30 September 2018.
 11. On 8 November 2018, the CFCB Investigatory Chamber, headed by the CFCB Chief Investigator, Mr Yves Leterme, met in order to assess the overall overdue payables position of the Club. The CFCB Investigatory Chamber confirmed that Vardar had overdue payables in respect of employees and towards social/tax authorities for a total amount of:
 - € 122k as at 30 June 2018; and
 - € 1,116k as at 30 September 2018.
 12. The CFCB Investigatory Chamber decided that Vardar had overdue payables in respect of employees and social/tax authorities as at 30 June 2018 and as at 30 September 2018.
 13. Based on the above findings, on 15 November 2018, 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 following disciplinary measures be imposed on Vardar by the CFCB Adjudicatory Chamber in respect of the Club's alleged breaches of Articles 66(1) and 66bis (1) of the CL&FFP Regulations:
 - (a) an exclusion from the next UEFA club competition (UEFA Champions League and UEFA Europa League), for which Vardar would otherwise qualify in a number of seasons to be determined by the CFCB Adjudicatory Chamber at its discretion, unless Vardar is able to prove by 31 January 2019 that it has paid the amounts in respect of employees and towards social/tax authorities that were established by the CFCB Investigatory Chamber as being overdue payables as at 30 September 2018; and
 - (b) a fine, to be determined by the CFCB Adjudicatory Chamber at its discretion.
 14. 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 6 September 2018 on Vardar, consisting of temporarily withholding the UEFA revenues from the 2018/19 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

15. 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.

16. On 16 November 2018, the CFCB Chairman informed Vardar of the opening of the judgment stage in accordance with Article 19(3) of the Procedural Rules.
17. Pursuant to Article 20(1) of the Procedural Rules, the Club was invited to submit its written observations.
18. The Club did not submit written submission within the established deadline (the “**Observations**”).
19. Pursuant to Article 21(1) of the Procedural rules, the CFCB Chairman decided that a hearing was not needed.
20. The quorum of judges 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

21. The case concerns alleged contraventions of the CL&FFP Regulations.
22. 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.”*

23. Article 66 of the CL&FFP Regulations is worded as follows:

- “1 *As at 30 June and as at 30 September of the year in which the UEFA club competitions commence, the licensee must not have any overdue payables (as specified in Annex VIII) in respect of its employees (as defined in paragraphs 2 and 3 of Article 50).*
- 2 *Every licensee must prove that it has no overdue payables as at 30 June. If the licensee has overdue payables as at 30 June of the year in which the UEFA club competitions commence or if otherwise requested by the UEFA Club Financial Control Body, then it must also prove that it has no overdue payables as at 30 September.*
- 3 *By the deadline and in the form communicated by the UEFA administration, the licensee must prepare and submit a declaration confirming the absence or existence of overdue payables in respect of employees.*
- 4 *The licensee must disclose:*
 - a) *all employees for which an amount is outstanding to be paid as at 30 June/30 September; and*
 - b) *all employees in respect of which there is a claim pending before the competent authority under national law or proceedings pending before a national or international football authority or relevant arbitration tribunal as at 30 June/30 September.*
- 5 *The following information must be given, as a minimum, in respect of each overdue payable towards employees, together with an explanatory comment:*
 - a) *Name of the employee;*
 - b) *Position/function of the employee;*
 - c) *Start date;*
 - d) *End date (if applicable);*
 - e) *Balance overdue as at 30 June/30 September, including the due date for each overdue element; and*
 - f) *Amounts subject to any claim/proceedings pending.*
- 6 *The declaration 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 licensee.”*

24. Article 66bis of the CL&FFP Regulations is worded as follows:

- “1 As at 30 June and as at 30 September of the year in which the UEFA club competitions commence, the licensee must not have any overdue payables (as specified in Annex VIII) towards social/tax authorities as a result of contractual or legal obligations in respect of its employees as defined in Article 50.
- 2 Every licensee must prove that it has no overdue payables as at 30 June. If the licensee has overdue payables as at 30 June of the year that the UEFA club competitions commence or if otherwise requested by the UEFA Club Financial Control Body, then it must also prove that it has no overdue payables as at 30 September.
- 3 By the deadline and in the form communicated by the UEFA administration, the licensee must prepare and submit a declaration confirming the absence or existence of overdue payables towards social/tax authorities.
- 4 The following information must be given, as a minimum, in respect of each overdue payable towards social/tax authorities, together with an explanatory comment:
- a) Name of the creditor;
- b) Balance overdue as at 30 June/30 September, including the due date for each overdue element; and
- c) Amount subject to any claim/proceedings pending as at 30 June/30 September.
- 5 The declaration 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 licensee.”
25. Article 72 of the CL&FFP Regulations provides that:
- “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.”
26. 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.”*

27. 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.”*

28. 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.”

29. 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.”*

30. 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

31. Having examined the evidence and the findings of the CFCB Chief Investigator, the CFCB Adjudicatory Chamber determines that Vardar has breached Articles 66(1) and 66bis (1) of the CL&FFP Regulations because it had:

- (a) overdue payables in respect to employees as at 30 June 2018 and 30 September 2018; and
- (b) towards social/tax authorities as at 30 June 2018 and 30 September 2018.

32. The Club failed to submit Observations and therefore, the findings of the Investigatory Chamber remained uncontested.

PART VI – Disciplinary Measures

33. It is particularly important to underline the objectives of the CL&FFP Regulations which include, *inter alia*, the protection of creditors and ensuring that clubs settle their liabilities with employees, social/tax authorities and other clubs punctually, at all times with the protection of the long-term viability and sustainability of European football in mind (in this regard, see CAS 2013/A/3453 *FC Petrolul Ploiesti v. UEFA*, paragraph 79).

34. The CFCB Adjudicatory Chamber reverts to the proposal of the CFCB Investigatory Chamber, which suggested the imposition of the following disciplinary measures:

- (a) an exclusion from the next UEFA club competition for which Vardar would otherwise qualify in a number of seasons to be determined by the CFCB Adjudicatory Chamber at its discretion, unless Vardar is able to prove by 31 January 2019 that it has paid the amounts in respect of its employees and towards social/tax authorities that were established by the CFCB Chief Investigator as being overdue payables as at 30 September 2018; and
- (b) a fine, to be determined by the CFCB Adjudicatory Chamber at its discretion.

35. Having due consideration to the facts, the CFCB Adjudicatory Chamber deems that an exclusion from the next UEFA club competition for which the Club would otherwise qualify in the next (2) two seasons (i.e. the 2019/20 and 2020/2021 seasons), unless the Club is able to prove by 31 January 2019 that it has paid the amounts established as being overdue payables as at 30 September 2018 as well as a fine of one hundred thousand Euros (€100,000) are appropriate penalties.
36. 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.
37. The conservatory measure imposed by the CFCB Chief Investigator is lifted and therefore, will no longer be in force.

PART VII – Operative part

38. The CFCB Adjudicatory Chamber hereby decides:
 1. **Football Club Vardar AD Skopje (“Vardar”) has breached Articles 66(1) and 66bis (1) of the CL&FFP Regulations.**
 2. **To exclude Vardar from participating in the next UEFA club competition for which it would otherwise qualify in the next (2) two seasons (i.e. the 2019/2020 and 2020/2021 seasons) unless the Club is able to prove by 31 January 2019 that it has paid the amounts that were identified as overdue payables as at 30 September 2018 (i.e. one million, one hundred and sixteen thousand Euros (€1,116,000).**
 3. **To impose a fine of one hundred thousand Euros (€100,000) on Vardar.**
 4. **The conservatory measure imposed by the CFCB Chief Investigator is lifted.**
 5. **Vardar is to pay three thousand Euros (€3,000) towards the costs of these proceedings.**
 6. **The costs of proceedings must be paid into the bank account indicated below within thirty (30) days of communication of this Decision to Sporting.**
 7. **This Decision is final and shall be notified to:**
 - a) **Vardar;**
 - b) **the Football Federation of Macedonia;**
 - c) **the CFCB Chief Investigator; and**
 - d) **the UEFA Administration.**
39. 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

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