



**Arbitration CAS 2013/A/3233 PAE Giannina 1966 v. Union des Associations Européennes de Football (UEFA), award of 9 December 2013 (operative part of 16 July 2013)**

Panel: Mr Olivier Carrard (Switzerland), President; Mr Efraim Barak (Israel); Prof. Luigi Fumagalli (Italy)

*Football*

*Financial Fair Play*

*Overdue payables*

*Purposes of deadlines to fulfil the material requirements*

*Proportionality*

1. **According to the UEFA Club Licensing and Financial Fair Play Regulations, payables are not considered as overdue, if the licence applicant/licensee (i.e. debtor club) is able to prove by 31 March that it has concluded an agreement which has been accepted in writing by the creditor to extend the deadline for payment beyond the applicable deadline. In the light of the applicable regulations, it is however insufficient to take actions within the applicable deadline with a view of obtaining a deferral.**
2. **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. In this regard, strict deadlines are inevitable for the good organization of any competition and to serve the interests of legal certainty and security.**
3. **A valid licence is a condition of entry of the competition. If this condition is not fulfilled, the club cannot be admitted to the competition. Accordingly, there is no room for any test of proportionality of the sanction.**

**I. THE PARTIES**

1. The Appellant, PAE PAS Giannina 1966 (hereinafter referred to as “the Appellant”) is a professional football club with its seat in Ioannina (Greece), affiliated to the Hellenic Football Federation (hereinafter referred to as “HFF”).
2. The Respondent, the Union of European Football Association (hereinafter referred to as “UEFA”), an association incorporated in Switzerland, is the governing body of football in Europe.

## II. THE FACTS

3. Within the deadline of 31 May 2013, the HFF submitted its list of licensing decisions relevant for the UEFA 2013/2014 Europa League. This list included the Appellant as a club having been granted the UEFA Licence by the Club Licensing Appeals Body of the HFF on 30 May 2013. The Appellant had been previously refused the UEFA Licence by the Club Licensing First Instance Body of the HFF.
4. On 5 June 2013, the UEFA General Secretary referred the case of the Appellant to the Investigatory Chamber of the Club Financial Control Body (hereinafter referred to as “the Investigatory Chamber”) in accordance with Article 2.12 of the Regulations of the UEFA Europa League (2013/2014 Seasons).
5. On the basis of the documents and information, there was a doubt as to whether the Appellant had obtained a licence issued by the competent national body *“in accordance with the UEFA Club Licensing and Financial Fair Play Regulations (2012 edition)”*.
6. Accordingly, the Club Financial Control Body Chief Investigator (hereinafter referred to as “the CFBC Chief Investigator”) informed the Appellant of the opening of the proceedings, whose aim was to decide whether it should be admitted to the UEFA 2013/2014 Europa League. The Appellant was also made aware of the investigation to be conducted, consisting of a compliance inspection performed by Deloitte, an independent audit company mandated by UEFA.
7. On 6, 7 and 8 June 2013, Deloitte performed the compliance inspection at the HFF Headquarters in Athens, Greece.
8. On 11 June 2013, Deloitte submitted its final inspection report. The latter highlights that the Appellant did not comply with several club licensing criteria, which needed to be fulfilled in order to obtain the UEFA licence.
9. As to the payables towards tax authorities, the report states: *“As at 31 March 2013, the licensee has an overdue payable due to the Greek tax authorities for the amount of €1,290,000 (the total amount less VAT) due to obligations that arose prior to 31 December 2012. It was identified that the licensee entered into an agreement on 28 May 2013 with the Greek tax authorities to defer the payment of this tax”*.
10. With respect to the Appellant financial statements, the report states the following: *“HFF has identified six ‘private agreements’ between employees and the licensee which were not declared in the financial statements submitted by the licensee to HFF. [...] As a result of the above, it appears that the licensee has provided inaccurate financial statements to HFF and has submitted inaccurate management representations regarding the completeness and accuracy of its financial statements submission”*.
11. On 13 June 2013, within the deadline set by the CFBC Chief Investigator, the Appellant provide the Club Financial Control Body (hereinafter referred to as “the CFCB”) with its comments and observations.

12. On 14 June 2013, the Investigatory Chamber met at the UEFA Headquarters in Nyon, Switzerland, in order to review and assess the case file, and to make a decision. Decision was made to refer the case of the Appellant to the CFBC Adjudicatory Chamber (hereinafter referred to as “the Adjudicatory Chamber”) based on Article 12(1)(b) of the Procedural rules governing the UEFA Club Financial Control Body (edition 2012) (hereinafter referred to as “the Procedural Rules”).
13. The Investigatory Chamber recommended the Adjudicatory Chamber to refuse admission of the Appellant to the UEFA 2013/2014 Europa League. According to the findings of the Investigatory Chamber, the Appellant had failed to disclose the full amount of its personal debts. In addition to the contracts registered with the HFF, the Appellant had apparently “private agreements” with at least three of its employees during the reporting period under investigation. The Investigatory Chamber considered that these agreements should have been recognized in the annual financial statements of the Club, in accordance with the “fair presentation” requirement set forth in Annex VII A (3) of the UEFA Club Licensing and Financial Fair Play Regulations (edition 2012) (“the CL&FFP Regulations”). As a result, it was held that the Appellant had breached Article 47 of the CL&FFP Regulations. In addition, the Investigatory Chamber held that, as at 31 March 2012, the Appellant had overdue payables towards social/tax authorities for a total amount of EUR 1,290,000. In this regard, the Investigatory Chamber noted that, on 28 May 2013, the Appellant had reached a written agreement with the relevant authorities in order to reschedule and pay its overdue payable in 48 instalments. However, given the fact that this agreement was concluded two months after the applicable deadline, it considered that a violation of Article 50 of the CL&FFP Regulations was established.
14. On 26 June 2013, the Adjudicatory Chamber decided to refuse the admission of the Appellant to the UEFA 2013/2014 Europa League (hereinafter referred to as “the Appealed Decision”). Based on the findings of the Investigatory Chamber, it determined that Appellant had infringed Articles 47 and 50 of the CL&FFP Regulations. Accordingly, the licence granted to the Appellant had not been issued in accordance with the CL&FFP Regulations, which implied that the Appellant did not fulfil the admission criteria under Article 2.07(c) of the Regulations of the UEFA Europa League 2012-15 Cycle (hereinafter referred to as “UEL Regulations”). As a result, the Appellant could not be admitted to the UEFA Europa League 2013/2014, despite qualifying through its position in the 2012/2013 Greek championship.

### **III. PROCEDURE BEFORE CAS**

15. On 4 July 2013, the Appellant filed a statement of appeal with the Court of Arbitration for Sport (hereinafter referred to as “the CAS”) against the Appealed Decision pursuant to Article R47 of the Code of Sports-related Arbitration (hereinafter referred to as “the CAS Code”) with the following prayers for relief:

*(i) To adopt an award according to which the challenged decision AC-04/2013 of the Adjudicatory Chamber of the UEFA CLUB FINANCIAL CONTROL BODY should be cancelled and annulled in total.*

*(ii) To accept, declare and establish that our club has not violated the UEFA Rules and especially the Club Licensing & Financial Fair Play (CL&FFP) Regulations and that it is eligible to compete to the UEFA Europa League 2013 – 2014 competition.*

*(iii) In the alternative, if Your Court comes to the conclusion that our club violated - in the described in the challenged decision way - the UEFA CL&FFP Rules, to establish and accept that the sanction that the challenged decision describes, i.e. the total and final ban of our club from the participation to the UEFA Europa League 2013 – 2014 competition, violates directly the fundamental principle of proportionality and has to be modified and replaced with another sanction which is also effectively satisfactory.*

*(iv) To establish that all the costs of this arbitration procedure – if any -, have to be paid by the Respondent.*

*(v) To establish that as compensation for the legal cost assumed by our club, the Respondent has to pay an amount not less than 20.000 CHF.*

16. In its statement of appeal, the Appellant requested that CAS proceed in an expedited manner.
17. On 5 July 2013, the CAS acknowledged receipt of the statement of appeal filed by the Appellant and suggested an expedited procedural calendar to the parties.
18. On 8 and 9 July 2013, the parties confirmed to the CAS that they accepted the suggested calendar.
19. By notice dated 10 July 2013, the CAS notified the parties that the Panel had been constituted as follows:  
  
President: Mr Olivier Carrard, Attorney-at-law in Geneva, Switzerland  
Arbitrators: Mr Efraim Barak, Attorney-at-law in Tel Aviv, Israel  
Prof. Luigi Fumagalli, Professor and Attorney-at-law in Milan, Italy.
20. On 10 July 2013, the Appellant filed its appeal brief.
21. On 12 July 2013, UEFA filed its answer brief with the CAS with following prayer for relief:  
  
*“On the grounds set out above, UEFA respectfully requests CAS to dismiss the appeal and to order payment by the Appellant of all costs of the arbitration as well as legal costs suffered by UEFA”.*
22. A hearing took place on 15 July 2013 in presence of the following persons:  
  
For the Appellant: Mr Minas Lysandrou, attorney-at-law, Mrs Christina Kontopoulos, translator, Mr Georgios Nikou, Finance expert, Mr Georgios Christovassilis, CEO of Giannina.  
  
For UEFA: Mr Ivan Cherpillod, attorney-at-law, Mr Julien Zylberstein, UEFA Legal Counsel, Mr Pádraig Smith, UEFA Financial Analysis Manager.

23. The Panel was assisted by Mr William Sternheimer, CAS Managing Counsel & Head of Arbitration, and Mr Pierre Ducret, *ad-hoc* clerk.
24. At the beginning of the hearing, the Panel requested from the Appellant clarifications as to the statute of Mr Nikou. The Appellant explained that Mr Nikou was part of the team who dealt with Deloitte. UEFA did not object to the participation of Mr Nikou. After a short deliberation, the Panel decided to accept the presence of Mr Nikou as one of the representatives of the Appellant.
25. The parties confirmed that they accepted the jurisdiction of the CAS to hear the case.
26. After the opening statements, the Panel interrogated the parties. The parties' counsel then made their respective closing statements.
27. At the conclusion of the hearing, the Appellant and UEFA confirmed that they had no objections in respect of their right to be heard and to be treated equally in the arbitration proceedings.

#### **IV. OVERVIEW OF THE PARTIES' SUBMISSIONS**

28. The following outline of the parties' positions is illustrative only and does not necessarily comprise each and every contention put forward by the parties. The Panel, however, has carefully considered all the submissions made by the parties, even if no explicit reference has been made in what immediately follows. The parties' written submissions, their verbal submissions at the hearing and the contents of the Appealed Decision were all taken into consideration.

##### **A. The Appellant**

29. The Appellant's submissions can be summarized as follows:
  - a) *Absence of jurisdiction of the CFCB*
30. The Appellant submits that the Appealed Decision was not issued by the competent UEFA body. More exactly, the Appellant refers to Article 3.2 of the Procedural Rules and contends that the case should have been heard by the UEFA Control and Disciplinary Body, and thereafter by the UEFA Appeals Body, and not by the CFCB. In support of its contention, the Appellant mentions three previous cases (CAS 2012/A/2702, CAS 2012/A/2821 and CAS 2012/A/2824), heard by CAS on the basis of appeals brought against decisions of the UEFA Appeals Body. As a result, the Appellant submits that its rights have been infringed, since
  - i. the Appealed Decision does not contain any reasoning as to the criteria which were followed for the attribution of the case to the CFCB; and

- ii. it was denied “*without a valid reason*” the right to be heard by the two competent disciplinary bodies of UEFA, in violation of Article 6 of the European Convention on Human Rights (hereinafter referred to as the “ECHR”).

b) *Absence of legal basis for the appealed decision*

31. In another procedural argument, the Appellant invokes the fact that the Appealed Decision does not mention “*the legal provision and the specific article (and the Regulation) which is the base for sanctioning [the] club, i.e. among which sanctions the Respondent chose the direct exclusion of our club from the European competitions*”.

c) *Misapplication of Article 50 of the CL&FFP Regulations*

32. In the Appellant’s opinion, the Appealed Decision has to be set aside because no overdue payables existed towards social/tax authorities, justifying a denial of the licence under Article 50 of the CL&FFP Regulations. More exactly, “*there was not a real debt on or before the 31/3/2013*”; in the alternative the exception provided in Annex I of the CL&FFP Regulations should apply.

33. In that context, contrary to the Appealed Decision statement that the amount of EUR 1,290,000 was due on 31 March 2013, the Appellant contends that:

- “*[it] started on time all necessary actions in order to settle and pay off the aforesaid amount*”;
- “*the completion of the settlement process of [its] debts to the tax office was outside the “realm of [its] responsibility*”;
- “*the process of approving a debt settlement to the public sector is not an easy case*”, given the current situation in Greece.

d) *Misapplication of Article 47 of the CL&FFP Regulations*

34. The Appellant denies having breached Article 47 of the CL&FFP Regulations explaining that it never concluded “private agreements” with its players. It further explains that three cases are currently subject to legal proceedings before the FIFA Dispute Resolution Chamber and the CAS. It further affirms that the players concerned by these proceedings “*received all the amounts that they agreed to receive according to their official and valid employment relationship*” and that they have signed “*a formal declaration before a public authority by which they waived all their financial claims against [the] club*” and concludes that the annual financial statements of the club accurately reflect the situation.

e) *Violation of the principles proportionality and equal treatment*

35. The Appellant contends that the Adjudicatory Chamber could have imposed a fine or pronounced the exclusion of the Club from the competition (with a suspension of the sanction): such measures would have been more in line with the proportionality principle,

which requires a sanction to be appropriate and necessary. It also alleges that the principle of equal treatment has been violated by referring to other “similar” cases.

## **B. UEFA**

36. UEFA’s submissions can be summarized as follows:

a) *Absence of jurisdiction of the CFBC*

37. UEFA points out that the three previous cases referred to by the Appellant have been decided in application of the former Club Licensing Regulations 2008 and the CL&FFP Regulations 2010. Under the applicable CL&FFP Regulations (2012 edition), “any breach of these regulations may be penalised by UEFA in accordance with the Procedural rules governing the UEFA Club Financial Control Body”. Accordingly, the contested decision has been rendered by the competent UEFA authority.

b) *Absence of legal basis for the Appealed Decision*

38. UEFA emphasizes that the Appealed Decision expressly mentions Article 19 of the Procedural Rules, which allow the Adjudicatory Chamber to take the following decision, among other: “(b) to accept or reject the club’s admission to the UEFA club competition in question”.

c) *Misapplication of Article 50 of the CL&FFP Regulations*

39. UEFA points out that it is not disputed that the Appellant owed EUR 1,290,000 to the social/tax authorities as a result from contractual and legal obligations towards employees that had arisen before 31 December 2012, and that this amount had not been paid by 31 March 2013. It is also not disputed that as of 31 March 2013, no written agreement existed with the Greek Tax Authorities in order to extend the deadline for payment beyond the applicable deadline. UEFA also underlines that the application made by the Appellant has been accepted on 28 May 2013, i.e. almost two months after the expiry of the deadline, and that CAS jurisprudence has “consistently recognised that deadlines for this kind of procedure are fundamental for the smooth running of competitions and must be applied consistently”. The mere existence of overdue payables is sufficient to declare the Appellant ineligible to the UEFA 2013/2014 Europa League.

d) *Misapplication of Article 47 of the CL&FFP Regulations*

40. UEFA affirms that the annual financial statements of the Appellant did not contain the total amounts which had been effectively paid to its employees. It further explains: “Whether the “unofficial” part of their salary has been paid or is irrelevant: if that part has been paid – but the corresponding payments are not mentioned in the accounts – the audited financial statements are inaccurate; and if that “unofficial” part has remained unpaid – but the corresponding debts are not mentioned in the account – the audited financial statements are also inaccurate”. Accordingly, the annual financial statements of the

Appellant do not truly represent the situation which amounts to a breach of Article 47 of the CL&FFP Regulations.

e) *Violation of the principles proportionality and equal treatment*

41. The condition of a valid licence issued in accordance with the CL&FFP Regulations is a condition of entry of the competition. Accordingly, if this condition is not fulfilled, *“the only possible decision which could be made by the UEFA CFCB was to deny the club the right to participate in the UEL (season 2013/2014)”*. In light of the foregoing, *“there is no room for any test of proportionality”*. As to the purported violation of the principal of equal treatment, UEFA points out that in the cases cited by the Appellant the rules were not the same and the situations were not comparable.

**V. LEGAL DISCUSSION**

**A. Jurisdiction of the CAS**

42. The jurisdiction of the CAS, which is not disputed, derived from Article R47 of the CAS Code and Article 62.1 of the UEFA Statutes (Edition 2012).

43. Article R47 of the CAS Code reads as follow:

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

44. Article 62.1 of the UEFA Statutes provides:

*Any decision taken by a UEFA organ may be disputed exclusively before the CAS in its capacity as an appeals arbitration body, to the exclusion of any ordinary court or any other court of arbitration.*

45. It follows that the CAS has jurisdiction to decide this dispute.

**B. Admissibility**

46. According to Article R49 of the CAS Code:

*In the absence of a time limit set in the statutes or regulations of the federation, association or sports-related body concerned, or of a previous agreement, the time limit for appeal shall be twenty-one days from the receipt of the decision appealed against.*



47. In accordance with Article 62.3 of the UEFA Statutes 2010, “[t]he time limit for appeal to the CAS shall be ten days from the receipt of the decision in question”.
48. The Appealed Decision was notified on 26 June 2013 and the Statement of Appeal was filed on 4 July 2013. This was within the required 10 days.
49. It follows that the appeal is admissible.

### **C. Applicable law**

50. Article 63(3) of the UEFA Statutes provides that “proceedings before the CAS shall take place in accordance with the Code of Sports-related Arbitration of the CAS”.

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

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

52. The Panel notes that the parties throughout their submissions referred to the CL & FFP Regulations, the Procedural Rules and the UEL Regulations.

53. In light of the above, the Panel finds that the CL&FFP Regulations, the Procedural Rules and the UEL Regulations are applicable to the case at hand.

54. The UEL Regulations established a procedure under which a club must meet a number of admission criteria in order to be eligible to participate in the competition.

55. Under Article 2.07c) of the UEL Regulations, to be eligible to participate in the competition a club:

*must have obtained a licence issued by the competent national body in accordance with the UEFA Club Licensing and Financial Fair Play Regulations (2010 edition) and be included in the list of licensing decisions to be submitted by this body to the UEFA administration by the given deadline.*

56. Pursuant to Article 14(1) of the CL&FFP Regulations:

*Clubs which qualify for the UEFA club competitions on sporting merit or through the UEFA fair play ranking must obtain a licence issued by their licensor according to the national licensing regulations [...].*

57. The CL&FFP Regulations establish a club licensing system and aim at achieving the objective set forth 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 a club has 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 by ensuring that clubs settle their liabilities with players, special/ 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.*

58. According to Article 5 of the CL&FFP Regulations:

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.*

59. Article 47 of the CL&FFP Regulations provides as follows:

1. *Annual financial statements in respect of the statutory closing date prior to the deadline for submission of the application to the licensor and prior to the deadline for submission of the list of licensing decisions to UEFA must be prepared and submitted.*
2. *Annual financial statements must be audited by an independent auditor as defined in Annex V.*
3. *The annual financial statements must consist of:*
  - a) *a balance sheet;*
  - b) *a profit and loss account;*
  - c) *a cash flow statement;*
  - d) *notes, comprising a summary of significant accounting policies and other explanatory notes; and*
  - e) *a financial review by management.*
4. *The annual financial statements must meet the minimum disclosure requirements as set out in Annex VI and the accounting principles as set out in Annex VII. Comparative figures in respect of the prior statutory closing date must be provided.*
5. *If the minimum requirements for the content and accounting as set out in paragraph 4 above are not met in the annual financial statements, then the licence applicant must prepare supplementary information in order to meet the minimum information requirements that must be assessed by an independent auditor as defined in Annex V.*

60. Annex VII(A)(3) of the CL&FFP Regulations provides that:

*The financial reporting framework, suitable as a basis for the preparation of financial statements, must contain certain underlying principles including:*

- a) *fair presentation;*
- b) *consistency of presentation;*
- c) *accrual basis for accounting;*
- d) *separate presentation of each material class of items;*

e) *no offsetting of assets and liabilities or income and expenses.*

61. Article 50 of the CL&FFP Regulations reads 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 its employees as well as social/tax authorities as a result of contractual and legal obligations towards its employees that arose prior to the previous 31 December.*
2. *Payables are those amounts due to employees or social/tax authorities as a result of contractual or legal obligations towards employees. Amounts payable to people who, for various reasons, are no longer employed by the applicant fall within the scope of this criterion and must be settled within the period stipulated in the contract and/or defined by law, regardless of how such payables are accounted for in the financial statements.*
3. *The term “employees” includes the following persons:*
  - a) *All professional players according to the applicable FIFA Regulations on the Status and Transfer of Players; and*
  - b) *The administrative, technical, medical and security staff specified in Articles 28 to 33 and 35 to 39.*
4. *The licence applicant must prepare a table showing all employees who were employed at any time during the year up to the 31 December preceding the licence season; i.e. not just those who remain at year end. This table must be submitted to the licensor.*
5. *The following information must be given, as a minimum, in respect of each employee:*
  - a) *Name of the employee;*
  - b) *Position/function of the employee;*
  - c) *Start date;*
  - d) *End date (if applicable);*
  - e) *The balance payable as at 31 December, including the due date for each unpaid element; and*
  - f) *Any payable as at 31 March (rolled forward from 31 December), including the due date for each unpaid element, together with explanatory comment*
6. *The licence applicant must reconcile the total liability as per the employee table to the figure in the financial statements balance sheet for ‘Accounts payable towards employees’ or to the underlying accounting records.*
7. *The licence applicant must submit to the auditor and/or the licensor a social/tax table showing the amount payable (if any), as at 31 December of the year preceding the licence season, to the competent social/tax authorities as a result of contractual and legal obligations towards its employees.*

8. *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;*
    - d) *All supporting evidence in respect of the above payables.*
  9. *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.*
  10. *The employees table as well as 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.*
62. 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 and 50) and by 30 June and 30 September (in respect of Articles 65 and 66) 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.*

63. Pursuant to Article 2.12 of the UEL Regulations:

*If there is any doubt as to whether a club fulfils the admission criteria defined in paragraphs 2.07c) and 2.07d), 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 applicable to 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 applicable to the UEFA Club Financial Control Body.*

64. According to Article 3(1)(2) of the Procedural Rules, the CFBC has jurisdiction “to 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”.

65. Pursuant to Article 10(1) of the Procedural rules:

*If a case falling under the jurisdiction of the CFBC in accordance with these rules comes to the attention of, or is referred to, the CFBC, an investigation is conducted by the CFBC chief investigator.*

66. According to Article 12(1) of the Procedural Rules:

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

- a) drop the case; or*
- b) refer the case to the adjudicatory chamber; or*
- c) take any other appropriate measures.*

67. If the case is referred to the Adjudicatory Chamber, Article 19 of the Procedural Rules provides as follows:

*The adjudicatory chamber may take the following final decisions in the case at hand:*

- a) to drop 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; and/ or*
- d) to take any other appropriate measures.*

**D. The Merits of the Appeal**

a) *Procedural challenges*

i) Absence of jurisdiction of the CFCB

68. In application of Article 2.12 of the UEL Regulations, if there is any doubt as to whether a club has obtained a licence in accordance with the CL&FFP Regulations “*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 applicable to the UEFA Club Financial Control Body*”.

69. The Panel notes that the Appealed Decision was rendered by the Adjudicatory Chamber, one of the two chambers composing the CFCB. According to Article 14(1) of the Procedural Rules, its task is to decide on the case referred to it by the CFBC Chief Investigator.

70. In light of the above, the Panel determines that the Appealed Decision was rendered by the UEFA body which, under the UEFA regulations currently in force, is exclusively competent to decide whether a club satisfies the admission criteria to the UEFA competitions, including the granting of a licence in accordance with the CL&FFP Regulations. As a result, there was no room for the application, in the case of the Appellant, of Article 3.2 of the Procedural Rules, or any need to give reasons to justify the criteria which were followed for the attribution of its case to the CFCB, as the competence of this body (and not also of the UEFA Control and Disciplinary Body) was dictated by the applicable rules. In the same way, and for the same reason, the Appellant’s argument based on Article 6 ECHR is doomed to fail.

ii) Absence of legal basis for the Appealed Decision

71. The Panel notes that, under paragraph 45, the Appealed Decision explicitly refers to Article 19 of the Procedural Rules, which provides that the CFBC Adjudicatory Chamber may take the following decisions:

- a) *to drop 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; and/ or*
- d) *to take any other appropriate measures.*

72. It results that the basis underlying the Appealed Decision was perfectly clear. The Appellant’s argument in this respect must therefore be rejected.

b) *Substantive issues*

i) Misapplication of Article 50 of the CL&FFP Regulations

73. The question is the following: did the Appellant prove that as of 31 March 2013 it had no overdue payables towards its employees as well as social/tax authorities as a result of contractual and legal obligations towards its employees that had arisen prior to 31 December 2012?
74. The Panel notes that it is not disputed that, as of 31 March 2013, the Appellant owed EUR 1,290,000 to the social/tax authorities as a result from contractual and legal obligations towards employees that had arisen before 31 December 2012.
75. Against this background, the Panel further notes that, according to Annex VII(2)(b) of the CL&FFP Regulations, 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 that *“it has concluded an agreement which has been accepted in writing by the creditor to extend the deadline for payment beyond the applicable deadline”*.
76. In the case at hand, the Panel finds that there was no written agreement as of 31 March 2013 confirming that the Greek Tax Authorities had accepted to extend the deadline for payment beyond the applicable deadline.
77. In this regard, the Panel observes that, on 3 January 2013 and, again, on 26 March 2013, the Appellant submitted to the Greek Tax Authorities applications for the settlement. However, in the light of the applicable regulations, it is insufficient to take actions with a view of obtaining a deferral. According to the Annex VII(2)(b) of the CL&FFP Regulations an agreement with the competent tax authority must be made in writing within the applicable deadline.
78. In the case at hand, it is not disputed that the Appellant reached a written agreement with the Greek Tax Authorities to reschedule and pay its overdue payables in 48 instalments. However, such agreement was concluded on 29 May 2013, i.e. almost two months after the expiry of the applicable deadline.
79. It results from the foregoing that, as of 31 March 2013, the Appellant had overdue payables towards social/tax authorities as a result of contractual and legal obligations towards its employees that had arisen prior to 31 December 2012. The Panel therefore determines that the Appellant infringed Article 50 of the CL&FFP Regulations.
80. In this context, the Panel underlines that 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. 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.

ii) Violation of the principles proportionality and equal treatment

81. As to the purported violation of the proportionality principles, the Panel observes that the condition of a valid licence issued in accordance with the UEFA CL&FFP Regulations is a condition of entry of the competition.

82. As mentioned by UEFA in its Answer Brief, if this condition is not fulfilled, the club cannot be admitted to the competition. Accordingly, there is no room for any test of proportionality.

83. Furthermore, the Panel finds no merits in the Appellant's argument relating to the purported violation of the principle of equal treatment. As a matter of fact, the Appellant's admission to the UEFA 2013/2014 Europa League would induce an unequal treatment amongst the participants.

iii) Misapplication of Article 47 of the CL&FFP Regulations

84. 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.

85. In the case at hand, given the conclusion reached with regard to Article 50 of the CL&FFP Regulations, the Panel considers that the question whether the Appellant has breached Article 47 CL&FFP may remain undecided. The mere existence of overdue payables is indeed sufficient to declare the Appellant ineligible to the UEFA 2013/2014 Europa League.

**E. Conclusion**

86. The Panel holds that the appeal brought by the Appellant is to be dismissed, and that the Appealed Decision is to be confirmed. Furthermore, the Panel holds that all other prayers for relief are dismissed.

## **ON THESE GROUNDS**

### **The Court of Arbitration for Sport rules:**

1. The appeal filed on 4 July 2013 by PAE PAS Giannina 1966 against the decision rendered by the Adjudicatory Chamber of the UEFA Club Financial Control Body on 26 June 2013 is dismissed.
2. The decision rendered by the Adjudicatory Chamber of the UEFA Club Financial Control Body on 26 June 2013 is confirmed.
- (...)
5. All other motions or prayers for relief are dismissed.