

UEFA CLUB FINANCIAL CONTROL BODY
Adjudicatory Chamber

DECISION
in case

AC-04/2018

Olympique des Alpes SA

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 Olympique des Alpes SA (“FC Sion” or the “Club”) to the CFCB Adjudicatory Chamber.
2. In the present Decision, the CFCB Adjudicatory Chamber examines whether or not FC Sion 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 Sion 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.

PART II – Reference by the CFCB Chief Investigator

4. On 31 May 2017, the Swiss Football League (the “SFL”), the Licensor, provided UEFA with its list of licensing decisions for participation in the 2017/18 UEFA club competitions.
5. This list included FC Sion as a football club having been granted the UEFA Licence by the club licensing first instance decision-making body of the SFL on 28 April 2017. It was also indicated that a disciplinary procedure was pending at the SFL against FC Sion.
6. On 15 June 2017, the Club was admitted to the 2017/2018 UEFA Europa League.
7. On 5 July 2017, the CFCB Investigatory Chamber informed the SFL that a compliance audit would take place in order to assess whether the SFL and its affiliated clubs had fulfilled their obligations as defined in the CL&FFP Regulations and whether the licences for participation in the 2017/18 UEFA club competitions had been correctly awarded.
8. Between 4 and 8 September 2017, independent auditors, i.e. Deloitte LLP (the “Deloitte”), performed the above-mentioned compliance audit at the premises of the SFL. The licensing documentations of three clubs, including FC Sion, were assessed.
9. On 25 October 2017, further to the compliance audit performed from 4 to 8 September 2017, Deloitte issued their draft report, which was forwarded to FC Sion and the SFL. The Club and the SFL were requested to confirm the draft report’s factual accuracy by 30 October 2017 and were also informed that they could submit observations on the draft report’s findings.
10. FC Sion submitted its observations and remarks on the Deloitte draft report, which were forwarded to Deloitte the same day.
11. On 3 November 2017, Deloitte issued their final compliance audit report (the “Deloitte report”) for the attention of the CFCB Investigatory Chamber. In their report, the independent auditors indicated the existence of an overdue payable of FC Sion amounting to €950,000 towards another football club (FC Sochaux) as at 31 March 2017 and resulting from a transfer undertaken by the Club prior to 31 December 2016. The Deloitte report also confirmed that the total amount of €950,000 had been paid by FC Sion to FC Sochaux on 7 June 2017.

12. On 6 November 2017, the SFL submitted its observations on the Deloitte report. As part of its comments, the SFL provided a copy of the decision of its Disciplinary Commission dated 14 June 2017 adopted in the disciplinary procedure indicated as pending in the list of the SFL licensing decisions.
13. The case had been referred to the SFL Disciplinary Commission on 23 May 2017 by the President of the SFL club licensing first instance decision-making body with regard to the submission of potentially misleading information by FC Sion to the SFL as part of its licensing documentation. In its decision, the SFL Disciplinary Commission came to the conclusion that FC Sion had no intention to mislead the SFL, but indeed submitted some incorrect licensing documentation; the SFL Disciplinary Commission further confirmed that the total amount of €950,000 had been paid by the Club to FC Sochaux on 7 June 2017. Because of the inaccurate information submitted, the SFL Disciplinary Commission decided to impose a fine of CHF 8,000 on the Club.
14. On 6 November 2017, FC Sion submitted its observations on the Deloitte report. It can be noted that regarding the existence of an overdue payable as at 31 March 2017 towards another football club as a result of a transfer undertaken prior to 31 December 2016, FC Sion confirmed that *“il apparaît aujourd’hui qu’il existait bel et bien un engagement impayé découlant d’une activité de transfert. Ce point est admis”*
15. On 8 November 2017, the CFCB Investigatory Chamber assessed the Deloitte report as well as the Club’s observations on the Deloitte report. On the basis of the identified overdue payables amounting to €950,000 as at 31 March 2017, the CFCB Investigatory Chamber questioned the compliance by the Club with the UEFA Club Licensing Criteria which must be fulfilled in order to obtain the licence necessary to participate in the 2017/2018 UEFA club competitions.
16. Consequently, on 17 November 2017, the CFCB Investigatory Chamber informed the Club that an investigation was opened against it and invited the Club to provide observations and/or evidence with regard to the amount of €950,000 identified as overdue payable as at 31 March 2017.
17. On 4 December 2017, FC Sion submitted its observations regarding its overdue payable towards another football club (FC Sochaux) as at 31 March 2017. In summary, FC Sion confirmed that the amount due to FC Sochaux in respect of the transfer of a player was an overdue payable as at 31 March 2017. However, the Club provided a number of reasons on the basis of which no sanction should be imposed. In particular, the Club admitted that there was an overdue payable as at 31 March 2017, but stated that the mistake in the document dated 7 April 2017 was the result of a misinterpretation by the club’s responsible person for dealing with the licence (the “Club’s licence manager”), who is not a lawyer. The Club affirmed that it never had the intention to conceal the information and had provisioned the amount due for payment and that, in any case, it has already been sanctioned by the SFL for providing the wrong information.
18. 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.
19. The CFCB Investigatory Chamber decided that FC Sion has not fulfilled the club licensing criterion defined in Article 49(1) of the CL&FFP Regulations as a result of having overdue payables towards another football club amounting to €950,000 as at 31 March 2017.

20. The CFCB Investigatory Chamber concluded that, considering it was established a clear non-fulfilment of Article 49 of the CL&FFP Regulations, the licence granted to FC Sion by the SFL on 13 May 2017, necessary to enter the UEFA club competitions, had not been 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 Sion and, as a consequence, the latter would not have been eligible to participate in the 2017/18 UEFA Europa League.
21. 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 for a disciplinary measure to be imposed on FC Sion by the CFCB Adjudicatory Chamber, such measure consisting of a fine of €235,000, corresponding to the UEFA Revenues the Club gained by participating in the 2017/2018 UEFA Europa League.
22. The CFCB Investigatory Chamber submitted that it is appropriate to impose a fine corresponding to all the UEFA revenues the Club gained by participating in the competition considering the fact that FC Sion should not have been admitted to the competition for failing to meet one of its admission criteria.

PART III – Proceedings before the SFL Disciplinary Commission

23. The President of the club licensing first instance decision-making body of the SFL referred the case of the Club to the SFL Disciplinary Commission with regard to the submission of potentially misleading information by the Club as part of its licensing documentation.
24. According to the decision of the SFL Disciplinary Commission, amongst the licensing documentation provided by the Club to the SFL, the Club provided a declaration dated 7 April 2017 with the reference “Written confirmation: no overdue payables arising from transfer activities”, signed by the Club’s president, stating that as at 31 March 2017 there were no overdue payables towards other football clubs. In particular, the Club indicated that the case between FC Sion and FC Sochaux regarding the transfer of the player Ishmael Yartey was still under dispute.
25. With regards to the alleged pending dispute, the Court of Arbitration for Sport (CAS), on 4 November 2016, decided that FC Sion must pay the club FC Sochaux an amount of €950’000 and the Club did not appeal the CAS decision and thus, it became final.
26. On 8 February 2017, FC Sochaux put the Club in default for the payment of the aforementioned sum and, on 23 February 2017, FC Sochaux contacted the FIFA Disciplinary department asking for the imposition of a disciplinary sanction on FC Sion for not complying with the CAS decision, including FC Sion in copy. FIFA replied, on 11 April 2017, informing FC Sochaux that the Swiss Football Association was competent to execute the CAS decision, also including FC Sion in copy of this letter.
27. In this scenario, the President of the club licensing first instance decision-making body of the SFL considered that the Club had overdue payables concerning transfers as at 31 December 2016 and thus, the document dated 7 April 2017 was falsified.

28. The Club, before the SFL, explained that the CAS decision was notified on 2 December 2016 and thus, on 31 December 2016 the Club was still considering the possibility of appealing. The Club also admitted that on 31 March 2017 there was an overdue payable concerning a transfer and the confirmation sent by the Club's license manager (dated 7 April 2017) was wrong. It asserted that it was a result of a misinterpretation by the club's licensing manager who understood that, because there was an enquiry before FIFA, the dispute regarding the transfer fee as to the substance was still not final. Consequently, the Club considers that it was not a deliberate misstatement, but an inadvertent error.
29. Finally, the Club stated that it had paid the full amount of €950,000 on 7 June 2017.
30. The SFL Disciplinary Commission considered that indeed the contents of the document dated 7 April 2017 did not correspond to reality. However, it considered that the document does not correspond to a falsification/forgery, but rather a document that contains false information. It was not a document produced to mislead, which would correspond to a forgery.
31. According to the SFL Disciplinary Commission, the wrong information contained in the dossier provided by the club in the licensing proceedings is the result of an internal mistake and not of a strategy adopted to misrepresent the accounts of the Club.
32. The SFL Disciplinary Commission considered that the Club had violated the obligation of veracity, but that the infringement did not affect the validity of the licence. Therefore, in the general scope of the sanction a fine would suffice to condemn the infringement. It indicated, however, that the commission must take into consideration that license candidates must, without exception, submit to the SFL's Licensing Manager, respectively to the SFL Licence Commission, complete files containing accurate and non-contradictory files and certificate.
33. Accordingly, for the violation of the duty to veracity, a fine of CHF 8,000 was imposed on the Club by the SFL Disciplinary Commission.

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

34. 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.
35. 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.
36. 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. At the Chairman's discretion, this deadline was later extended until 22 February 2018.
37. The Club made its written submission in accordance with the new deadline (the "Observations").
38. The members of the CFCB Adjudicatory Chamber convened on 6 March 2018 to consider the Club's case.

39. 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 V – Applicable rules and regulations

40. 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 Sion 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.
41. 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”*.
42. 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]
43. 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.”*

44. The Chapter 3 of the CL&FFP Regulations regulates the Licensing Criteria.

45. Article 5 of the CL&FFP Regulations establishes that:

- “1 The licensor is a UEFA member association and governs the club licensing system.*
- 2 Under certain conditions as set out in Annex II, a UEFA member association may delegate the club licensing system to its affiliated league. Vis-à-vis UEFA, the UEFA member association remains liable and responsible for the proper implementation of the club licensing system, regardless of whether there is delegation or not.*
- 3 The licensor must ensure that all applicable provisions defined in part II of these regulations are integrated into national club licensing regulations, which must be submitted in one of the UEFA official languages to the UEFA administration for review according to the procedure defined in Annex III.*
- 4 In particular the licensor must:*
- a) establish an appropriate licensing administration as defined in Article 6;*
 - b) establish at least two decision-making bodies as defined in Article 7;*
 - c) set up a catalogue of sanctions as defined in Article 8;*
 - d) define the core process as defined in Article 9;*
 - e) assess the documentation submitted by the clubs, consider whether this is appropriate and determine whether each criterion has been met and what further information, if any, is needed in accordance with Article 10;*
 - f) ensure equal treatment of all clubs applying for a licence and guarantee the clubs full confidentiality with regard to all information provided during the licensing process as defined in Article 11;*
 - g) determine whether a licence can be granted”.*

46. Article 13(1) of the CL&FFP Regulations states that:

“1 The licence applicant must provide the licensor with:

- a) all necessary information and/or relevant documents to fully demonstrate that the licensing obligations are fulfilled; and*
- b) any other document relevant for decision-making by the licensor”.*

47. 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.

48. Article 43(1)(i) of the CL&FFP Regulations states that the licence applicant must submit a legally valid declaration confirming that *“all submitted documents are complete and correct”*.

49. Article 49 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 other football clubs as a result of transfers undertaken prior to the previous 31 December.

2 Payables are those amounts due to football clubs as a result of transfer activities, including training compensation and solidarity contributions as defined in the FIFA Regulations on the Status and Transfer of Players, as well as any amount due upon fulfilment of certain conditions.

3 The licence applicant must prepare and submit to the licensor a transfers table, unless the information has already been disclosed to the licensor under existing national transfer requirements (e.g. national clearing house system). It must be prepared even if there have been no transfers/loans during the relevant period.

4 The licence applicant must disclose:

- a) all new player registrations (including loans) in the 12 month period up to 31 December, irrespective of whether there is an amount outstanding to be paid as at 31 December;*
- b) all transfers for which an amount is outstanding to be paid as at 31 December, irrespective of whether they were undertaken in the 12 month period up to 31 December or before; and*
- c) all transfers subject to a claim pending before the competent authority under national law or proceedings pending before a national or international football authority or relevant arbitration tribunal.*

5 The transfers table must contain the following information as a minimum (in respect of each player transfer, including loans):

- a) Player (identification by name or number);*
- b) Date of the transfer/loan agreement;*

- c) *Name of the football club that formerly held the registration;*
 - d) *Transfer (or loan) fee paid and/or payable (including training compensation and solidarity contribution) even if payment has not been requested by the creditor;*
 - e) *Other direct costs of acquiring the registration paid and/or payable;*
 - f) *Amount settled and payment date;*
 - g) *Balance payable as at 31 December in respect of each player transfer including the due date for each unpaid element;*
 - h) *Balance payable as at 31 March (rolled forward from 31 December) including the due date for each unpaid element, together with explanatory comment;*
 - i) *Conditional amounts (contingent liabilities) not yet recognised in the balance sheet as at 31 December; and*
 - j) *Amounts subject to any claim/proceedings pending.*
- 6 *The licence applicant must reconcile the total liability as per the transfers table to the figure in the financial statements balance sheet for 'Accounts payable relating to player transfers' (if applicable) or to the underlying accounting records.*
- 7 *The transfers 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."*
50. 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"*.
51. Article 71 of the CL&FFP Regulations establishes as follows:
- "1. UEFA and/or its nominated bodies/agencies reserve the right to, at any time, conduct compliance audits of the licensor and, in the presence of the latter, of the licence applicant/licensee.*
 - 2. Compliance audits aim to ensure that the licensor, as well as the licence applicant/licensee, have fulfilled their obligations as defined in these regulations and that the licence was correctly awarded at the time of the final decision of the licensor.*
 - 3. For the purpose of compliance audits, in the event of any discrepancy in the interpretation of the national club licensing regulations between the UEFA official language version and the official national language version, the UEFA official language version is authoritative."*
52. 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.”*
53. 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.”*
54. 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.*”

55. 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.”*

56. 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.”*

57. 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.”

58. 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.”*

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

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

60. 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.
61. In the Observations, the Club denies having breached any UEFA Regulations. The club contends that, having demonstrated that it was an unintentional mistake, no sanction is required. The Club also contends that, having already been subject to a disciplinary process before the SFL for the same offence, it should not be sanctioned again.
62. The Club makes reference to all its statements before the CFCB Investigatory Chamber, which can be summarized as follows:
- The transfer agreement between FC Sion and FC Sochaux was “conditional” and the parties were not in agreement as to whether or not the conditions were met. The dispute was brought before the CAS that admitted the conclusions of FC Sochaux and FC Sion renounced to its right to appeal.
 - The clubs were negotiating the payment of €950,000 and FC Sochaux contacted the FIFA’s Disciplinary Committee on 23 February 2017, while FIFA only replied on 11 April 2017, indicating that FIFA was not competent to execute the decision.
 - In the meantime, on 7 April 2017, the Club’s licence manager confirmed that there were no overdue payables towards other football clubs.
 - The Club admits that there was an overdue payable as at 31 March 2017, but affirms that the mistake in the document dated 7 April 2017 was the result of a misinterpretation by the Club’s licence manager, who is not a lawyer.
 - The Club never had the intention to conceal the information and had provisioned the amount due for payment.
 - The Club has already been sanctioned by the SFL.

63. In case the CFCB Adjudicatory Chamber decides to sanction the Club, the Club raises the following arguments: if it is considered that the Club should not have participated in the UEFA club competition and that the Club should reimburse the UEFA revenues received, the amount of €229,438 should be deducted from such amount, corresponding to the costs incurred due to the participation in the relevant UEFA club competition. The Club provides extracts detailing alleged costs related to equipment, trip related costs, hotels, airplanes, organizational and security expenses.

Preliminary

64. The Adjudicatory Chamber takes note of the argument raised by the Club that, having already been subject to a disciplinary process before the SFL for the same offence, it should not be sanctioned again.

65. This allegation is, however, unfounded.

66. 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 Licencing 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 club monitoring requirements as defined in the *UEFA Club Licencing 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 Licencing 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 *Club Licencing 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.

67. Article 5(3) of the CL&FFP Regulations states that the licensor must ensure that all applicable provisions defined in part II of these regulations are integrated into national club licencing regulations, which must be submitted in one of the UEFA official languages to the UEFA administration for review according to the procedure defined in Annex III.

68. In terms of Article 4.01(c) of the UEL Regulations, in order 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 Licencing and Financial Fair Play Regulations* and be included in the list of licencing decisions to be submitted by this body to the UEFA administration by the given deadline.

69. Article 54(1) of the CL&FFP Regulations foresees that the monitoring process starts on submission by the licensor of the list of licencing decisions to the UEFA administration and ends at the end of the licence season.

70. The rule of *ne bis in idem* is a broad principle aimed at protecting the finality and the stability of judgements.

71. Nevertheless, the present case does not fall within the application of this principle.
72. The CFCB Adjudicatory Chamber reverts to the decision of the SFL Disciplinary Commission to note that this Commission acted as an internal body of the SFL mainly in order to decide whether or not the national regulations were complied with.
73. As it can be noted in the grounds of the decision, the SFL Disciplinary Commission decided and fined FC Sion under the scope of the SFL licence regulation, the SFL regulations on disciplinary proceedings and the disciplinary regulations of the Swiss Football Association (see points 1, 10, 11 and 12 of the decision of the SFL Disciplinary Commission).
74. It is not the responsibility of the CFCB Adjudicatory Chamber to control or review disciplinary measures based solely on the applicable regulation at national level.
75. Moreover, according to Article 24(2) of the SFL licencing regulation, the UEFA is entitled to control at any time the licence granted to the club which participates in a UEFA club competition.
76. Indeed, in accordance with CL&FFP Regulations and the Procedural Rules, the CFCB has exclusive jurisdiction to review the licences granted by the licensor, accepting or rejecting a club's admission, as well as analysing whether or not the licensing criteria were fulfilled in accordance with the applicable regulations.
77. Neither the UEFA Administration nor the CFCB are bound by a decision of a licensor which granted a licence to participate in a UEFA competition. Otherwise, any licensor would be able to undermine the CL&FFP Regulations and the Procedural Rules. In such a situation, the possibility of contradictory decisions by different licensors would put in risk the coherence, the objectives and the effectiveness of the CL&FFP Regulations, creating uncertainty and jeopardising the equality of treatment of candidates and the transparency of the process.
78. The allegation of the existence of a violation of the principle of *ne bis in idem* being unfounded, the CFCB Adjudicatory Chamber proceeds to analyse the substance of the matter. Having considered the evidence, in particular the findings of the CFCB Chief Investigator and the Observations, the CFCB Adjudicatory Chamber considers that:

Article 49 of the CL&FFP Regulations – No overdue payables towards other football clubs

79. In its Observations, the Club did not dispute the existence of overdue payables towards FC Sochaux as at 31 March 2017. On the contrary, the Club expressly recognizes these overdue payables.
80. FC Sochaux put the Club in default on 8 February 2017 requesting the payment of the relevant amount and, subsequently, on 23 February 2017, considering FC Sion still had not paid its debt, it requested FIFA to execute the CAS decision, putting FC Sion in copy of the letter addressed to FIFA.
81. The CFCB Adjudicatory Chamber notes that there is no doubt that the Club had overdue payables towards a football club amounting to €950,000 as at 31 March 2017, which was eventually paid on 7 June 2017 only, clearly in breach of the CL&FFP Regulations.

82. 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)

83. On this basis, the CFCB Adjudicatory Chamber accepts the finding of the CFCB Investigatory Chamber (as set out in Paragraph 18 of this Decision) that the Club had failed to satisfy the requirements of Article 49 of the CL&FFP Regulations as a result of having overdue payables towards football clubs amounting to € 950,000 as at 31 March 2017.
84. The CFCB Adjudicatory Chamber recalls that as it has already been confirmed by the Court of Arbitration for Sport, *“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 50 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)

Submission of inaccurate information

85. The SFL Disciplinary Commission decided that, although the information contained in the document dated 7 April 2017 was false/wrong, the document was not falsified and the Club did not have the intention to mislead the SFL.
86. There can be no dispute that there were overdue payables which should have been included in the financial information submitted by the Club.
87. It is the responsibility of the licence applicant to submit complete and accurate information under Article 13 of the CL&FFF, and as the SFL decision makes clear this was not done.
88. The Club insists that it did not have the intention to mislead the SFL.
89. In this regard, the CFCB Adjudicatory Chamber returns to the documentation and highlights that the relevant document dated 7 April 2017 has been signed by the FC Sion’s President. The Club and its President are responsible for providing correct and accurate information when applying for a UEFA licence. That responsibility does not depend upon it being established that the inaccuracy in the information submitted was

intentional. As the decision of the SFL Disciplinary Commission makes clear, and the documents show, the Club did breach its duty to provide accurate financial information.

Conclusions

90. The CFCB Adjudicatory Chamber determines that the Club has:
- (i) failed to satisfy the requirements of Article 49(1) of the CL&FFP Regulations; and
 - (ii) based on the foregoing, it obtained the licence issued by the SFL not in accordance with the CL&FFP Regulations;
 - (iii) breached Articles 13(1) and 43(1)(i) of the CL&FFP Regulations.

PART VII – Admission matters and disciplinary measures

Admission to the 2017/2018 UEFA Europa League

91. 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.
92. 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”*.
93. 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”*.
94. In the present case, FC Sion was granted a licence by the SFL 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 49(1) of the CL&FFP Regulations.
95. Following its admission to the 2017/2018 UEFA Europa League, the Club participated in the third qualifying round, and has already been eliminated from the competition.
96. 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 Sinai ve Ticari Yatirimlar A.S.*).

97. 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.
98. The CFCB Adjudicatory Chamber considers that the Club should not have been granted a UEFA Licence by the SFL.
99. In accordance with the disciplinary measures imposed in previous cases related to the admission criteria, in the manner provided for in Article 27(b) of the Procedural Rules, in case of non-fulfilment of the licence criteria the Club's admission to the 2017/2018 UEFA Europa League could have been rejected.
100. However, the rejection of the admission to participate in the UEFA club competitions was imposed by the CFCB Adjudicatory Chamber on clubs when the irregularity in the granting of the licences by the licensor were detected before the start of the UEFA club competition and the rejection of the clubs' admission to the relevant UEFA club competition, in accordance with Article 27(b) of the Procedural Rules, was possible.
101. In the present case, as previously explained, the existence of overdue payables towards football clubs as at 31 March 2017 and therefore, the breach of Article 49(1) of the CL&FFP Regulations, has been established by the CFCB Investigatory Chamber during the monitoring process and in particular, within the scope of the investigation opened against the Club considering the existence of significant overdue payables as of 30 June 2017.
102. The Club had already been admitted to the 2017/2018 UEFA Europa League, has already participated and has already finished its participation in the 2017/2018 UEFA Europa League, being entered the competition in the third qualifying round and eliminated in the same round.
103. Considering the circumstances of the present case, the CFCB Adjudicatory Chamber can no longer reject the Club's admission to the 2017/2018 UEFA Europa League.
104. Consequently, considering that FC Sion has not fulfilled the club licensing criterion defined in Article 49(1) of the CL&FFP Regulations as a result of having overdue payables towards football clubs amounting to €950,000 as 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.
105. The CFCB Investigatory Chamber suggests that the CFCB Adjudicatory Chamber imposes disciplinary measure on the Club consisting of a fine of €235,000, the amount corresponding to the UEFA revenues the Club gained by participating in the 2017/2018 UEFA Europa League.
106. In accordance with Article 2(1)(h) of the UEFA Statutes (edition April 2017), one of the objectives of UEFA shall be *"redistribute revenue generated by football in accordance with the principle of solidarity and to support reinvestment in favour of all levels and areas of football, especially the grassroots of the game"*. Article 2 (2) of the UEFA Statutes establishes that *"UEFA shall seek to achieve its objectives by implementing any measures it deems appropriate, such as setting down rules, entering into agreements or conventions, taking decisions or adopting programmes"*.

107. The Club has received revenues of €235,000 from the 2017/2018 UEFA Europa League.
108. The CFCB Adjudicatory Chamber agrees that, in general, imposing a fine corresponding to the amount of the UEFA revenues the Club gained by participating in the competition, considering the fact that a club should not have been admitted to the competition for failing to meet one of its admission criteria, appears to be an appropriate measure. However, such a fine should not necessarily correspond, contrary to the argument sustained by the Club, to a mere civil reimbursement of the UEFA revenues received.
109. The CFCB Adjudicatory deems important to emphasise that in cases related to the admission criteria in which it is established that the club failed to fulfil the club licensing criteria before its admission to the UEFA club competition, the sanction to be imposed in general is the rejection of the club's admission, in accordance with Article 27(b) of the Procedural Rules.
110. 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.
111. The CFCB Adjudicatory Chamber highlights the risk of unequal treatment by imposing a financial sanction (fine corresponding to the amount of the UEFA revenues) in opposition to a sporting sanction (the rejection of the admission or exclusion of the competition) 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.
112. 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.
113. The seriousness of the breach of Article 49(1) of the CL&FFP Regulations, the fact that the Club participated in the 2017/2018 UEFA Europa League in breach of the CL&FFP Regulations and the significant amount of the overdue payable towards a football club as at 31 March 2017 shall be taken into consideration when determining the appropriate disciplinary measure(s).
114. It is essential to also take into account that all clubs comply with the disclosure obligations in the CL&FFP Regulations in order to enable the UEFA Administration and the CFCB to properly assess the position of the clubs which will take part in UEFA's club competitions.
115. Articles 13(1) and 43(1)(i) of the CL&FFP Regulations play a key role in setting the standard of these disclosures, emphasising that "*all necessary information and/or relevant documentation*" must be provided and that all documents that are submitted must be "*complete and correct*".
116. The CFCB Adjudicatory Chamber has stressed on a number of occasions that a club's disclosures have to be "*correct*" and "*accurate*", otherwise the whole club licensing and financial fair play system would be undermined (in this regard, see paragraph 53 of case AC-01/2015, *Pallohonka Oy*).

117. It is clear then that the submission of incorrect, inaccurate and incomplete documentation by clubs is a serious matter which should be taken into account in considering the sanction that should flow from a breach of Article 49 of the CL&FFP Regulations.
118. It is important to reiterate the importance of the accuracy of the financial information given in the licensing system, since the Financial Fair Play and Club Licensing system is primarily based on the information provided to UEFA by the clubs through their national associations. For this reason, any detected infringements must be severely penalised.
119. In view of all the circumstances of the case, the CFCB Adjudicatory Chamber deems that an exclusion from the next UEFA club competition for which the Club would otherwise qualify in the next two (2) seasons (i.e. the 2018/19 and 2019/20 seasons) and a fine in the amount of €235,000 are the appropriate disciplinary measures to ensure that a club does not derive a benefit from being wrongly admitted to a UEFA competition, to make clear the importance of compliance by licence applicants with the duty to submit accurate information during the licencing process, and to serve as a sufficient deterrent to dissuade licence applicants from submitting inaccurate financial information.
120. 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 VIII – Operative part

121. The CFCB Adjudicatory Chamber hereby decides:
 1. **FC Sion failed to satisfy the requirements of Article 49(1) of the CL&FFP Regulations and it obtained the licence issued by the SFL not in accordance with the CL&FFP Regulations.**
 2. **FC Sion breached Articles 13(1) and 43(1)(i) of the CL&FFP Regulations.**
 3. **To exclude FC Sion from participating in the next UEFA club competition for which it would otherwise qualify in the next two (2) seasons (i.e. the 2018/19 and 2019/20).**
 4. **To impose a fine of two hundred and thirty five thousand Euros (€235,000) on FC Sion.**
 5. **FC Sion 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 FC Sion.**
 7. **This Decision is final and shall be notified to:**
 - a) **FC Sion;**
 - b) **the SFL;**

- c) the Swiss Football Association;
- d) the CFCB Chief Investigator; and
- e) the UEFA Administration.

122. 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**