Arbitration CAS 2022/A/8871 Football Union of Russia (FUR) v. Union of European Football Associations (UEFA) *et al.*, award of 25 November 2022

Panel: Mrs Leanne O'Leary (United Kingdom), President; Mr Jeffrey Benz (USA); Hon. Michael Beloff KC (United Kingdom)

Football
Exclusion of the teams of a member association from participation in UEFA competitions
Nature of the decision
Scope of review of the CAS
Political neutrality
Proportionality of the measure

1. **A decision taken by a sports association can be characterised as either an administrative decision or a disciplinary decision. The decisions of the UEFA Executive Committee to exclude the teams of a member association from participation in UEFA competitions in consideration of its decision to suspend that member association's right of participation in UEFA competitions as a measure to deal with the consequences of a military conflict for football competitions that it organizes may be properly characterised as administrative decisions. They are clearly not sanctions imposed to enforce compliance with international law obligations, encourage the peaceful settlement of international disputes or to maintain security, as sanctions adopted by governments are typically imposed to achieve.**

2. **The principle of freedom of association requires a certain level of deference to be afforded to a sports association. However, the principle of deference and respect for the autonomy of a sports association is not absolute; these principles may yield when there are exceptional circumstances such as arbitrariness, a misuse of an association's discretionary power, discrimination or breaches of any relevant mandatory legal principle. The threshold for determining those exceptional circumstances is set high, and the arbitrariness, discrimination or breach must be blatant and manifest, and offend a basic sense of justice. Although made with some deference, the review is *de novo* and anew under Article R57 of the Code, and CAS panels have and will consider evidence of violation of the relevant rules, statutes, and law *de novo* in determining whether a decision should stand.**

3. **The principle of political neutrality requires that no political interference whatsoever is exercised on the activities of a sporting organisation. Indeed athletes and sport organisations must be free to exercise their sport without any political interference. Although a military conflict undoubtedly raises political issues, that does not lead automatically to the conclusion that any decision taken by a sports organisation that touches on a military conflict breaches the principle of political neutrality. A decision can be taken in response to a set of extraordinary and unforeseen circumstances**

induced by a military conflict, and not because the sports organisation favours a particular political position.

4. **A CAS panel is entitled to assess the proportionality of an administrative measure within the scope of its review of the exercise of the sports association's discretion, and arguments regarding proportionality are relevant.**

I. PARTIES

1. The Football Union of Russia (the "Appellant" or the "FUR") is the governing body of football in the Russian Federation. It has its seat in Moscow, Russian Federation, and is the member association for Russia of the Union of European Football Associations ("UEFA") and the Fédération Internationale de Football Association ("FIFA").

2. UEFA (the "First Respondent") is the association of European member football associations that is incorporated under Swiss law and has its registered office in Nyon, Switzerland. UEFA is the governing body of European football and is recognised as such by FIFA.

3. The Football Association of Iceland (the "Second Respondent") is the governing body of football in Iceland. It has its seat in Reykjavik, Iceland, and is a member of UEFA and FIFA.

4. The Israel Football Association (the "Third Respondent") is the governing body of football in Israel. It has its seat in Ramat Gan, Israel, and is a member of UEFA and FIFA.

5. The Football Association of Albania (the "Fourth Respondent") is the governing body of football in Albania. It has its seat in Tirana, Albania, and is a member of UEFA and FIFA.

6. The Portuguese Football Federation (the "Fifth Respondent") is the governing body of football in Portugal. It has its seat in Cruz Quebrada – Dafundo, Portugal, and is a member of UEFA and FIFA.

7. The Royal Netherlands Football Association (the "Sixth Respondent") is the governing body of football in The Netherlands. It has its seat in Zeist, The Netherlands, and is a member of UEFA and FIFA.

8. The Swedish Football Association (the "Seventh Respondent") is the governing body of football in Sweden. It has its seat in Solna, Sweden, and is a member of UEFA and FIFA.

9. The Swiss Football Association (the "Eighth Respondent") is the governing body of football in Switzerland. It has its seat in Bern, Switzerland, and is a member of UEFA and FIFA.

10. The Danish Football Association (the "Ninth Respondent") is the governing body of football in Denmark. It has its seat in Brøndby, Denmark, and is a member of UEFA and FIFA.

11. The Bosnian and Herzegovinian Football Association (the "Tenth Respondent") is the governing body of football in Bosnian and Herzegovinian. It has its seat in Sarajevo, Bosnian and Herzegovina, and is a member of UEFA and FIFA.

12. The Football Association of Montenegro (the "Eleventh Respondent") is the governing body of football in Montenegro. It has its seat in Podgorica, Montenegro, and is a member of UEFA and FIFA.

13. The Malta Football Association (the "Twelfth Respondent") is the governing body of football in Malta. It has its seat in Ta' Qali, Malta, and is a member of UEFA and FIFA.

14. The Association of Football Federations of Azerbaijan (the "Thirteenth Respondent") is the governing body of football in Azerbaijan. It has its seat in Baku, Azerbaijan, and is a member of UEFA and FIFA.

15. The Spanish Football Association (the "Fourteenth Respondent") is the governing body of football in Spain. It has its seat in Las Rozas Madrid, Spain, and is a member of UEFA and FIFA.

16. The Slovakian Football Association (the "Fifteenth Respondent") is the governing body of football in Slovakia. It has its seat in Bratislava, Slovakia, and is a member of UEFA and FIFA.

17. The Lithuanian Football Association (the "Sixteenth Respondent") is the governing body of football in Lithuania. It has its seat in Vilnius, Lithuania, and is a member of UEFA and FIFA.

18. The Irish Football Association (the "Seventeenth Respondent") is the governing body of football in Northern Ireland. It has its seat in Belfast, Northern Ireland, and is a member of UEFA and FIFA.

19. The Ukrainian Association of Football (the "Eighteenth Respondent") is the governing body of football in Ukraine. It has its seat in Kyiv, Ukraine, and is a member of UEFA and FIFA.

20. The Hungarian Football Federation (the "Nineteenth Respondent") is the governing body of football in Hungary. It has its seat in Budapest, Hungary, and is a member of UEFA and FIFA.

21. The Norwegian Football Association (the "Twentieth Respondent") is the governing body of football in Norway. It has its seat in Oslo, Norway, and is a member of UEFA and FIFA.

22. The Football Association of Serbia (the "Twenty-First Respondent") is the governing body of football in Serbia. It has its seat in Belgrade, Serbia, and is a member of UEFA and FIFA.

23. The Gibraltar Football Association (the "Twenty-Second Respondent") is the governing body of football in Gibraltar. It has its seat in Gibraltar, and is a member of UEFA and FIFA.

24. The Cyprus Football Association (the "Twenty-Third Respondent") is the governing body of football in Cyprus. It has its seat in Nicosia, Cyprus, and is a member of UEFA and FIFA.

25. The Royal Belgium Football Association (the "Twenty-Fourth Respondent") is the governing body of football in Belgium. It has its seat in Tubize, Belgium, and is a member of UEFA and FIFA.

26. The Turkish Football Association (the "Twenty-Fifth Respondent") is the governing body of football in Turkey. It has its seat in Beykoz, Istanbul, Turkey, and is a member of UEFA and FIFA.

27. The Football Association (the "Twenty-Sixth Respondent") is the governing body of football in England. It has its seat in London, United Kingdom, and is a member of UEFA and FIFA.

28. The Football Association of Ireland (the "Twenty-Seventh Respondent") is the governing body of football in the Republic of Ireland. It has its seat in Dublin, Republic of Ireland, and is a member of UEFA and FIFA.

29. The Scottish Football Association (the "Twenty-Eighth Respondent") is the governing body of football in Scotland. It has its seat in Glasgow, Scotland, and is a member of UEFA and FIFA.

30. The Football Association of Wales (the "Twenty-Ninth Respondent") is the governing body of football in Wales. It has its seat in Vale of Glamorgan, Wales, and is a member of UEFA and FIFA.

31. The Italian Football Association (the "Thirtieth Respondent") is the governing body of football in Italy. It has its seat in Rome, Italy, and is a member of UEFA and FIFA.

32. The Second to Thirtieth Respondents are collectively referred to as the "Other Respondents".

33. The Appellant and the Respondents are collectively referred to as the "Parties".

II. INTRODUCTION

34. This is an appeal against several decisions taken by the UEFA Executive Committee on 2 May 2022, which amended the organisation of certain UEFA competitions to exclude Russian teams from participation in UEFA competitions and are recorded at points 1 to 4 and points 6 to 8 of UEFA Circular No. 21/2022 (the "Appealed Participation Decisions"). Circular No. 21/2022 also recorded UEFA's decision to declare the Appellant's bid to host the UEFA Euro 2028 or 2032 competitions, ineligible (the "Appealed Ineligibility Decision"). Collectively, the Appealed Participation Decisions and the Appealed Ineligibility Decision are referred to as the Appealed Decisions.

35. Circular No. 21/2022 provided as follows:

> *"**UEFA Executive Committee decisions on the impact and consequences resulting from the ongoing suspension of Russian representative teams and clubs in UEFA competitions and other matters***

…

On 28 February 2022, the UEFA Executive Committee (EXCO) decided to suspend all Russian representative teams and clubs from participating in UEFA competition matches until further notice. While this decision is still in force, there was an urgency to address the impact and consequences of this pending suspension on the upcoming UEFA competitions that have not started yet or that will span beyond the current season, such as the UEFA Nations League 2022/23 (UNL) and the UEFA Woman's Euro 2022 (WEURO), in order to ensure the smooth staging of said competitions and a safe and secure environment for all those concerned.

In this regard, several UEFA national associations, including the host association of the WEURO (i.e. the English FA) as well as others which have been drawn in the same group as Russia for a specific competition stage, have publicly voiced their intention not to participate in matches against teams from the Football Union of Russia (FUR), which puts these competitions in disrepute and seriously affects their integrity.

Apart from the national associations, the majority of the governments of European countries have condemned the actions taken by Russia in an unprecedentedly strong and united fashion, not limited to the United Kingdom and the European Union, which have further imposed severe sanctions on a number of Russian individuals. Additionally, the general public's reaction, with protests organised in the majority of European cities against the actions taken by Russia, is causing serious concerns about the ability to ensure the safety and security for the team delegations, supporters and anyone else involved in the preparation and staging of the relevant UEFA competition matches. Furthermore, the travelling constraints caused by the war of Russia in Ukraine, are putting the smooth continuation of the competitions at a high risk. ***Therefore, on two May 2022, the UEFA EXCO took the following decisions:***

1. UEFA Nations League (UNL) 2022/23

- *With regards to Group 2 of League B, only the three remaining teams of said Group (i.e. Iceland, Israel and Albania) will be competing against each other. Russia will therefore automatically be ranked fourth in this group and, consequently, be relegated at the end of the UNL group phase. Furthermore, Russia will be ranked in 16th and consequently last place of League B. In this regard, Article 19.02 of the relevant competition regulations shall apply for the overall ranking of League B.*

2. UEFA Women's EURO (WEURO) 2022 (final tournament)

- *In application of the sporting principle adopted in other similar cases, Russia will be replaced in Group C of the final tournament with Portugal, the latter having been defeated by Russia in the play-offs of this competition. Group C is therefore composed of the Netherlands, Sweden, Switzerland and Portugal.*

3. European Qualification to the FIFA Women's World Cup 2023

- *With regards to Group E, as the Russian representative team will no longer participate in the remaining matches of this competition, all their results until now are to be considered as*

null and void. Consequently, Group E will continue as a group of five teams, i.e. Denmark, Bosnia and Herzegovina, Montenegro, Malta and Azerbaijan.

4. 2021-23 European Under 21 Championship

- *With regards to Group C, as the Russian representative team will no longer participate in the remaining matches of this competition, all their results until now are to be considered as null and void. Consequently, Group C will continue as a group of five teams, i.e. Spain, Slovakia, Malta, Lithuania, Northern Ireland.*

[…]

6. Futsal Competitions

UEFA Women's Futsal EURO 2022 (final tournament)

- Russia will be replaced with Hungary in the final tournament, the latter having finished second in Group 1 of the Main Round won by Russia. The four teams participating in the final tournament will therefore be Portugal, Spain, Ukraine and Hungary.

2022/23 UEFA Women's Futsal EURO

- In the main round, where it had drawn in Group 4, Russia will be replaced with the second best-ranked runner-up of the Preliminary Round.

[…]

European Qualifications to the FIFA Futsal World Cup 2024

- *In the Main Round group phase draw, Russia will be replaced with Norway, which was the best third-ranked team of the Preliminary Round.*

7. 2022/23 Youth competitions

- *Regarding the 2022/23 Under-17 championship Qualifying Round, Group 11 will be played without Russia. Therefore, Serbia, Gibraltar and Cyprus will play in the form of a mini-tournament with three teams. With respect to the 2022/23 Under-19 championship Qualifying Round, Group 7 will be played without Russia. Therefore, Spain, Albania and Belgium will play in the form of a mini-tournament with three teams. As far as the 2022/23 Women's Under-17 and Under-19 Championships are concerned, which are due to commence in August 2022, as none of the relevant Russian teams will participate in any of these competitions, there will be one more three-team mini-tournament in each case.*

8. ***2022/23 UEFA Regions' Cup***

- *With respect to Group 1 of the Intermediate Round, Russia will be replaced with runner-up of the Preliminary Round.*

EURO 2028/32 Bid procedure

In addition to the above-mentioned matters which are directly affecting the organisation and staging of the relevant UEFA for competition matches, the FUR has submitted a declaration of interest to bid to host the UEFA EURO 2028 or the UEFA EURO 2032. In accordance with Article 12.03 of the Bid Regulations UEFA Finals and Final Phases ("the Bid Regulations"), UEFA had to review the list of UEFA member associations that have declared an interest and decide on the eligibility.

In this respect, Article 16.02 of the Bid Regulations states that "[e]ach bidder shall ensure that it does not act in a manner that could bring UEFA, the UEFA final or UEFA final phase, any other bidder (or any employee, officer or representative of any of the foregoing), the bidding procedure or European football into disrepute". In this regard, the contemplated bid submitted by the FUR has already provoked a strong reaction reflected in the media of the vast majority of the European countries.

Moreover, as communicated in Circular Letter no. 87/2021, "[t]he automatic qualification of the host team(s) shall be guaranteed (...) for a single host (...)". Therefore, given the uncertainty as to when the suspension will be lifted and/or whether even more impacting difficulties will arise, the acceptance of a bid from the FUR goes against the decision of the UEFA EXCO of 28 February 2022, suspending all Russian representative teams and clubs from participating in UEFA competition matches until further notice.

Therefore, it was decided to declare the bid of the FUR as not eligible, since it does not only bring the bidding procedure and European football in its entirety into disrepute but is further in direct contradiction with the decision of the UEFA EXCO of 28 February 2022, if an association, whose teams are currently suspended from participating in any UEFA competition, is allowed to bid for a tournament to be hosted on its territory".

36. The Appealed Decisions were taken following UEFA's decision of 28 February 2022 to suspend all Russian representative teams and clubs from participation in UEFA competition matches *until further notice* (the "Suspension Decision"). The Suspension Decision was the subject of an appeal under CAS 2022/A/8709 *Football Union of Russia v. Union of European Football Associations et al.* brought by FUR against UEFA and 11 of UEFA's member associations. Additionally and in separate proceedings, four professional Russian clubs, FC Zenit PFC, FC Sochi, PFC CSKA Moscow and FC Dynamo Moscow, brought appeal proceedings against UEFA under CAS 2022/A/8865-8868 *FC Zenit et al. v. Union des Associations Européennes de Football (UEFA)*, challenging UEFA's decision, which was recorded at point 5 of Circular No. 21/2022, to remove their participation in certain UEFA club competitions. All appeal procedures were considered by this Panel and dismissed on 15 July 2022 and the decisions were announced publicly by the Court of Arbitration for Sport ("CAS") on the same date.

37. It is important to highlight that the Suspension Decision was taken in circumstances which the Panel considers merit the descriptive adjectives "extraordinary" and "unforeseen". The

catalyst for these circumstances was the commencement of a military conflict between Russia and Ukraine on 24 February 2022, and which is continuing at the time of the Panel's decision. The Panel in so describing the circumstances as extraordinary and unforeseen has in mind: the widespread condemnation of the military conflict by international organisations and governments; the reaction of the international sports community, including the International Olympic Committee (the "IOC"), to the conflict; the imposition of sanctions and travel bans on Russian people and businesses; the uncertainty of the duration and scope of the conflict; and the exceptional and widespread international public reaction against it. In addition, the Panel has been asked to bear in mind, from a football perspective: the increasing number of UEFA national associations publicly stating their intention to not participate in matches against the FUR's teams; serious concerns about UEFA's ability to ensure the safety and security for all those who attend its matches; and the impact of travel bans to and from the Russian territory on the organization of UEFA competition matches. All these circumstances provide the background to which the Appealed Decisions were taken and are relevant to the Panel's analysis.

38. When reaching its decision in the present case, the Panel has not taken a position on the conflict or how it is characterised or otherwise referred to. In its capacity as a Panel, it does not need to do so. The Panel needs to do no more than acknowledge that there are different views as to the nature of the conflict in Ukraine, as illustrated by the different terms in which the Parties themselves have referred to the conflict. The Appellant describes it as *"a military conflict"*. The First Respondent refers instead to a *"war against Ukraine"*. Be that as it may, the Panel repeats that it considers it unnecessary in the exercise of its adjudicative role to enter the debate or to offer a view on the nature of the conflict. It is concerned only with the correctness or otherwise of the exercise of a sports federation's discretion in the circumstances arising from the conflict.

III. FACTUAL BACKGROUND

A. Background Facts

39. Below is a summary of the relevant facts and allegations based on the Parties' written submissions, pleadings, and evidence. Additional facts and allegations found in the Parties' written submissions, pleadings and evidence may be set out, where relevant, in connection with the legal discussion that follows. While the Panel has considered all the facts, allegations, legal arguments, and evidence submitted by the Parties in the present proceedings, it refers in its Award only to the submissions and evidence it considers necessary to explain its reasoning.

40. The First Respondent organises competitions between national representative and club teams. The following competitions are relevant to these proceedings:

    a. The UEFA Nations League (UNL) 2022/2023, which will be held between June 2022 - June 2023. The Appellant's team was scheduled to participate in the tournament's matches together with the Second to Fourth Respondents;

b. UEFA Women's EURO (WEURO) 2022 (final tournament) which was held in July 2022 in England. The Appellant's team was scheduled to participate in the tournament matches, together with the Sixth to Eighth Respondents, and following the Appellant's suspension, its team was replaced by the Fifth Respondent's team;

c. European Qualification for the FIFA Women's World Cup 2023, which is being held from September 2021 to September 2022. The Appellant's team was participating in the tournament matches together with the Ninth to Thirteenth Respondents;

d. The UEFA 2021-23 European Under 21 Championship, which will be held in Georgia and Romania in 2023. The Appellant's team was due to participate in the qualification matches which are being held between March 2021 and November 2022, together with the Twelfth Respondent, and Fourteenth to Seventeenth Respondents;

e. The 2022 UEFA Women's Futsal Championship, which was held in Portugal in July 2022. The Appellant's team was due to participate in the tournament matches together with the Fifth, Fourteenth, Eighteenth and Nineteenth Respondents;

f. The 2022/23 UEFA Women's Futsal EURO, which will be held between May 2022 and March 2023. The Appellant's team was due to participate in the matches of the tournament's Main Round and will be replaced by the second best-ranked runner-up of the Preliminary Round;

g. The European Qualification to the FIFA Futsal World Cup 2024. The Appellant's team has been replaced by the Twentieth Respondent's team;

h. The UEFA Under-17 Championship Qualifying Round, in which the Appellant's team should have been participating in Group 11, together with the Twenty-First to Twenty-Third Respondents;

i. The UEFA 2022/23 Under-19 Championship Qualifying Round, in which the Appellant's team should have been participating in Group 7 together with the Fourth, Fourteenth and Twenty-Fourth Respondents;

j. The UEFA 2022/23 Women's Under-17 and Under-19 Championships, the draws to which should have been held in May 2022 and where the Appellant's right to participate in the tournaments has been denied; and

k. The 2022/23 UEFA Regions' Cup, in which the Appellant should have been starting in the Intermediate Round in August 2022 to December 2022 in Group One, together with the Third, Tenth and Twenty-Eighth Respondents.

41. On 24 February 2022, a military conflict involving Russia and Ukraine started to unfold in Ukraine.

42. On 24 February 2022, the European Council and Council of Europe condemned the military action. The Chair of the African Union urged the parties to establish an immediate ceasefire.

The Association of Southeast Asian Nations (ASEAN) also expressed concern and appealed for restraint and dialogue.

43. On 25 February 2022, the United Nations Security Council attempted to adopt a Resolution on Ending Ukraine Crisis, which was vetoed by the Russian Federation.

44. On 25 February 2022, the Executive Board of the International Olympic Committee ("IOC") issued a statement, which included the following recommendations:

"The IOC EB today urges all International Sports Federations to relocate or cancel their sports events currently planned in Russia or Belarus. They should take the breach of the Olympic Truce by the Russian and Belarusian governments into account and give the safety and security of the athletes absolute priority. The IOC itself has no events planned in Russia or Belarus.

In addition, the IOC EB urges that no Russian or Belarusian national flag be displayed and no Russian or Belarusian anthem be played in international sports events which are not already part of the respective World Anti-Doping Agency (WADA) sanctions for Russia. …".

45. On 25 February 2022, UEFA issued Circular No. 08/2022 in which it informed its 55 member associations, amongst other things, that: (i) the 2022 Champions League Final would be moved from St Petersburg in Russia to Paris in France; (ii) no UEFA competition match was to be played on the territories of either Russia or Ukraine until further notice; and (iii) it would continue to assess developments in the situation and that it *"may meet again in the following days to potentially take further decisions"* (the "First Decision").

46. On various dates between 26 February 2022 and 10 March 2022, the English FA, Irish FA, French Football Federation, the Football Association of Wales, the Scottish FA, the Czech Republic FA, the Norwegian FA, the Liechtenstein FA, the Polish FA, the Swedish FA, the Royal Netherlands FA, and the Icelandic FA informed publicly that their national teams would not play against the FUR's national teams, including in UEFA competitions.

47. On 27 February 2022, the European Union closed its airspace to Russian aircraft. The Swiss Federal Council also adopted a package of sanctions.

48. On 28 February 2022, the Executive Board of the IOC issued the following resolution (the "IOC Resolution"):

"1. In order to protect the integrity of global sports competitions and for the safety of all the participants, the IOC EB recommends that International Sports Federations and sports event organisers not invite or allow the participation of Russian and Belarusian athletes and officials in international competitions.

2. Wherever this is not possible on short notice for organisational or legal reasons, the IOC EB strongly urges International Sports Federations and organisers of sports events worldwide to do everything in their power to ensure that no athlete or sports official from Russia or Belarus be allowed to take part under the name of Russia or Belarus. Russian or Belarusian nationals, be it as individuals or teams, should be accepted only as neutral athletes or neutral teams. No national symbols, colours, flags, or anthems should be displayed.

Wherever, in very extreme circumstances, even this is not possible on short notice for organisational or legal reasons, the IOC EB leaves it to the relevant organisation to find its own way to effectively address the dilemma described above.

In this context, the IOC EB considered in particular the upcoming Paralympic Winter Games Beijing 2022 and reiterated its full support for the International Paralympic Committee (IPC) and the Games.

3. The IOC EB maintains its urgent recommendation not to organise any sports event in Russia or Belarus, issued on 25 February 2022.

4. The IOC EB has, based on the exceptional circumstances of the situation and considering the extremely grave violation of the Olympic Truce and other violations of the Olympic Charter by the Russian government in the past, taken the ad hoc decision to withdraw the Olympic Order from all persons who currently have an important function in the government of the Russian Federation or other government-related high-ranking position […]".

49. On 28 February 2022, at an extraordinary meeting of the UEFA Executive Committee, the Suspension Decision was taken and stated that, *"in order to be able to achieve its statutory objectives, all Russian representative teams and clubs are suspended from taking part in UEFA competition matches, until further notice"*. The Suspension Decision was communicated to UEFA's member associations by way of Circular No. 10/2022.

50. In March 2022, the Appellant declared its interest in hosting either the UEFA EURO 2028 or UEFA EURO 2032 competition, together with the Seventeenth and Twenty-Fifth to Twenty-Eighth Respondents.

51. On 1 March 2022, the European Clubs' Association ("ECA") issued a press release confirming that it endorsed the Suspension Decision. The ECA Executive Committee also suspended the involvement of its Russian members in ECA activities until further notice.

52. On 2 March 2022, the United Nations General Assembly adopted Resolution ES-11/1 which condemned Russia's actions and demanded an immediate withdrawal of Russian troops from Ukraine. The Resolution was adopted, with 141 nations in favour, 5 against (Belarus, Democratic People's Republic of Korea, Eritrea, Russian Federation and Syria) and 35 abstentions.

53. On 3 March 2022, at a meeting of the UEFA Executive Committee, it was decided that *"all Belarusian clubs and national teams competing in UEFA competitions will be required to play their home matches at neutral venues with immediate effect. Furthermore, no spectators shall attend matches in which the teams from Belarus feature as a host"*. The decision was communicated to member associations by Circular No. 12/2022.

54. On 7 March 2022, and in view of the Suspension Decision, UEFA made changes to some of its competitions, including the UEFA Women's U17 European Championship, the U17 European Championship, and the U19 Championship.

55. On 8 March 2022, the sports ministers of 37 nations, including Austria, Belgium, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, Switzerland and the United Kingdom signed a joint statement supporting the sporting sanctions against the Russian Federation, in particular the fact that *"teams representing the Russian or Belarusian state should be banned from competing in other countries"*.

56. On 7 April 2022, the UEFA Executive Committee met to approve changes to the content of certain competition regulations for the forthcoming 2022/23 football season.

57. On 2 May 2022, the UEFA Executive Committee took the Appealed Decisions and communicated all decisions to member associations in Circular No. 21/2022.

58. Since the military conflict commenced on 24 February 2022, other international federations, including the Fédération Internationale de Football (FIFA), Fédération Internationale de l'Automobile (FIA), World Athletics, the Union Cycliste Internationale (UCI), the Fédération Internationale de Ski (FIS), the International Biathlon Union (IBU), the International Boxing Association (IBA), the Fédération Internationale de Gymnastique (FIG) and the Fédération Internationale de Natation (FINA), and federations representing archery, badminton, baseball, basketball, canoeing, ice hockey, rugby, and volleyball, have taken various measures to suspend the participation of Russian federations and athletes.

IV. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT

59. On 12 May 2022, the Appellant filed an appeal with the CAS against the Respondents with respect to the Appealed Decisions. In its Statement of Appeal, the Appellant: nominated Mr Jeffrey G. Benz, Attorney-at-Law and Barrister in London, United Kingdom and Los Angeles, United States of America, as arbitrator; requested that the proceedings be submitted to the same Panel as appointed in the parallel procedure CAS 2022/A/8709 *Football Union of Russia v. Union of European Football Associations et al*; and requested an expedited arbitration procedure.

60. On 20 May 2022, the First Respondent informed the CAS Court Office that it did not agree to an expedited procedure. It also: expressed the view that the proceedings were wholly dependent on the decision in CAS 2022/A/8709 *Football Union of Russia v. Union of European Football Associations et al.*; objected to an expedited procedure; and suggested that the proper approach was to suspend the present proceedings until a decision was taken in CAS 2022/A/8709 *Football Union of Russia v. Union of European Football Associations et al.*

61. Also on 20 May 2022, the Appellant again requested that the CAS Court Office submit the present proceedings to the same panel as that appointed to CAS 2022/A/8709 *Football Union of Russia v. Union of European Football Associations et al*, that a consolidated hearing be heard in CAS 2022/A/8708 *Football Union of Russia v. Fédération Internationale de Football Association (FIFA) et al.*, CAS 2022/A/8709 *Football Union of Russia v. Union of European Football Associations*

et al., and CAS 2022/A/8865-8868 *FC Zenit et al. v. Union des Associations Européennes de Football (UEFA),* and it provided an expedited hearing schedule for consideration.

62. On 23 May 2022, in accordance with Article R51 of the Code of Sports-related Arbitration (the "Code"), the Appellant filed its Appeal Brief.

63. Also on 23 May 2022, the First Respondent informed the CAS Court Office that it agreed to the present proceedings being submitted to the same Panel as appointed in the parallel procedure CAS 2022/A/8709 *Football Union of Russia v. Union of European Football Associations et al.*

64. On 25 May 2022, the CAS Deputy Division President, failing an agreement of all involved Parties, as requested under Article R52(4) of the Code, rejected the Appellant's request for an expedited procedure.

65. On 31 May 2022 and pursuant to Article R55 of the Code, the First Respondent requested, that the time limit for filing its Answer be set aside and a new time limit fixed after the Appellant's payment of its share of the advance of costs, a request that was granted by the CAS Court Office on the same day. The Other Respondents did not make the same request.

66. On 28 June 2022, the CAS Court Office informed the Parties that in light of the Appellant's payment of its share of the advance of costs, the First Respondent had twenty days in which to file its Answer under Article R55 of the Code.

67. On 1 July 2022, the CAS Court Office issued, pursuant to Article R54 of the Code and on behalf of the President of the Appeals Arbitration Division, the Notice of Formation of a Panel, constituted as follows:

President: Dr Leanne O'Leary, Solicitor and Senior Lecturer in Liverpool, United Kingdom

Arbitrators: Mr Jeffrey G. Benz, Attorney-at-Law and Barrister in London, United Kingdom and Los Angeles, United States of America

Hon. Michael J. Beloff K.C., Barrister in London, United Kingdom

68. On 21 July 2022, in accordance with Article R55 of the Code, the First Respondent filed its Answer. The Second to Thirtieth Respondents did not submit an Answer and have not participated in these proceedings.

69. On 25 July 2022, the CAS Court Office informed the Parties that unless the Parties agreed or the Panel determined otherwise on the basis of exceptional circumstances, pursuant to Article R56 of the Code, the Parties would not be permitted to supplement their requests or arguments nor to produce any new exhibits or additional evidence. The Parties were also invited to confirm whether they preferred a hearing to be held in the matter or whether they preferred the Panel to decide the issue based solely on the Parties' submissions.

70. On 29 July 2022 and 1 August 2022 respectively, the First Respondent and the Appellant informed the CAS Court Office of their preference for the matter to be decided without a hearing. The Other Respondents remained silent in this regard.

71. On 1 November 2022, the CAS Court Office sent to the Parties an Order of Procedure and also confirmed that the Panel will decide the case solely on the Parties' written submissions. The Order of Procedure was signed by UEFA and the Sixteenth Respondent on 8 November 2022, and by the Appellant on 10 November 2022. The Second Respondent to Thirtieth Respondent did not sign the Order of Procedure, although by communication of 1 November 2022, the Eighth Respondent confirmed that it had no objection to the Panel deciding the present matter without a hearing.

72. With regard to Article R57 of the Code, the Panel considers itself sufficiently well informed to decide this matter without the need to hold a hearing.

V. SUBMISSIONS OF THE PARTIES

73. The Appellant's submissions, in essence, may be summarized as follows:

a) Jurisdiction, Admissibility and Law

- Article R47 of the Code and Article 62.1 of the UEFA Statutes confer jurisdiction on CAS to decide an appeal of a decision taken by a UEFA body, including a decision of the UEFA Executive Committee. CAS therefore has jurisdiction to decide this appeal.

- Relying on Article 62.4 of the UEFA Statutes, and Articles R37(1) and R49 of the Code, the appeal was lodged with CAS in due form and time and is admissible.

- Relying on Article R58 of the Code and Article 64.1 of the UEFA Statutes, the applicable law is the UEFA Statutes (edition 2021) and various regulations, with Swiss law applying subsidiarily.

b) Burden of Proof

- The Appellant relies on Article 8 of the Swiss Civil Code ("SCC"), which includes the concepts of "burden of persuasion" and "burden of production of the proof".

- The burden of proof is on UEFA to establish that for the purposes of the Appealed Decisions: (i) there was an urgency to address the impact and consequences of the pending suspension of all Russian teams from the upcoming UEFA competitions through *a priori* administrative measures; (ii) the boycott by member associations against FUR's teams was lawful; (iii) the condemnation expressed by a majority of European governments was relevant; (iv) its concerns about safety and security were justified; (v) travelling constraints put UEFA competitions at risk; and (vi) other measures would have been insufficient in the circumstances.

c) Nature of the Appealed Decisions

- Measures taken by an association with respect to its affiliates can be divided into acts of administration and disciplinary measures (CAS 2014/A/3625, para 119). UEFA has a two-stage process with regards to the regulation of its club competitions, namely an administrative stage and a secondary stage that is disciplinary in nature (CAS 2016/A/4650, para 47). Rules that apply *a priori* differ from rules applied *a posteriori* (CAS 98/200). Rules that apply *a priori* are designed to prevent undesirable situations that might prove difficult to deal with afterward rather than to impose a penalty for certain behaviour; they contain no moral judgment on the individuals or companies concerned. Rules that apply *a posteriori* and provide penalties or sanctions e.g., disciplinary, or criminal rules, can only be applied after someone has been found guilty of violating an obligation.

- UEFA aimed to implement an *a priori* administrative measure to address *"the pending suspension of Russian national teams that may impact the upcoming 2022/2023 UEFA club competitions"*, however, UEFA did not deal with the conduct on a preventative basis driven by sporting reasons but demonstrated a moral judgment regarding the actions of the Russian Federation in Ukraine. They do not protect the values and objectives of UEFA's competition, its reputation and integrity but rather and simply sanction the Russian Federation.

d) Alleged Breach of Natural Justice Principles

- The procedure followed to adopt the Appealed Decisions breached natural justice, particularly the right to be heard (CAS 98/200, para 58). As a matter of natural justice, UEFA was obliged to consult the Appellant before adopting the Appealed Decisions. The Appellant was deprived of an opportunity to know the intended regulatory amendments in advance and to respond to them. UEFA also acted contrary to principles of procedural fairness, good faith, and *venire contra factum proprium,* and the prohibition of arbitrary decisions.

e) Alleged Breach of General Legal Principles

- The Appealed Decisions were unlawful because the procedure by which the decision was adopted violated general legal principles.

- The autonomy of a Swiss association is not unlimited. It is constrained by mandatory principles of Swiss law e.g., Article 28 of the SCC, the obligation to act in good faith, the general prohibition of arbitrary decisions in Article 2.2 of the SCC, and the prohibition of anticompetitive agreements and abuse of a dominant position under the Swiss Cartel Act. Admission to the UEFA club competitions cannot be denied to all applicants from a particular country absent justifiable grounds.

- Estoppel or the concept of *venire contra factum proprium* provides that where the conduct of one party has created a legitimate expectation for a second party, the first party is

estopped from changing its course of action to the detriment of the second party. Article 2 of the SCC provides that every person must act in good faith in the exercise of his or her rights and in the performance of an obligation, and the manifest abuse of a right is not protected by law.

- UEFA breached duties of good faith, procedural fairness, *venire contra factum proprium* and the prohibition against arbitrary decisions because the timing of the Appealed Decisions and the immediate application of the Appealed Decisions has affected the Appellant's legitimate expectations. UEFA adopted the Suspension Decision on 28 February 2022 but did not indicate at that time that the Appellant and its teams were excluded from the 2022/2023 competitions. Based on UEFA's conduct, the Appellant had a legitimate expectation that it would not be removed from the 2022/2023 competitions pending the outcome of the appeal in CAS 2022/A/8709. Neither did UEFA indicate on 2 May 2022 that should CAS uphold the appeal, then Russia would be permitted to return to the 2022/2023 competitions. The way the change was implemented, harmed the Appellant (CAS 98/200). UEFA justified the timing of its actions as "urgent" but did not explain what new circumstances created the urgency and the Appellant asserts that there were no new circumstances.

- The Suspension Decision *"had nothing to do with the bid procedure for hosting UEFA EURO 2028/2032"*.

- During the COVID-19 pandemic, UEFA did not exclude from competitions those countries that were classified in the "red zone" but enacted specific rules to deal with the situation.

f) Alleged Breach of a Regulatory Position and the Principle of Equal Treatment

- UEFA is the sole governing body of European football and enjoys a dominant market position (Cantonal Court of Vaud's decision TC VD, CM11.033798 dated 5 October 2011, para.6(c)(bb)). UEFA abused its regulatory power when it adopted the amendments, which the Appellant submits is a *"back up plan"* in case UEFA loses CAS 2022/A/8709. Nothing in Circular No. 21/2022 guarantees that Russia's exclusion from the 2022/2023 competitions would be automatically reversed if CAS were to annul the suspension in CAS 2022/A/8709. The Appealed Decisions' principal purpose is to prevent the Appellant from participating in UEFA competitions irrespective of the Suspension Decision.

- Measures imposed by associations must comply with the principle of equal treatment and it is especially true in sport where equal treatment is fundamental for any competition (CAS 2005/C/976 & 986, para 137). CAS jurisprudence establishes that *"similar cases have to be treated similarly"* (CAS 2020/A/6745, para 90; CAS 2012/A/2750, para 133). UEFA has not excluded Ukraine or Belarus from the competitions. It has also failed to justify the difference in treatment between Russia, Ukraine, and Belarus. UEFA's unsubstantiated concerns about safety and security and logistical issues apply equally to Ukraine and Belarus.

g) Alleged Breach of the Principle of Political Neutrality

- The principle of political neutrality requires that no governmental or political influence is exercised on the activities of sporting organizations (CAS 2019/A/6500, para 105). Sports organizations must be free to organise their sport without any political interference. UEFA is a member of the Olympic Movement and has committed to promoting the ideals and objectives of the IOC and the adherence to fundamental principles such as the principles of political neutrality and non-discrimination (Article 1.1 of the UEFA Statutes). UEFA is bound by the principle of political neutrality.

- It is undisputed that the Appellant has not violated any UEFA regulation. Circular No. 21/2022 records UEFA's justifications and shows that the Appealed Decisions are a consequence of the reactions of (i) several Member Associations, (ii) the majority of the governments of European countries and (iii) the general public *"against the actions taken by Russia"* in Ukraine.

- UEFA was influenced by the IOC's political stance that is outlined in the IOC Resolution. The UEFA Executive Committee took the Suspension Decision on the same day as the IOC Resolution and in accordance with that Resolution. UEFA has *"done everything to not invite or allow the participation of Russian"* clubs or national teams.

- The Appealed Decisions are politically motivated. The reported comments of the European Commission Vice-President on 11 May 2022 that *"By refusing to play Russian teams, by imposing other sanctions and by supporting the Ukrainian football community, you have demonstrated the strength of our European unity and values"*, and recent decisions taken by other sports against Russian clubs and individuals, confirm that decisions to exclude Russia from sports are politically motivated (International Luge Federation ("FIL") Court of Arbitration decision dated 7 April 2022, paras 4.6.3 – 4.6.5; and the European Table Tennis Union ("ETTU") Board of Appeal decision dated 26 April 2022, para 3).

- The measures adopted by UEFA are directed against the Appellant, its teams, and clubs only. The actions are discriminatory and prohibited, and UEFA has failed to argue convincingly that measures adopted by the UEFA Executive Committee against Russia are about more than a political reaction or statement against the Russian Government.

h) Alleged Discrimination Based on Nationality

- UEFA's objective is to *"promote football in Europe in the spirit of peace, understanding and fair play, without any discrimination on account of politics, gender, religion, race or any other reason"*. It must seek possibilities for representative teams, even if the political situation in their home countries is difficult. The jurisprudence consistently requires that any exception to competition rules relates to sports exclusively and is limited to its "proper objective" or original purpose.

- The Appellant has not made a public statement in support of the military actions of the Russian Government.

- UEFA hides behind its values and objectives and discriminates against Russian representative teams. By comparison, the ATP condemned Wimbledon's ban on Russian and Belarusian players from competing in the United Kingdom this summer, describing it as *"discrimination"*. Other international federations did not ban Russian national teams and clubs from participating in international tournaments. IBA, FINA and FIG sanctioned only those who supported the military conflict.

- The Appealed Decisions breach the prohibition of discrimination provided in Article 2.1(b) of the UEFA Statutes based on nationality by taking Russia out of the 2022/2023 competitions and the bid procedure for the UEFA EURO 2028/2032 competitions.

i) Alleged Violation of Personality Rights

- Article 28 of the SCC provides that an infringement of personality rights is unlawful unless justified *"by the consent of the person whose rights are infringed or by an overriding private or public interest or by law"*. Personality rights include the rights of sporting economic activities of individuals and legal entities such as associations. The Swiss Federal Tribunal has previously held, for example, that the level of freedom of an association to exclude a member is limited by the member's "personality right" to pursue an economic activity (ATF 123 III 193, paras 197-198). The same principle applies by analogy to excluding clubs from UEFA club competitions.

- Article 8 of the Swiss Constitution prohibits any kind of discrimination before the law on the grounds of origin. A violation of Article 28 of the SCC, especially if it consists of discriminatory behaviour, may lead to an obligation on the discriminator to enter a contract with the discriminated person (Article 28a para 1.1 SCC; GAUCH/SCHLUEP, Schweizerisches Obligationenrecht Allgemeiner Teil, Zurich 2008, N 1111).

- UEFA's discriminatory actions violated the Appellant's personality rights, specifically its rights to engage in sporting and economic activities through participation in UEFA competitions. The breach is sufficiently serious to impose on UEFA the obligation to readmit Russia to the competitions, at least until the Panel takes a final binding decision in CAS 2022/A/8709.

- The sporting activities that the Appellant engages in at the UEFA level and those that it engages in at the domestic level are markedly different. The Appellant's activities and competitions are geographically limited to Russia, and do not relate to international competitions. UEFA's activities and competitions stretch across Europe and involve 55 member associations. Non-admission to UEFA competitions deprives the Appellant's teams of participation in the qualifying rounds and final stages of the 2022/2023 UEFA competitions and the related economic benefits that participation provides. Exclusion from UEFA competitions prevents the Appellant from advancing its international objectives to promote its brand and Russian football as a whole and to de-escalate the political tension in the situation.

- Nothing in Circular No. 21/2022 guarantees that UEFA would readmit Russian teams to the 2022/2023 competition if the CAS Panel in CAS 2022/A/8709 were to annul the Suspension Decision. Accordingly, the present case may be distinguished from CAS 2022/A/8709 and is not dependent on it.

j) Proportionality of Appealed Decisions

- UEFA claims there was an urgency to address the impact and consequences of the Suspension Decision, *"in order to ensure the smooth staging of [its] competitions in a safe and secure environment for all those concerned"* and to protect the competitions' integrity, but UEFA has not substantiated these claims concerning travel, safety, and security. UEFA simply relies on the fact that (i) European governing bodies have adopted sanctions against Russia, (ii) national associations publicly voiced their opinion against FUR and (iii) the general public's reaction.

- UEFA's objectives with implementing the Appealed Decisions are broader than ensuring the need for a safe and secure environment for all concerned parties, and to protect the integrity of the UEFA competitions. Its real objective is to have a backup plan in case the FUR prevails in its appeal in CAS 2022/A/8709.

- There were other options available to UEFA. The IOC Resolution recommended excluding Russian and Belarusian athletes and officials from participation in international competitions or at least prohibiting the identification of their nationality. UEFA chose the first option. UEFA did not engage in discussions with the Appellant to find acceptable solutions for all parties. UEFA could also have accepted the expedited calendar in CAS 2022/A/8709 or adopted special rules for the Appellant's situation, e.g., playing on neutral venues, in a similar way to which it dealt with the COVID-19 pandemic by implementing the UEFA Return to Play Protocol which enabled UEFA competitions to take place in a safe and undisturbed environment. It could also have used disciplinary measures to deal with any issues that arose during UEFA club competitions. Previous CAS jurisprudence has upheld disciplinary decisions in the sport of basketball that were imposed against clubs that refused to play matches due to security concerns. The UEFA Emergency Panel, UEFA President or the UEFA General Secretary could have taken the necessary decisions on a case-by-case basis, if problems arose later (see, for example, Article 67.01 of the UEFA Nations League, Article 57.01 of the Regulations of the UEFA European Qualifying Competition for the 2023 FIFA Women's World Cup, and Article 57.01 of the UEFA European Qualifying Competition for the 2024 FIFA Futsal World Cup). Cost and organizational hurdles are insufficient reasons for UEFA to exclude the Appellant completely. The Appellant has received assurances from the Russian Ministry of the Interior confirming that the Ministry would ensure safety and security during an international football event.

- UEFA has experience of dealing with similar situations. For example, in 2002, during the Israel-Palestine conflict, UEFA suspended all competition matches in Israel. In August 2006, UEFA relocated all UEFA competitions out of Israel and when it later lifted the ban, matches were initially limited to the Tel Aviv area. On 16 July 2014, because of the

Israel-Gaza conflict, UEFA again banned all UEFA competition matches in Israel and asked Israeli clubs to propose alternative venues. Also on 16 July 2014, consequent to Russia's annexation of Crimea, UEFA decided that Ukrainian and Russian clubs and national teams were not to play against each other until further notice. On 20 October 2020, due to the tense security situation in the Nagorno-Karabakh region, UEFA decided that UEFA club and national team competitions would not be held in Armenia or Azerbaijan and asked those football associations and their clubs to propose alternative venues. On 3 March 2022, UEFA decided that Belarusian clubs and national teams were to play their matches at neutral venues.

- The alternative options available to UEFA support the Appellant's view that the Appealed Decisions are disproportionate.

k) Eligibility of the Appellant's Bid for EURO 2028/2032

- The Appellant asserts that UEFA's decision to declare ineligible the Appellant's bid to host the UEFA EURO 2028/2032 breaches the principle of political neutrality, is discriminatory and disproportionate.

- Article 15.01 of the Bid Regulations UEFA Finals and Final Phases (Edition 2021) (the "Bid Regulations") provides that, *"UEFA shall ensure that bidders are treated in a fair, transparent and consistent manner throughout the bidding procedure"*. It is self-evident that UEFA has breached these regulations.

- Article 26.01 of the Bid Regulations provides for the competence of the UEFA administration to take a decision on the matter and not the UEFA Executive Committee.

- UEFA does not refer to any breach by the Appellant which could provide the basis for implementation of Article 27 of the Bid Regulations as establishing the competence of the UEFA Executive Committee to sanction member associations for breaches (*quod non*).

l) Requests for Relief

The Appellant submitted the following requests for relief:

"The Appellant requests that the CAS:

1. *Set aside points 1-4, 6-8 and the section "EUR0 2028/32 bid procedure" of the decision of the UEFA Executive Committee dated 2 May 2022 communicated through UEFA Circular 21/2022.*

2. *Order UEFA not to deny admission to or not to exclude the Appellant's representative teams from the 2022/2023 UEFA tournaments listed by points 1-4, 6-8 of the Appealed Decision, or to reinstate all the Appellant's representative teams in the said tournaments, and to adopt all measures necessary for that purposes.*

3. *Order UEFA to declare the Appellant's bid for hosting of UEFA EURO 2028/32 eligible.*

4. *Order UEFA to bear all costs incurred with the present procedure.*

5. *Order UEFA to pay FUR a contribution towards its legal and other costs to be determined at the Panel's discretion".*

74. The First Respondent's submissions may be summarised as follows:

a) General Position

- In the interests of procedural economy and considering the Panel has already dismissed the FUR's and the Russian clubs' request for reinstatement in CAS 2022/A/8708, CAS 2022/A/8709 and CAS 2022/A/8865-8868, the First Respondent does not resubmit in its Answer its position on the participation of Russian teams in UEFA competitions. The First Respondent's position is that the Appealed Participation Decisions are no longer an issue in view of the Panel's Awards in CAS 2022/A/8708 and CAS 2022/A/8709. The First Respondent develops its position in relation to the only new element in dispute, namely, the Appealed Ineligibility Decision.

b) Jurisdiction, Applicable Law, and Admissibility

- The jurisdiction of the Panel and the admissibility of the appeal are not a matter of dispute between the Parties.

- It is not contested that the Panel shall decide the matter according to the UEFA Statutes and Bid Regulations and, subsidiarily, Swiss law.

c) The FUR's Requests Regarding the Appealed Participation Decisions

- Most of the Appellant's Appeal Brief challenges the Appealed Participation Decisions and supports the Appellant's request for reinstatement to the competitions listed in points 1 to 4 and 6 to 8 of Circular No. 21/2022.

- The Appealed Participation Decisions were the *"mere implementation"* of the Suspension Decision. The Appellant also recognizes in the Appeal Brief that the present case is dependent on the outcome of CAS 2022/A/8709. Since the Award in CAS 2022/A/8709 confirmed the validity of the Suspension Decision, the First Respondent respectfully submits that the Appellant's request to set aside the Appealed Participation Decisions is rejected.

d) The FUR's Request Regarding the Appealed Ineligibility Decision

- The Panel must reject the Appellant's request to reinstate its bid to host the UEFA EURO 2028/32 tournaments.

- The Appeal Brief does not address the applicable and relevant provisions of the Bid Regulations. The First Respondent submits that Articles 12.03, 15.01, 16.02, 25.01 and 26.01 of the Bid Regulations are relevant to the issue of whether a breach occurred. Pursuant to Annex A of the Bid Regulations, the UEFA Executive Committee votes on the eventual bids to decide who will be selected as host of the tournaments.

- The Appellant avers that the Appealed Ineligibility Decision breached the Bid Regulations, which the First Respondent denies.

- The Appellant suggests that Article 15.01 of the Bid Regulations requires the First Respondent to treat bidders in a fair, transparent, and consistent manner, and that based on alleged breaches of political neutrality, discrimination, and proportionality, *"it is self-evident"* that UEFA is in breach of its own regulations. Insofar as the Appellant alleges a breach of political neutrality, discrimination and proportionality, these allegations have already been dismissed in relation to the Suspension Decision.

- When reaching a decision on the eligibility of the Appellant's bid, the First Respondent considered Article 12.03 of the Bid Regulations (which requires UEFA to decide whether FUR was eligible to bid or not) and Article 16.02, both of which the Appellant does not challenge or even discuss. The Appellant also does not challenge that its bid in the present context *"would bring the bidding procedure and European football in its entirety into disrepute"*. The First Respondent did not treat the Appellant unfairly, non-transparently or in an inconsistent manner with other bidders and it applied the relevant regulations to the precise circumstances.

- The Appellant suggests that it was the UEFA administration that was competent under Article 26.01 of the Bid Regulations to take the Appealed Ineligibility Decision. Article 23(1) of the UEFA Statutes empowers the UEFA Executive Committee to adopt regulations and make decisions on all matters which do not fall within the jurisdiction of Congress or another UEFA body. UEFA may delegate certain tasks to the UEFA administration but the fact that UEFA allows the administration to implement a regulation does not mean that the UEFA Executive Committee loses its original prerogative, particularly in relation to excluding a bid, which is a decision that the UEFA Executive Committee would have to take in any event at the end of the process. The UEFA Executive Committee prerogative is reflected in Article 27 and Annex A of the Bid Regulations.

- The First Respondent submits that it was more appropriate for the UEFA Executive Committee to take the Appealed Ineligibility Decision because an assessment of the Appellant's bid had to consider the Bid Regulations and the Suspension Decision that was issued under Article 65 of the UEFA Statutes.

- The Appealed Ineligibility Decision did not breach political neutrality, was not discriminatory or disproportionate. The First Respondent relies on the Panel's awards in CAS 2022/A/8708, CAS 2022/A/8709 and CAS 2022/A/8865-8868 and submits that the Appealed Ineligibility Decision was taken with due regard to the Suspension Decision.

e) Requests for Relief

The First Respondent submitted the following requests for relief:

"Based on the foregoing developments, UEFA respectfully requests the Panel to issue an award:

(i) Dismissing the FUR's appeal and all prayers for relief.

(ii) Condemning the FUR to pay the costs of the arbitration as well as a contribution towards UEFA's legal fees and other expenses, in light of the circumstances of this case".

VI. JURISDICTION

75. Article R47 of the Code provides that:

"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".

76. Pursuant to 62.1 of the UEFA Statutes (2021 edition):

"1. 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.

…".

77. The Appellant relies on Article 62.1 of the UEFA Statutes, as conferring jurisdiction on the CAS. The jurisdiction of the CAS has not been challenged by any of the Respondents and is further confirmed by the Parties who signed the Order of Procedure.

78. Accordingly, on the basis of the above, the Panel is satisfied that it has jurisdiction to adjudicate the present dispute.

VII. ADMISSIBILITY

79. Article R49 of the Code provides as follows:

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

80. According to Article 62.3 and 62.4 of the UEFA Statutes (2021 edition):

"3. The time limit for appeal to the CAS shall be ten days from the receipt of the decision in question.

4. An appeal before the CAS may only be brought after UEFA's internal procedures and remedies have been exhausted".

81. The Appellant submits that the appeal is filed under Article R51 of the Code in due form and time, and is admissible. The First Respondent does not contest the admissibility of the appeal.

82. The Panel observes that the UEFA Executive Committee rendered the Appealed Decisions, including grounds, on 2 May 2022.

83. The Panel notes that the UEFA Statutes prescribe a deadline of 10 days to file an appeal against a decision made by a UEFA organ and therefore the 10-day time limit prevails over the default 21-day time limit provided in Article R49 of the Code. The Panel observes that the Appellant filed its Statement of Appeal on 12 May 2022, within the deadline of 10 days, and that there appears to have been no other channels for appeal internally. The Statement of Appeal also complies with the requirements of Article R48 of the Code.

84. Accordingly, on the basis of the above, the Panel is satisfied that the Appeal was filed in time and is admissible.

VIII. APPLICABLE LAW

85. Pursuant to Article R58 of the Code, the Panel is required to decide the dispute:

"[According] to the applicable regulations and the rules of law chosen by the parties or, in the absence of such a 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".

86. The Appellant submits that the Panel should primarily apply the *"the UEFA Statutes and various regulations and subsidiary Swiss law"*. The First Respondent submits that the UEFA Statutes and regulations are applicable, with Swiss law applying subsidiarily.

87. The Panel notes that the Appealed Decisions were rendered by the UEFA Executive Committee on 2 May 2022 and that at the time the appeal was filed, the 2021 edition of the UEFA Statutes was in effect. It notes also that the Bid Regulations came into force on 16 December 2021.

88. Accordingly, on the basis of the Parties' agreement to the applicable law, the Panel considers that the UEFA Statutes (2021 edition) and the Bid Regulations, together with other various UEFA regulations, constitute the applicable law to the matter at hand. Swiss law applies subsidiarily.

IX. MERITS

89. On the basis of the Parties' respective submissions, the Panel considers that there are three issues for determination:

a. What is the nature of the Appealed Decisions insofar as they affect the scope of the Panel's review?

b. Did the UEFA Executive Committee have the competence or power to take the Appealed Decisions?

c. If so, were the Appealed Decisions an improper use of power?

A. What is the nature of the Appealed Decisions insofar as they affect the scope of the Panel's review?

a) The Nature of the Appealed Decisions

90. The Appellant submits that the Appealed Decisions are a sanction against the Russian Government. It refers to the difference between *a priori* and *a posteriori* measures (relying on CAS 2014/A/3625 and CAS 98/200) and submits that while UEFA may have intended to implement *a priori* administrative measures, the amendments did not deal with conduct on a preventative basis but demonstrated a moral judgment regarding the actions of the Russian Federation in Ukraine. The First Respondent disputes the Appellant's claims and submits that the Appealed Decisions were taken in light of the Suspension Decision.

91. The Panel observes that the decision of a sports association can be characterised as either an administrative decision or a disciplinary decision (CAS 2007/A/1381, para 55; and CAS 2008/A/1583 & 1584, para 35). Insofar as there is on the part of the Appellant a contention that the Appealed Decisions are a disciplinary sanction, the Panel finds that in the present case, the Appealed Decisions are not a disciplinary sanction imposed on the basis of past conduct. There is indeed no evidence or suggestion that the Appellant breached any UEFA regulation or a provision of the UEFA Statutes or engaged in misconduct such as could attract a disciplinary process or a disciplinary sanction imposed to penalise such conduct. The Panel also notes that the Appealed Decisions were taken by the UEFA Executive Committee, which is UEFA's executive decision-making body, and not taken by any UEFA judicial body as is normally the case for a disciplinary decision.

92. The Panel considers that the Appellant's submissions regarding the difference between *a priori* rules and *a posteriori* rules and in that context its reliance on CAS 2014/A/3625 and CAS 98/200 are irrelevant to the present case. The Panel recalls that CAS 98/200 concerned a challenge brought by two professional clubs to the validity of a rule regarding the participation of clubs with a common controlling ownership in the same UEFA club competition. The rule provided that only one club could participate in a UEFA club competition and that in cases where two or more clubs with common controlling ownership had qualified for a competition, the club with the highest coefficient would be permitted entry. The challenged rule was

implemented to limit conflicts of interest and remove any adverse public perception regarding the authenticity of match results. CAS 2014/A/3625 involved a challenge to a regulatory measure which main purpose was to exclude from UEFA competitions a UEFA member association or club that had been directly or indirectly involved in any activity aimed at arranging or influencing the outcome of a match at national or international level, without prejudice to any possible disciplinary measures. The Panel accepts that while the challenged measures in CAS 98/200 and CAS 2014/A/3625 had an exclusionary effect, they were implemented to prevent a situation arising that could affect public perception of the authenticity of match results or to respond to and inhibit particular behaviour (i.e. match-fixing). In short, they were precautionary and not penal.

93. The Panel also finds that the Appealed Decisions are not *"a moral judgment"* adopted by UEFA in response to the military conflict in Ukraine and are clearly not sanctions imposed to enforce compliance with international law obligations, encourage the peaceful settlement of international disputes or to maintain security, as sanctions adopted by governments are typically imposed to achieve. There is simply no evidence before the Panel that the Appealed Decisions were implemented as sanctions against the Russian Federation.

94. The Panel determines that, in the circumstances of the present case, the Appealed Decisions may be properly characterised as administrative decisions taken by the UEFA Executive Committee in consideration of the Suspension Decision.

b) Scope of the Panel's Review

95. Relying on CAS 98/200, the Appellant alleges that the First Respondent breached principles of natural justice when it adopted the Appealed Decisions because the Appealed Decisions concerned only the Appellant and the First Respondent was obliged to consult with it, which denied the Appellant the opportunity to know the regulatory amendments in advance and to respond to them. The First Respondent disputes the Appellant's submissions.

96. As the Panel has noted above, CAS 98/200 concerned a challenge to the validity of a regulatory rule regarding the participation of clubs with a common controlling ownership in the same UEFA club competition. In the course of that case, the CAS Panel concluded that in certain limited situations a right to a hearing may exist in respect of *"administrative measures or penalties adopted by a sports governing body with regard to a limited and identifiable number of designees"* (para 58) and concluded that while advisable for a regulator to hear the views of those affected by a regulatory measure, it was not a legal obligation, and in any event would not invalidate a regulatory measure given that the lawfulness of a regulatory measure must be evaluated on its merits (para 62).

97. The Panel has found above that the Appealed Decisions were administrative decisions taken in consideration of the Suspension Decision. The Panel observes that in view of the Suspension Decision, it was foreseeable that UEFA would need to make amendments to the organisation of its competitions to remove the Appellant's teams, although it accepts that these proceedings were filed before the decision in CAS 2022/A/8709 was known and that the Appellant may have been protecting its position in the event that the decision in CAS

2022/A/8709 was in its favour. The Panel also notes that there was no evidence put before it of a common, indeed any, practice of consulting associations regarding the potential withdrawal of eligibility for bidding for UEFA competitions. The Panel considers that the Appealed Decisions were not substantive regulatory measures that would normally engage an obligation to consult with a member association.

98. The Appellant submitted that there were a number of other procedural failings, which it identified as: the urgency with which the Appealed Decisions were taken when no new circumstances had arisen; a legitimate expectation that it would not be removed from UEFA's 2022/2023 competitions pending the appeal outcome of CAS 2022/A/8709; the fact the Suspension Decision had nothing to do with the bid procedure for hosting UEFA EURO 2028/2032; *venire contra factum proprium* and the prohibition against arbitrary decisions. The Panel finds that the Appellant's allegations of procedural failings if otherwise sustainable, e.g. a breach of natural justice and the right to be heard, would have been rectified by the present proceedings and would not invalidate the Appealed Decisions: its duty pursuant to Article R57 of the Code is to decide the case *de novo,* and means that any denial of due process at the lower-level proceedings (if any) is cured by the CAS proceedings, a principle that is well-established in CAS jurisprudence (CAS 2016/A/4648, para 74; CAS 2012/A/2913, para 87).

99. The Panel accepts that the administrative decisions of a sports association are not immune to review and observes that under Article 75 of the SCC a decision can be challenged if there is a violation of the association's statutes or mandatory legal rules. Nonetheless, the Panel recalls that in determining the scope of review for an administrative decision such as the ones in the present case, under Article 69 of the SCC, the board of an association *"is entitled and obliged to manage and represent the association"*, and that in accordance with the Swiss law of private associations, a sports association has a high degree of autonomy to regulate its own affairs and make decisions that are in line with its statutory objectives and in accordance with its statutes (CAS 2018/O/5830, para 118; CAS 2017/O/5264, 5265 & 5260, para 193).

100. The Panel also notes that when reviewing the decisions of a sports association similar to the ones adopted in the present case, it is not engaged in an exercise of evaluating the merits or the substantive value of the decision, still less of substituting its own view for that of the sports association. The Panel is mindful of the principle well-established in CAS jurisprudence, even taking account of the *de novo* review enjoyed under Article R57, that a sports association is best placed to make decisions that further its statutory objectives, and that respect for the principle of freedom of association requires a certain level of deference to be afforded to a sports association.

101. CAS jurisprudence establishes that the principle of deference and respect for the autonomy of a sports association is not absolute, and that these principles *"may yield when there are exceptional circumstances"* such as arbitrariness, a misuse of an association's discretionary power, discrimination, or breaches of any relevant mandatory legal principle (CAS 2020/A/7090, para 150). Nonetheless, the threshold for determining those exceptional circumstances is set high, and *"[the] arbitrariness, discrimination or breach must be blatant and manifest, and offend a basic sense of justice"* (CAS 2020/A/7090, para 150).

102. The Panel therefore concludes that in the present case, in which it is reviewing the exercise of a sports association's discretion, it is concerned not with the merits or substantive value of the decision made but with whether the decision and the measure it imposed violates the association's statutes or mandatory legal rules or amounts to an improper use of the association's discretionary power. In weighing up whether the decision amounts to an improper use of the association's discretion, the Panel considers that the reasonableness and proportionality of the sports association's actions are also factors for consideration. It addresses the application of such approach to the present appeal in paragraphs 116 to 164 of this Award.

B. Did the UEFA Executive Committee have the competence or power to take the Appealed Decisions?

103. Having established that the Appealed Decisions were administrative decisions and the nature of the Panel's scope of review, the Panel now turns to the issue of competence and whether the First Respondent had the power to take the Appealed Decisions.

104. The Appellant did not challenge the competence of the UEFA Executive Committee to take the Appealed Participation Decisions, but submitted that the UEFA Executive Committee did not have the competence to take a decision regarding the Appellant's eligibility to submit a bid to host EURO 2028/2032 and instead the Appealed Ineligibility Decision ought to have been taken by the UEFA Administration pursuant to Article 26.01 of the Bid Regulations.

105. The First Respondent disputed the Appellant's submissions and, in particular, relying on Article 23(1) and Article 65 of the UEFA Statutes, submitted that it was appropriate for the UEFA Executive Committee to take the Appealed Ineligibility Decision because an assessment of the Appellant's bid had to consider the Bid Regulations and the Suspension Decision.

106. The Panel recalls that a private sports association established in Switzerland, such as UEFA, must act within the powers conferred on it by its statutes, and in line with its statutory objectives and mandatory legal rules under Swiss law. In that regard, the Panel notes Article 2 of the UEFA Statutes, which provides as follows:

> *"1. The objectives of UEFA shall be to:*
>
> *a) deal with all questions relating to European football;*
>
> *b) promote football in Europe in a spirit of peace, understanding and fair play, without any discrimination on account of politics, gender, religion, race or any other reason;*
>
> …
>
> *d) organise and conduct international football competitions and tournaments at European level for every type of football whilst respecting the players' health;*

> …
>
> *i) promote unity among Member Associations in matters relating to European and world football;*
>
> *j) safeguard the overall interests of Member Associations;*
>
> *k) ensure that the needs of different stakeholders in European football (leagues, clubs, players, supporters) are properly taken into account;*
>
> *l) act as a representative voice for the European football family as a whole;*
>
> …
>
> *o) respect the interests of Member Associations, settle disputes between Member Associations and assist them in any matter upon request.*
>
> *2. 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 Panel also observes that the UEFA Executive Committee is tasked with managing UEFA and that Article 23.1 of the UEFA Statutes provides it with the power *"to adopt regulations and make decisions on all matters which do not fall within the legal or statutory jurisdiction of the Congress or another Organ"*. Furthermore, pursuant to Article 65 of the UEFA Statutes, the Executive Committee is empowered to:

> *"… decide on all matters not covered in these Statutes, such decisions to be made in accordance with relevant FIFA regulations. If no such regulations exist, the Executive Committee shall decide according to right and justice".*

108. The Panel finds that the UEFA Executive Committee was competent on the basis of Article 65 to take the Appealed Participation Decisions in order to further UEFA's objective of organising and conducting international football competitions and in view of the Suspension Decision which removed the Appellant's teams from participation in UEFA competitions, a point that is not disputed by the Appellant.

109. The Panel observes that the Bid Regulations outline the bidding procedure and appointment of a host member association for the finals and final phases of UEFA competitions. It notes that the Bidding Procedure, set out in Part II of the Bid Regulations, consists of several stages, the first one of which is the Initiating Phase during which a member association declares its interest in hosting a UEFA competition final or finals phase. The Initiating Phase is described in Article 12 of the Bid Regulations pursuant to which: UEFA invites member associations to declare their interest in bidding to host UEFA finals and UEFA final phases; a member association declares its interest by completing, signing and returning a declaration of interest form by the prescribed deadline; and after the deadline has expired, UEFA reviews the list of UEFA member associations that have declared an interest, and decides which are eligible to bid to host the UEFA final or UEFA final phase. UEFA then notifies the interested member

associations of whether their bid is eligible or ineligible before the process moves to the Bid Dossier Development Phase and then the Evaluation Phase. The host member associations are appointed by a vote of the UEFA Executive Committee following the voting procedure outlined in Annex A of the Bid Regulations.

110. The Panel was not provided with a copy of the declaration of interest form completed by the Appellant, and no party disputed that the form had been submitted. Nevertheless, the Panel accepts that the Appellant submitted an expression of interest to host the UEFA EURO 2028/2032 competitions and notes from publicly available information on UEFA's website that the deadline for submitting the expression of interest was 23 March 2022. It appears that the UEFA Executive Committee then reviewed the Appellant's expression of interest in view of the Suspension Decision and declared the Appellant's bid ineligible.

111. The Panel recalls that pursuant to Article 25 of the UEFA Statutes, the UEFA Executive Committee is empowered to delegate management to, amongst others, the UEFA Administration, and that under Article 81 of the UEFA Organisational Regulations, which, in turn, is based on Article 25 of the UEFA Statutes, the UEFA Administration is empowered to fulfil certain tasks specified in different UEFA Regulations.

112. Pursuant to Article 26.01 of the Bid Regulations:

"The UEFA administration is entrusted with the operational management of the bidding procedure and is therefore entitled to take the decisions and adopt detailed provisions necessary for implementing these regulations".

113. The Panel finds that although the UEFA Administration is entrusted with the operational management of the bidding procedure and is authorised to take decisions under the Bid Regulations, the UEFA Executive Committee, as the entity *"with the power to adopt regulations and make decisions on all matters which do not fall within the legal or statutory jurisdiction of the Congress or another Organ"*, is the entity primarily responsible for the management of UEFA and retains the power to take a decision regarding the Appellant's eligibility even though it may have delegated the task to the UEFA Administration under the Bidding Regulations. The UEFA Administration is not the Congress or a UEFA Organ, as that term is defined in Articles 11 and 32 of the UEFA Statutes, and the Panel finds that the UEFA Executive Committee did not impinge on their authority when taking the Appealed Ineligibility Decision.

114. Furthermore, the Panel observes that the Suspension Decision and the Appealed Participation Decisions were taken by the UEFA Executive Committee, and considers that in view of the extraordinary and unforeseen circumstances that had arisen, it was appropriate for the UEFA Executive Committee also to take the Appealed Ineligibility Decision, for consistency, and because it was the entity with knowledge of all circumstances relevant to the decision.

115. For the foregoing reasons, the Panel finds that the UEFA Executive Committee had the competence, and was the appropriate entity, to take the Appealed Ineligibility Decision.

C. Were the Appealed Decisions an improper use of power?

116. Having found that the Appealed Decisions were within the UEFA Executive Committee's competence to take, the issue for the Panel to determine is whether the Appealed Decisions violated the UEFA Statutes, mandatory rules of Swiss law or otherwise amounted to an improper use of a sports association's power, bearing in mind also the sports association's statutory objectives and the margin of discretion afforded to a sports association's decision-making.

117. The Appellant submitted that the Appealed Decisions:

a. violated a dominant position;

b. breached the principle of equal treatment;

c. breached the principle of political neutrality;

d. discriminated against the Appellant on the basis of nationality;

e. violated the Appellant's personality rights recognised in Article 28 of the SCC; and

f. was disproportionate.

118. Specifically in relation to the Appealed Ineligibility Decision, the Appellant submitted that the First Respondent breached the Bid Regulations because it failed to treat the Appellant in a fair, transparent and consistent manner as required under Article 15 of the Bid Regulations and Article 27 of the Regulations did not apply to disqualify the Appellant from the bid process.

119. The First Respondent rejected all allegations and submitted that the Appealed Participation Decisions were no longer an issue in view of the Panel's Awards in CAS 2022/A/8708 and CAS 2022/A/8709. With regards to the Appealed Ineligibility Decision, the First Respondent rejected the Appellant's submission that the decision breached the principle of political neutrality, was discriminatory and disproportionate, and that it did not breach the Bid Regulations when taking the decision.

a) Alleged Violation of a Dominant Position

120. The Appellant argued that UEFA is the sole governing body of European football and enjoys a dominant market position (Cantonal Court of Vaud's decision TC VD, CM11.033798 dated 5 October 2011, para.6(c)(bb)). Entities that occupy a dominant position are required to uphold general principles of law to the highest standards and exercise caution when making decisions. It submitted that UEFA abused its regulatory power when it adopted the Appealed Decisions, which in their view were a *"back up plan"* in case UEFA did not succeed in CAS 2022/A/8709. The principal purpose of the amendments was to prevent the Appellant from

participating in UEFA Competitions irrespective of the Suspension Decision. The First Respondent rejected the Appellant's claim.

121. The Panel notes that the onus is on the Appellant to establish a breach of a dominant position and that it did not submit any economic or expert evidence to support the existence of a market, UEFA's dominant position on that market or any of the alleged breaches of Article 7 of the Swiss Cartel Act. Furthermore, the Panel finds that there is simply no evidence to support the Appellant's contention that the First Respondent adopted the Appealed Decisions as a *"back up plan"* and with the aim of excluding the Appellant from UEFA competitions irrespective of the outcome in CAS 2022/A/8709.

122. Accordingly, the Panel finds that the Appellant has not established that UEFA violated a dominant position and dismisses the claim.

b) Alleged Breach of the Principle of Equal Treatment

123. The Appellant submitted that measures imposed by associations must comply with the principle of equal treatment and it is especially true in sport where equal treatment is fundamental for any competition (CAS 2005/C/976 & 986, para 137). It contended that the Appealed Decisions breached the principle of equal treatment because UEFA did not exclude Ukraine or Belarus from the competitions and UEFA's unsubstantiated concerns about safety, security and logistical issues applied equally to Ukraine and Belarus. The First Respondent rejected the Appellant's claim.

124. The Panel observes that the Suspension Decision removed the right of participation in UEFA competitions from Russian representative teams and clubs. It notes that Belarusian clubs have so far not been suspended from participation in UEFA competitions. Instead, on 3 March 2022, the UEFA Executive Committee decided that all Belarusian clubs and national teams competing in UEFA competitions would be required to play their home matches at neutral venues and that no spectators would attend matches that feature teams from Belarus as host.

125. The Panel considers that, in reality, the military conflict between Russia and Ukraine has elicited an unprecedented global reaction, including amongst the general public, and that the different treatment of the Appellant and the Belarusian FA arose because Belarus' involvement in the military conflict is different to that of Russia, Belarus has not faced the same degree of backlash regarding the military conflict that Russia has, and because the UEFA Executive Committee considered that implementing such measures were possible for Belarusian teams and clubs. The Panel finds that, in the present case, removing Russian teams from participation in various competitions was a consequence of the Suspension Decision and that since the Belarusian FA, its teams and clubs had not been suspended from participation in UEFA competitions there was no need to issue similar decisions in respect of the Belarusian FA and its teams. Neither for that matter was there a need to remove Ukraine from participation in UEFA competitions. It notes also that neither the Ukrainian FA nor the Belarusian FA appear to have submitted an expression of interest to host either the UEFA EURO 2028 or 2032 competitions.

126. The Panel observes that the Appellant did not submit any evidence to support its claims that the logistical problems *"are equally applicable to the situation of Ukraine and Belarus"* and from which the Panel could consider whether the principle of equal treatment had been breached.

127. Accordingly, for all these reasons, the Panel finds that the Appealed Decisions do not breach the principle of equal treatment and dismisses the claim.

c) Alleged Breach of the Principle of Political Neutrality

128. The Appellant submitted that the principle of political neutrality requires that no governmental or political influence is exercised on the activities of sports organisations (CAS 2019/A/6500, para 105) and that sports organisations must be free to organise their sport without any political interference. It further contended that UEFA is a member of the Olympic Movement and is committed to adhering to the fundamental principles of political neutrality and non-discrimination, and is bound by the principle of political neutrality. The Appellant contended that UEFA's justifications for the Appealed Decisions showed that the decisions were a consequence of the reactions of (i) several Member Associations, (ii) the majority of the governments of European countries and (iii) the general public *"against the actions taken by Russia"* in Ukraine.

129. The Appellant also asserted that UEFA was influenced by the IOC's political stance because it took the Suspension Decision on the same day as the IOC Resolution was taken and in accordance with that Resolution. In its view, the reported comments of the European Commission Vice-President on 11 May 2022 that, *"By refusing to play Russian teams, by imposing other sanctions and by supporting the Ukrainian football community, you have demonstrated the strength of our European unity and values"*, and recent decisions taken by other sports against Russian clubs and individuals, confirmed that decisions to exclude Russia from sports, including the Appealed Decisions, were politically motivated. The measures adopted by UEFA were directed against the FUR and Russian clubs only and UEFA has failed to argue convincingly that measures adopted by the UEFA Executive Committee against Russia were about more than a political reaction or statement against the Russian Federation. The First Respondent rejected the Appellant's claim.

130. The Panel recalls that UEFA is a member of FIFA, which is a part of the Olympic Movement and that its Statutes reflect Articles 5 and 6 of the Fundamental Principles of Olympism regarding political neutrality and non-discrimination. The Panel observes that Article 1.1 of the UEFA Statutes provides:

> *"The Union des Associations Européennes de Football (UEFA) shall be a society entered into in the register of companies under the terms of Art. 60 et seq. of the Swiss Civil Code. UEFA shall be neutral, politically and religiously"*.

131. On the issue of whether by taking the Appealed Decisions, UEFA breached the principle of political neutrality outlined in Article 1 of the UEFA Statutes, the Panel finds that there is no definition of *"political neutrality"* in the UEFA Statutes, other than the reference in Article 1.1

to the requirement for UEFA to *"be neutral politically and religiously"*. The Panel recalls the description of political neutrality outlined in CAS 2019/A/6500 & 6580, para 105 as:

"The principle of political neutrality, in the view of the Panel, requires that no political interference whatsoever is exercised on the activities of a sporting organisation. Indeed athletes must be free to exercise their sport without any political interference".

132. In those cases, the CAS Panel was concerned with specific instructions provided to an Iranian athlete not to compete against an Israeli athlete, that was supported by a government official and accompanied by a personal threat towards the athlete's family in the event that the athlete did not comply, which the Panel considered demonstrated a political issue interfering with sporting activities and was a clear violation of the principle of political neutrality (*ibid*, para 105). That is not the situation with which the Panel is concerned in the present case. Based on the information available to it, the Panel finds no evidence that the UEFA Executive Committee arrived at the Appealed Decisions other than by its own independent decision-making. There is no evidence, for example, that the UEFA Executive Committee took the Appealed Decisions because of the IOC Resolution or because of a direction from another external third party.

133. The introduction to Circular No. 21/2022 recorded the following:

"On 28 February 2022, the UEFA Executive Committee (EXCO) decided to suspend all Russian representative teams and clubs from participating in UEFA competition matches until further notice. While this decision is still in force, there was an urgency to address the impact and consequences of this pending suspension on the upcoming UEFA competitions that have not started yet or that will span beyond the current season, such as the UEFA Nations League 2022/23 (UNL) and the UEFA Women's EURO 2022 (WEURO), in order to ensure the smooth staging of said competitions in a safe and secure environment for all those concerned.

In this regard, several UEFA national associations, including the host association of the WEURO (i.e. the English FA) as well as others which have been drawn in the same group as Russia for a specific competition stage, have publicly voiced their intention not to participate in matches against teams from the Football Union of Russia (FUR), which puts these competitions in disrepute and seriously affect their integrity.

Apart from the national associations, the majority of the governments of European countries have condemned the actions taken by Russia in an unprecedentedly strong and united fashion, not limited to the United Kingdom and the European Union, which have further imposed severe sanctions on a number of Russian individuals. Additionally, the general public's reaction, with protests organised in the majority of European cities against the actions taken by Russia, is causing serious concerns about the ability to ensure the safety and security for the team delegations, supporters and anyone else involved in the preparation and staging of the relevant UEFA competition matches. Furthermore, the travelling constraints caused by the war of Russia in Ukraine, are putting the smooth continuation of the competitions at a high risk".

134. As the contents of Circular No. 21/2022 show, the UEFA Executive Committee took into consideration a number of factors when taking the Appealed Decisions. Those factors included the Suspension Decision and the "urgency" to make amendments in view of the

impending competitions, the refusal of some member associations to play against the FUR's teams, security concerns, flight bans, and the widespread public reaction against the military conflict.

135. The Panel accepts that the military conflict in Ukraine undoubtedly raises political issues but that does not lead automatically to the conclusion that any decision taken by a sports organisation that touches on a military conflict breaches the principle of political neutrality. The Panel considers that the military conflict in Ukraine was the catalyst for a series of extraordinary and unforeseen consequences, namely: the widespread condemnation of the military conflict by international organisations and governments; the reaction of the international sports community to the conflict; the imposition of sanctions and travel bans on Russian people and businesses; the uncertainty of the duration and scope of the conflict; and, the exceptional and widespread international public reaction against it. More specifically, from a football perspective: The refusal of certain national associations to play against Russian teams or clubs; the effect that refusals might have for the organisation of events such as UEFA's competitions or the FIFA World Cup 2022; as well as related security concerns.

136. Whilst the positions adopted by member associations, European governments and the general public were clearly considerations in the UEFA Executive Committee's decision, the majority accepts the First Respondent's submission that the UEFA Executive Committee did not arrive at the Appealed Decisions because of pressure from member associations or the views of European governments. The Panel considers that the UEFA Executive Committee acted as it did to implement the Suspension Decision, which in turn was taken in response to a set of extraordinary and unforeseen circumstances, and not because UEFA favoured a particular political position. The Panel accepts that the effect of the Suspension Decision and the Appealed Decisions may lend itself to the perception that UEFA favoured a political position, but that was an unavoidable consequence of the decisions that it took having considered all of the circumstances.

137. The Panel further finds that while the Appealed Decisions may have been consonant with the views implicit in the IOC Resolution or the views of European governments or even the views of the general public, there is no evidence that it was taken only or substantially because of those views or that it was taken in support of those positions or again that they would not have been the same decisions irrespective of those views. In the Panel's opinion the Appealed Decisions were taken to further UEFA's statutory objectives, specifically those of Articles 2.1(b) and (d), which, the Panel finds was within the UEFA Executive Committee's margin of discretion in the situation with which the Executive Committee was faced.

138. For all those reasons, the Panel finds that no breach of the principle of political neutrality occurred and dismisses the claim.

d) Alleged Discrimination Against the Appellant on the Basis of Nationality

139. The Appellant submitted that the Appealed Decisions breached the prohibition of discrimination provided in Article 2.1(b) of the UEFA Statutes on the basis of nationality by taking Russia out of UEFA competitions. Other international federations had not banned

Russian national teams from participating in international tournaments. IBA, FINA and FIG sanctioned only those who supported the military conflict, and the ATP condemned Wimbledon's ban on Russian and Belarusian players from competing in the United Kingdom this summer as *"discrimination"*. The First Respondent rejected the Appellant's claim.

140. The Panel observes that the Suspension Decision related only to FUR, its teams and clubs. The Appealed Participation Decisions implemented the Suspension Decision and therefore applied only to FUR and its representative teams and clubs. The Appealed Ineligibility Decision applied only to the Appellant's bid. The majority considers that the Appealed Decisions were not taken because of the Appellant's nationality but because the military conflict in Ukraine has elicited an unprecedented global reaction, including amongst the general public. It was the consequences of that reaction to which UEFA considered it was required to act in order to fulfil its statutory objectives. The Suspension Decision is not at issue in these proceedings and so the Panel makes no finding regarding whether UEFA discriminated on the basis of nationality against the Appellant when it took the Suspension Decision.

141. The Panel was referred to the decisions of the ETTU Board of Appeal dated 26 April 2022 and the FIL Court of Arbitration decision dated 7 April 2022, both of which dealt with the issue of involvement of Russian teams or athletes in their respective sports, and concluded to varying degrees that they should not be so excluded. The Panel was also referred to the Lawn Tennis Association's decision not to permit Russian tennis players to participate in Wimbledon in 2022, and the Women's Tennis Association (WTA), ATP and ITF decisions in response, to remove ranking points for the Wimbledon tournament, and it is a matter of public record that World Athletics have suspended Russian teams and athletes (other than so termed neutral athletes) on the basis that according to its President, such sanctions *"appear to be the only way to disrupt and disable Russia's current intentions and restore peace"*.

142. The Panel again does not find it helpful in the present case to compare the approaches of other sports federations, whether more or less stringent, to the participation of Russian teams or athletes in their respective competitions. With all respect to the sports involved, they are not of the same global scale as football and their statutes, regulations, and decision-making processes will differ to UEFA's. There will also be different factors or different weightings applied to certain factors that were considered when each sport responded in the manner in which it did. The Panel considers that comparisons to the decisions of other sports federations taken in materially different circumstances and for different reasons, which the Panel cannot and does not pronounce, do not assist in the present case.

143. Accordingly, for all those reasons, the Panel finds that there was no discrimination on the grounds of nationality and dismisses the claim.

e) Alleged Violation of the Appellant's Personality Rights

144. The Appellant submitted that UEFA's discriminatory actions violated the Appellant's personality rights, specifically its rights to engage in sporting and economic activities through participation in UEFA competitions. It submitted that non-admission to UEFA competitions

deprived it of the related economic benefits that participation provides. Exclusion of FUR prevented it from advancing its international objectives to promote its brands and Russian football as a whole, and impeded its efforts to de-escalate the political tension. The First Respondent rejected the Appellant's claim.

145. The Panel accepts that the Suspension Decision, and by extension the Appealed Decisions, will have an adverse impact on Russian football, although the extent of that impact was not demonstrated in these proceedings. The Panel was not presented with any evidence that would satisfy it to the appropriate standard that an infringement of the Appellant's rights to economic development and fulfilment, and to honour had occurred. The Panel, therefore, finds that on the basis of the evidence available to it, no infringement of Article 28 of the SCC has occurred.

146. Accordingly, for those reasons, the Panel finds that there was no unlawful infringement of personality rights and dismisses the claim.

f) Proportionality of the Appealed Decisions

147. The Appellant submitted that the Appealed Decisions were disproportionate because UEFA had experience of dealing with similar situations (e.g. in 2002, 2014 and 2020), and there were many other alternative measures that UEFA could have adopted. For example, UEFA could have: brought disciplinary proceedings if the Appellant's team was unable to play a match; permitted participation without identifying nationality; required the Appellant to play on a neutral venue; adopted a similar protocol to that adopted in response to COVID-19; or required the UEFA Emergency Panel, UEFA President or the UEFA General Secretary to take the necessary decisions on a case-by-case basis, if problems arose. The Appellant asserted that UEFA had not substantiated its claims concerning travel, safety, and security, but had simply relied on the fact that (i) European governing bodies have adopted sanctions against Russia, (ii) national associations publicly voiced their opinion against FUR and (iii) the general public's reaction. The Appellant contended that cost and organisational hurdles were insufficient reasons for UEFA to completely exclude its teams. It had received letters from the Russian Ministry of the Interior confirming that the Ministry would ensure safety and security during an international football event. The alternative options available to UEFA supported the Appellant's view that the Appealed Decisions were disproportionate. The First Respondent rejected the Appellant's claims.

148. The Panel notes that while the Appealed Decisions are not a disciplinary decision, as it has found above, the Panel is entitled to assess the proportionality of the measures within the scope of its review of the exercise of UEFA's discretion, and arguments regarding proportionality are relevant. The majority finds that at the time the Appealed Decisions were taken, they were a proportionate and necessary response to implement the Suspension Decision, taking into consideration the Appellant's interest, UEFA's interest and the interests of other European football stakeholders.

149. The Panel observes that UEFA had already, on 28 February 2022, taken the Suspension Decision and, in light of that decision, was required to make amendments to its competitions

to progress their efficient organisation. The Panel notes that some of the Appellant's arguments regarding proportionality and the alternatives to taking the Appealed Decisions (e.g. participation without identifying nationality, playing on neutral venues, or safety and security concerns) are, in fact, more relevant to a challenge against the Suspension Decision, which is not the subject of this appeal, and which the Panel has not been called upon in these proceedings to consider.

150. In any event, the Panel recalls that a sports governing body has a legitimate interest in protecting the integrity and safety of its competitions. The Panel considers that the very presence of the Appellant's teams (to be distinguished from the presence of Russian individuals in, for example, non-team sports such as tennis) might, in existing circumstances, generate protests that escalate into violence. It observes that unlike some other sports, football, sadly, has proven over the years particularly prone to extreme crowd reactions that are sourced in racism, nationalism or religious differences. It is not unknown for tensions between different groups to spill over into violence at or around football events, creating security and safety concerns inside and outside a stadium. On this issue, however, it is not for the Panel to decide whether it would have reached the same decision, and it defers to UEFA's expertise when it comes to assessing the security risk and safety concerns of its competitions. The Panel notes also that the option of playing behind closed doors would inconvenience other teams who could reasonably expect to play their matches in front of a crowd but for being drawn against the Appellant's team. The Panel observes that UEFA's initial response to the unfolding circumstances, was the First Decision (which was taken on 25 February 2022, before the Suspension Decision) and which required, amongst other things, that no UEFA competition matches were to be played on Russian or Ukrainian territory. This would have enabled the Appellant to participate in UEFA competitions, although outside their own country, and the Appealed Decisions may not have been required. As the circumstances evolved after 25 February 2022, however, the Suspension Decision was adopted and the playing option outlined in the First Decision discarded.

151. The majority considers that the alternatives suggested by the Appellant of resolving any issues that should arise through disciplinary proceedings, or enabling certain UEFA officials to make a decision, are reactive responses, and that it is not disproportionate to adopt a more proactive response to minimise disruption to a sports competition. Although the Russian Ministry of the Interior has provided assurances that it would ensure the security and safety of participants at international matches on its territory, the Panel acknowledges UEFA's submission that security risks and safety concerns can extend beyond an individual country's borders. It observes also that many governments in Europe have likely issued travel advisory notices, warning against travel to Russia given the uncertain duration and scope of the existing military conflict, which would prevent the teams and supporters of other member associations, from travelling to Russia, even if matches were permitted to be played there. Finally, regarding the suggestion that UEFA should adopt a similar protocol to that in place for COVID-19, the Panel observes that the global pandemic affected many countries including Russia. The Panel was not provided with evidence of UEFA's COVID-19 protocol and how it might apply, nevertheless, it considers that a protocol designed to limit the spread of a virus would very likely not limit or remove altogether the security concerns for participants and spectators of a match involving one of the Appellant's teams.

152. Accordingly, for those reasons, the majority finds that the Appealed Decisions were not disproportionate.

g) Alleged Breach of the Bid Regulations

153. The Appellant submitted that the Appealed Ineligibility Decision breached Article 15.01 and Article 27 of the Bid Regulations because the First Respondent did not treat it in a fair, transparent and consistent manner throughout the bidding procedure, and it itself had done nothing wrong which would justify the ineligibility of its bid to host the UEFA EURO 2028 or 2032 competitions.

154. The First Respondent contended that it did not breach the Bid Regulations. It submitted that when taking the Appealed Ineligibility Decision it *"simply applied the relevant regulations to the precise circumstances"* by considering Articles 12.03 and 16.02 of the Bid Regulations, and whether the Appellant's bid in the present context would bring the bidding process and European football into disrepute.

155. The Panel observes that Part III of the Bid Regulations outlines principles of fairness and ethical conduct that apply to the bid process. It includes the following relevant articles:

> *"15.01 UEFA shall ensure that bidders are treated in a fair, transparent and consistent manner throughout the bidding procedure.*
>
> *[…]*
>
> *16.02 Each bidder shall ensure that it does not act in a manner that could bring UEFA, the UEFA final or UEFA final phase, any other bidder (or any employee, officer or representative of any of the foregoing), the bidding procedure or European football into disrepute".*

156. The Panel has previously found above that the Appealed Decisions, including the Appealed Ineligibility Decision, did not breach the principles of equal treatment, political neutrality, and were not discriminatory or disproportionate. It also observes that the Appellant has submitted no additional evidence from which the Panel could consider whether the First Respondent's treatment of the Appellant during the bid procedure was unfair, non-transparent and inconsistent.

157. The Panel recalls the First Respondent's reasons for declaring the Appellant's bid ineligible which are recorded in Circular No. 21/2022:

> *"Article 16.02 of the Bid Regulations states that "[e]ach bidder shall ensure that it does not act in a manner that could bring UEFA, the UEFA final or UEFA final phase, any other bidder (or any employee, officer or representative of any of the foregoing), the bidding procedure or European football into disrepute". In this regard, the contemplated bid submitted by the FUR has already provoked a strong reaction reflected in the media of the vast majority of the European countries.*

Moreover, as communicated in Circular Letter no. 87/2021, "[t]he automatic qualification of the host team(s) shall be guaranteed (...) for a single host (...)". Therefore, given the uncertainty as to when the suspension will be lifted and/or whether even more impacting difficulties will arise, the acceptance of a bid from the FUR goes against the decision of the UEFA EXCO of 28 February 2022, suspending all Russian representative teams and clubs from participating in UEFA competition matches until further notice.

Therefore, it was decided to declare the bid of the FUR as not eligible, since it does not only bring the bidding procedure and European football in its entirety into disrepute but is further in direct contradiction with the decision of the UEFA EXCO of 28 February 2022, if an association, whose teams are currently suspended from participating in any UEFA competition, is allowed to bid for a tournament to be hosted on its territory".

158. The Panel notes also Article 12.03 of the Bid Regulations, which provides:

"After the deadline for declarations of interest, UEFA reviews the list of UEFA member associations that have declared an interest and decides which are eligible to bid to host the UEFA final or UEFA final phase".

159. The Panel finds that, in accordance with Article 12.03 of the Bid Regulations, UEFA reviewed the Appellant's bid for eligibility and that at the time it was reviewed, the Suspension Decision was in effect and precluded participation of the Appellant's teams from UEFA competitions. The Panel observes that none of the other bidders' teams were in a similar position to that of the Appellant's team i.e. suspended from participation in UEFA competitions. The Panel considers that the duration of the military conflict, which is continuing, is uncertain, and since the team of the successful host association receives automatic qualification into the relevant UEFA EURO competition, the Suspension Decision would have precluded the Appellant's team from participating, had the Appellant's bid been successful and the military conflict been continuing at the time of the competition. As noted in paragraph 37 above, the military conflict between Russia and Ukraine was the catalyst for a set of extraordinary and unforeseen circumstances, which led to the First Respondent implementing the Suspension Decision. These circumstances included an unprecedented global reaction to the military conflict and are in evidence by the public reaction to the inclusion of the Appellant's bid in the process.

160. The Panel recalls Article 16.02 of the Bid Regulations and accepts the First Respondent's uncontradicted position that the Appellant's bid to host the UEFA EURO 2028 or 2032, in the present context, could *"bring the bidding procedure and European football in its entirety into disrepute"*, although the Panel has not been asked to make a finding as to whether the Appellant breached Article 16.02 and it makes no finding in that regard.

161. The Panel finds that the First Respondent's treatment of the Appellant's bid was not unfair, non-transparent and inconsistent, but was rather consonant with, and an extension of, the decisions already taken in light of the extraordinary and unforeseen circumstances that had arisen following the commencement of the military conflict. Accordingly, the Panel finds no breach of Article 15 of the Bid Regulations.

162. The Panel recalls Article 27 of the Bid Regulations which provides that:

"Any UEFA member association found to be in breach of the provisions of these regulations may be disqualified from the bidding procedure by the UEFA Executive Committee and, in addition, may be penalised by UEFA's disciplinary bodies in accordance with the UEFA Disciplinary Regulations".

163. The Panel finds that there is no evidence that the Appellant was in breach of the Bid Regulations, and furthermore, there is no evidence that the UEFA Executive Committee relied on this provision to *"disqualify"* the Appellant's bid, but rather declared the Appellant's bid *"ineligible"* under Article 12.03 of the Bid Regulations on the basis of the factors outlined in paragraph 159 above. The Panel finds that no breach of Article 27 occurred.

164. Accordingly, for the foregoing reasons, the Panel finds that the Appealed Ineligibility Decision did not breach the Bid Regulations.

D. Conclusion

165. For the reasons set out above, the Panel finds that in the extraordinary and unprecedented circumstances with which UEFA was faced and to achieve its statutory objectives, the Appealed Decisions were reasonable and proportionate decisions to take. They were required for the efficient and orderly organisation of international football events for European football's stakeholders. The majority, and in some matters as outlined fully above the Panel, finds that the Appealed Decisions did not breach UEFA Regulations, the principle of political neutrality, nor mandatory provisions of Swiss law, were not disproportionate or discriminatory, and fell within the margin of discretion that UEFA has when making decisions that further its statutory objectives.

166. The Panel notes that it was unfortunate that UEFA was required to take the Suspension Decision, and similarly the Appealed Decisions, for which the FUR, its teams, clubs and players have themselves no responsibility, but which has had, and will likely have, an adverse effect on them. The Panel recalls that the Suspension Decision is a temporary one, and that *"Russian representative teams and clubs are suspended from taking part in UEFA competitions until further notice"*, and very much hopes, for the benefit of the entire European football community, that circumstances develop in a way that the Suspension Decision can properly be lifted soon.

167. For the reasons set out above, the Panel dismisses the appeal.

ON THESE GROUNDS

The Court of Arbitration for Sport rules that:

1. The appeal filed by the Football Union of Russia on 12 May 2022 in the arbitration CAS 2022/A/8871 *Football Union of Russia v. Union of European Football Associations (UEFA) et al* is dismissed.

2. The decisions rendered by the Executive Committee of the Union of European Football Associations on 2 May 2022 are confirmed.

3. (…).

4. (…).

5. All other motions or prayers for relief are dismissed