

**CAS 2021/A/8239 Oleksandr Sevidov v. Ukrainian Association of Football**

**ARBITRAL AWARD**

**delivered by the**

**COURT OF ARBITRATION FOR SPORT**

**sitting in the following composition:**

Sole Arbitrator: Mr Bernhard Welten, Attorney-at-law in Bern, Switzerland

**in the arbitration between**

**Oleksandr Sevidov, Ukraine**

Represented by Mr Georgi Gradev and Mr Marton Kiss, SILA International Lawyers, Sofia, Bulgaria

**Appellant**

**and**

**Ukrainian Association of Football, Kyiv, Ukraine**

Represented by Mr David Casserly, Barrister, and Mr Anton Sotir, Attorney-at-law, Kellerhals Carrard, Lausanne, Switzerland

**Respondent**

## **I. PARTIES**

1. Mr Oleksandr Sevidov (the “Appellant” or the “Coach”), born on 18 July 1969, is a professional football coach of Ukrainian nationality. He holds the UEFA Pro License with the Ukrainian Association of Football. Since 12 March 2020, he is banned for all football related activities by a decision of a legal body of the Ukrainian Association of Football.
2. The Ukrainian Association of Football (the “Respondent” or “UAF”) is the governing body of football in Ukraine. It has its seat in Kyiv and is a member of the Union of European Football Associations (“UEFA”) and the Fédération Internationale de Football Association (“FIFA”).

## **II. FACTUAL BACKGROUND**

3. Below is a summary of the main relevant facts, as established by the Sole Arbitrator on the basis of the Parties’ written and oral submissions and the exhibits produced during these proceedings and statements made during the hearing. Additional facts and allegations found in the Parties’ submissions and evidence may be set out, where relevant, in connection with the legal discussion that follows. While the Sole Arbitrator has considered carefully all the facts, allegations, legal arguments and evidence submitted by the Parties in the present proceedings, he refers in his award only to the submissions and evidence he considers necessary to explain his reasoning.

### **A. Facts**

4. On 24 May 2016, the national police of Ukraine initiated a pre-trial investigation based on the facts resulting from match manipulations and bribes. This investigation related to 11 persons from different football clubs. In relation to FC Sumy (the “Club”), the investigation related to the Coach and Mr R. Kozar (owner FC Sumy).
5. On 22 September 2017, FC Mariupol announced that the Coach, who had since joined this club, and his staff, Witness C. and Witness B., were leaving the club; the contract was terminated by mutual consent.
6. On 7 February 2018, FC Sumy published information on its website that the Coach had been working in the Club as a consultant and Witness B. and Witness C. had been coaching the team.
7. On 28 February 2018, FC Sumy announced that Witness C. was officially appointed as the Club’s head coach.
8. On 19 March 2018, FC Sumy announced that Witness B. was officially registered as assistant coach for the Club.
9. On 29 March 2018, Mr Kozar met with Mr Oleksandr Solovian who is a UAF referee and they discussed the price to be paid for a victory (UAH 100,000) or a draw (UAH 30,000) in the upcoming game of FC Sumy against FC Volyn. After the game, on 2 April 2018,

Mr Kozar and the referee met again and the referee received his payment. Their meetings were recorded, unbeknownst to Mr Kozar, by the referee, who went undercover and participated in the police operation.

10. Between 29 March and 14 April 2018, the national police of Ukraine recorded phone conversations between the Coach and Mr Kozar as well as with the player Oleg Mishchenko, during which they discussed the bribery of referees to influence match results.
11. On 8 June 2018, the Coach was charged by the police, i.e. was served a notification of suspicion. In this notice, the Coach is “*suspected of committing a criminal offense under Part 2 of Art. 28, part 1 of Art. 369-3 of the Criminal Code of Ukraine, i.e. in influencing the results of official sports competitions by incitement and bribery, in order to obtain undue advantage for themselves and a third party, committed by a group of persons*”.
12. On 31 August 2018, the Club played against FC Dnipro-1. It is not disputed that, on that occasion, the Club’s [...], Witness A., entered the team’s dressing room before the game and informed, based on the information received from the UAF EFC, there were abnormal bets on this match which possibly showed that such game was fixed. It is disputed whether the Coach was present on that occasion or not.
13. In September 2018, Witness B. went on sick leave and Witness C. took officially over his responsibilities in the Club.
14. On 7 September 2018, Federbet produced a report identifying “*at least six matches [of FC Sumy] with unrealistic odds movements*”. The report referred to the games of 5 July 2017 against FC ‘Chornomorets’ Odesa, of 13 November 2017 against FC ‘Vorskla’ Poltava, of 25 January 2018 against FC ‘Arsenal-Kyiv’ Kyiv, of 22 April 2018 against FC ‘Desna’ Chernihiv and the two friendly games of 9 February 2018 against FC ‘Obolon-Vrovar’ Kyiv and of 9 March 2018 against FC ‘Nyva-V’ Vinnytsia.
15. The UEFA Betting Fraud Detection System (“BFDS”) also produced a number of reports (the “BFDS Reports”) concluding that there was “*clear and overwhelming betting evidence that the course or result of [16 of the Club’s matches were] unduly influenced with a view to gaining corrupt profits*”. These BFDS Reports referred to the games of 14 November 2016 between FC Illychivets Mariupil v. Girnik-Sport and the games of the Club of 25 November 2013 against FC Nyva Ternopil, of 1 June 2016 against FC Dynamo-2, of 19 November 2016 against FC Poltava, of 3 May 2017 against FC Naftovyk-Ukrnafta, of 26 July 2017 against FC Dnipro-1, of 15 September 2017 against FC Desna Chernigiv, of 19 May 2018 against FC Cherkasy Dnipro, of 5 August 2018 against FC Metalist 1925, of 18 August 2018 against FC Volyn’, of 31 August 2018 against FC Dnipro-1, of 25 September 2018 against FC Karpaty, of 12 October 2018 against FC Kolos, of 3 November 2018 against FC Hirnyk-Sport, of 10 November 2018 against Zirka Koryvnytsky and of 17 November 2018 against FC Metalist 1925.
16. On 1 November 2018, the General Prosecution Office of Ukraine sent an analytical report to the Ukrainian national police based notably on secret phone tapping and surveillance. This report identified several conversations confirming that the management of the Club bribed or tried to bribe referees, but also “*several players of the opponent*”. The report

further referred to conversations between the Appellant (who is described as “*the unofficial coach*”) and Mr Kozar during which they discussed the amounts to be paid to the referees.

17. On 14 November 2018, the UAF Ethics and Fair-Play Committee (the “UAF EFC”) issued a report on possible violations of the UAF regulations with respect to the involvement of the football club FC Sumy and its officials. In this report, the UAF EFC found that the results of at least twenty of the Club’s matches were manipulated, mostly from summer 2017 to fall 2018. The BFDS and Federbet identified abnormal changes in the odds during such matches, which indicates suspicious betting. An expert group analysed four of those matches in detail for the UAF EFC and found that some of the Club’s players deliberately made mistakes which coincided with the activity of bettors on the online market. The UAF EFC also relied on information provided by the Ukrainian national police “*which shows the systemic nature of actions of the administration, coaches of the Club and individual players of FC «Sumy» Sumy, which contradict the rules of ‘fair play’, accompanied by bribery of referees, players of the opposing team to win FC «Sumy» Sumy and bribing their own players to lose a match*”. The Coach, who is described in this report as “*club consultant*”, was accused in the report of violating Articles 1.5, 4.1.8, 8, 12.1.7 and 12.1.8 of the UAF Ethics and Fair Play Code (the “UAF Ethics Code”).
18. On 19 November 2018, Witness B. officially left the Club based on a mutual agreement.
19. On 20 November 2018, one of the persons charged during the investigation, Mr Lotharev, filed a motion to suspend the pre-trial investigation in view of the severe illness he suffered from.
20. On 10 December 2018, the police issued an order, with the prosecutor’s consent, to suspend the investigation due to the severe illness of one of the suspects.
21. In January 2019, it was reported that FC Vereya, Bulgaria hired the Coach as head coach and Witness B. joined as his assistant.
22. Since March 2021, the Coach has been acting as advisor of FC Minaj, Ukraine, based on interviews printed in the media. In May 2021, the Coach confirmed that he would stay in FC Minaj for the next season, despite the Club’s relegation to the first league and that he would be working in its youth academy. In October 2021, media reports stated that the Coach was working in FC Minaj as a personal trainer for a young player.
23. On 3 December 2021, the police sent a letter to the Respondent confirming that the Coach was charged and that “*at the moment of the request, no decision was made about the closure of the mentioned criminal investigation or the withdrawal of the notified charge*”.
24. On 11 February 2022, pursuant to the Respondent’s request, the police provided a copy of the order dated 10 December 2018 and confirmed that the pre-trial investigation involving 11 persons (including the Coach) was not closed (or stopped), but only suspended with the consent of the prosecutor due to the severe illness of one of the suspects. Through that, the police confirmed that the evidence like taped phone

conversations in relation to FC Sumy and other information with respect to the Coach and Mr Kozar have already been provided.

**B. Proceedings before the UAF legal bodies**

25. On 11 April 2019, the UAF Control and Disciplinary Committee (the “UAF DC”) issued a formal decision (the “First UAF DC Decision”) which in relation to the Coach stated that the UAF EFC did not properly prove the connection and guilt of the Appellant in relation to the violation of the UAF Ethics Code and, as a consequence, did not issue a formal decision against the Coach. Therefore, the UAF DC did not send this First UAF DC Decision to the Coach. FC Sumy was expelled from the league and its status as a professional club was revoked.
26. By the end of May 2019 respectively beginning of June 2019, a total of eleven defendants appealed against the First UAF DC Decision. None of them filed a specific request for relief against the Coach; the Club did not appeal.
27. On 30 July 2019, the UAF EFC requested the joinder of the Coach in the appeal proceedings as a third party.
28. On 31 July 2019, the UAF Appeals Committee (the “UAF AC”) granted the motion of the UAF EFC and joined the Coach as third party to the appeal proceedings.
29. On 10 October 2019, the UAF AC issued a decision (the “First UAF AC Decision”) and sent the case back to the UAF DC to assess possible breaches of regulations which happened within the football club FC Sumy.
30. On 19 November 2019, the UAF DC reopened the disciplinary proceedings against the involved persons of FC Sumy, including the Coach.
31. On 7 February 2020, the Coach presented his arguments in front of the UAF DC.
32. On 12 March 2020, the UAF DC rendered a new decision (the “Second UAF DC Decision”) stating in the operative part regarding the Coach as follows: *“Prohibit [...] O. Sevidov to carry out any activity related to football (administrative, sports, etc.) for 5 (five) years and for a period of 5 (five) years conditionally with the establishment of a probationary period of 2 (two) years, accounting of which begins after the expiration of the main sanction.”*
33. On 13 August 2020 and on 20 August 2020, the UAF EFC respectively the Coach lodged an appeal against the Second UAF DC Decision with the UAF AC.
34. On 17 November 2020, amongst others, the Coach presented his case in the hearing before the UAF AC. This hearing was continued on 1 December 2020.
35. On 13 May 2021, the UAF AC issued the final decision (the “Appealed Decision”) which stated in the relevant points of the operative part in relation to the Coach as follows:

“3. To change the Decision of the CDC of UFA dated March 12, 2020, according to the results of the case consideration: ‘On additional case hearing “On application of the Committee for ethics and fair play of UFA relating possible violations of the code of ethics and fair play of the Football Team ‘Sumy’ of Sumy” in the part of sanction regarding Sevidov O., namely to prohibit Sevidov O. for the term of life to make any activity related to football (administrative, sportive etc.)”

36. The Appealed Decision was notified to the Parties by email on 27 July 2021. The reasoning may be summarized as follows:

The UAF AC stated that it applied the 2016 UAF Disciplinary Regulations (“UAF DR”) which are applicable to all natural persons and legal entities who directly or indirectly or timely are occupied or work in football in the territory of Ukraine. Further, in applying the CAS jurisprudence, the standard of proof is ‘comfortable satisfaction’ (e.g. CAS 2010/A/2172). In looking at Articles 78ff of the UAF DR, the UAF AC held that the UAF DC made significant procedural errors leading to the First UAF DC Decision of 11 April 2019. Especially the right to be heard had not been granted to all of the involved parties. As a consequence, the UAF AC cancelled the First UAF DC Decision on 10 October 2019 and sent the case back to the UAF DC. The Coach did not appeal this decision to the CAS. If he was of the opinion that the First UAF AC Decision violated his rights and the principle of *res judicata*, he should have done so. As the First UAF AC Decision was not appealed, the UAF DC had the full power to review the facts and take a decision, including the appealed decision against the Coach. As a consequence, the First UAF DC Decision was cancelled and cannot be the basis for *res judicata*. The UAF AC is, therefore, of the opinion that the Coach cannot rely on the alleged violation of the principle of *res judicata*. Going against this First UAF AC Decision now constitutes a *venire contra factum proprium* of the Coach. The Coach was aware that the relevant facts of the case became only known in the appeal proceedings leading to the First UAF AC Decision. Therefore, the UAF AC agrees with the conclusion of the UAF DC that the liability of the Coach was proven with all evidence in the case file. As a consequence, the UAF AC is comfortably satisfied that the Coach had the knowledge and/or directly participated “*in influencing and conspiring to change the results of the matches, as well as violated the principle of fair play*”. The witnesses heard in the proceedings clearly stated that the Coach “*not only came to the games, but also participated in the training process*”. His role as the Club’s advisor and later unofficial coach was further proven by witness statements. There is a specific statement that the Coach was present in the team’s changing room before the game against “Dnipro-1” when Witness A. entered and informed the players regarding the possibility of manipulation of the match result. Further, the national police of Ukraine recorded phone conversations between the Coach and the Club’s President, R. Kozar, on 4 November 2017 and twice on 29 March 2018 as well as with the player O. Mishchenko on 14 April 2018. All these calls were in relation to bribing referees to influence the match results. Therefore, the UAF AC concluded that by direct and indirect proofs, “*the objective and subjective facts in this case certify the existence of rigged matches in the football club “Sumy” from Sumy, and knowledge and participation in their organization of Sevidov O. From the analysis of the case materials, it can be seen that the well-known Ukrainian coach “consulted” the owner of the club and negotiated about the amount of bribes for the judges, helped and influenced the training process in the club via his old friends -Zolotnitskyi S. and [Witness B.]*”. Holding the UEFA Pro License, the Coach is considered an important representative of football

and should be trusted significantly more than football players. Following the rigid approach of UEFA and CAS, especially in looking at the case CAS 2010/A/2172 in which the referee Olek Oriekov was banned for life based on his non-notification to the relevant UEFA authorities of the offer to participate in organizing and realizing the manipulation of match results, even if he refused to accept this offer, the UAF AC is of the opinion that the Coach being a prominent representative of Ukraine football and having a certain psychological impact on football players shall be banned for life for the violations committed.

### **III. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT (“CAS”)**

37. On 16 August 2021, the Coach filed his Statement of Appeal with the Court of Arbitration for Sport (the “CAS”) pursuant to Article R48 of the Code of Sports-related Arbitration (the “Code”). He requested a suspension of the time limit to file his Appeal Brief pursuant to Article R32 of the Code and he indicated his intention to file a request for a stay of execution of the Appealed Decision unless the Respondent would agree for the Appealed Decision to be stayed.
38. On 18 August 2021, the Coach inquired with the CAS Court Office the UAF’s position regarding the stay of execution of the Appealed Decision. He further pointed out that the UAF did not oppose to such a request in CAS 2010/A/2267, 2278, 2279, 2280 & 2281.
39. On 19 August 2021, the CAS Court Office confirmed the receipt of the Statement of Appeal and granted the UAF a deadline of five days to inform the CAS Court Office whether it agrees that the Appealed Decision be stayed pending a final award to be issued in the present procedure.
40. On 25 August 2021, the UAF replied to the CAS Court Office and stated, amongst others, that the Appealed Decision clearly provided that it shall come into force immediately. Therefore, a stay would be contrary to such decision and, as a consequence, the UAF rejected the request to stay the execution of the Appealed Decision.
41. On 26 August 2021, the CAS Court Office informed the Parties that the Appealed Decision was not stayed as the UAF did not agree with the Coach’s respective request. Further, the CAS Court Office confirmed that based on the Coach’s request, the deadline to file his Appeal Brief remained suspended until further notice.
42. On 27 August 2021, the CAS Court Office informed the Parties that the deadline for the Appellant to file his Appeal Brief remained suspended until a decision had been made on the Appellant’s requests for production of various documents or until such documents, if any, have been filed.
43. On 6 September 2021, the UAF filed some of the documents requested by the Coach and gave its comments to the documents which were not produced.
44. On 17 September 2021, the UAF filed two transcripts in Ukrainian of the testimonies of anonymous witnesses in a redacted version, in order to avoid the identification of these witnesses.

45. On 11 November 2021, the CAS Court Office informed the Parties that the President of the CAS Appeals Arbitration Division had appointed Mr Bernhard Welten, Attorney-at-law in Bern, Switzerland to decide this case as Sole Arbitrator.
46. On 19 November 2021, although the deadline was still suspended, the Coach filed his Appeal Brief pursuant to Article R51 of the Code. In his requests for relief, the Coach requested on a preliminary basis the stay of the execution of the Appealed Decision.
47. Still on 19 November 2021, the CAS Court Office acknowledge receipt of the Coach's Appeal Brief and set the UAF a deadline of 20 days to file its Answer pursuant to Article R55 of the Code. Regarding the request of the stay of the execution of the Appealed Decision, the CAS Court Office set the UAF a deadline of seven days to file its position.
48. On 1 December 2021, after having received a five-day extension, the UAF filed its position regarding the Coach's Request for a Stay of the Appealed Decision.
49. On 8 December 2021, the CAS Court Office confirmed that, based on a prior agreement between the Parties, the UAF shall file its Answer by 3 March 2022.
50. On 11 December 2021, the Coach sent an email to the CAS Court Office pointing out to the impact of the extension granted to the UAF to file its Answer on his own request for provisional measures.
51. On 4 January 2022 and 12 January 2022, the Coach sent further emails to the CAS Court Office pointing out to the urgency to receive at least the operative part of the Order on the Request for a Stay noting that football clubs were looking for new signings, including coaches, and that this window would close with the end of the winter break.
52. On 26 January 2022, the Sole Arbitrator issued the Order on Request for a Stay which was sent to the Parties by email. The Sole Arbitrator dismissed the Appellant's request for a stay of execution of the Appealed Decision and decided that the costs of this Order shall be determined in the final award.
53. On 24 February 2022, the time limit to file the Answer was suspended based on the UAF's request in view of the conflict between Russia and Ukraine.
54. On 1 March 2022, the CAS Court Office informed the Parties that the hearing foreseen for 23 March 2022 was postponed and the UAF's time limit to file its Answer was extended until 31 March 2022.
55. On 15 March 2022, the Sole Arbitrator rejected the Appellant's request for reconsideration of the Order on Request for a Stay issued on 26 January 2022.
56. On 31 March 2022, the UAF filed its Answer pursuant to Article R55 of the Code.
57. On 4 April 2022, the Appellant objected to the UAF's statement respectively consideration that the Coach shall be involved in match-fixing which was made in the



Answer. In the Appellant's view this statement constituted a counterclaim which is not admissible.

58. On 5 April 2022, the Appellant objected to the admissibility of a significant amount of newly presented evidence by the UAF with its Answer. Further, amongst others, he alleged that the UAF acted in bad faith in withholding audio recordings and only filing two YouTube videos from 2018 with its Answer.
59. On 12 April 2022, the Appellant sent the CAS Court Office two recently received job offers and requested to hold the hearing as soon as possible.
60. On 1 June 2022, the CAS Court Office investigated whether the situation in Ukraine would allow for a hearing to be rescheduled and proposed some hearing dates in June 2022.
61. Still on 1 June 2022, the Appellant replied that he wished to hold the hearing later in June 2022 on one of the proposed dates, regardless of whether his witnesses would be available or not.
62. On 7 June 2022, the Respondent informed the CAS Court Office that it would not be possible to wait for the conditions to return to "normal" given the relative uncertainty of the situation in Ukraine. The Respondent therefore indicated that it was prepared to facilitate, and contribute to a hearing with some degree of normality in working around the difficulties that will inevitably arise. So far it was not possible to clarify whether the Respondent's witnesses would be available because of the martial law in effect in Ukraine until 23 August 2022.
63. On 14 June 2022, the Respondent informed the CAS Court Office that it was not able to obtain any feedback at all regarding the availability of some of its witnesses. It only received a confirmation that at least one of the Respondent's witnesses had been conscripted into the armed forces. Therefore, it proposed to schedule a preliminary hearing date after 23 August 2022 when the martial law in Ukraine was expected to be lifted.
64. On 15 June 2022, the Appellant objected against the Respondent's procedural behavior in relation to hold a hearing only later in September 2022. He proposed as alternatives that the Sole Arbitrator renders an award based on the Parties' written submissions and notifies the operative part as soon as possible, or that the Respondent would voluntarily agree to state the execution of the Appealed Decision until the Sole Arbitrator issued the final award.
65. On 16 June 2022, the Respondent informed the CAS Court Office in relation to the Appellant's suggestions that it could agree to the Sole Arbitrator issuing the award based on the Parties' written submissions under the condition that the witness statements be admitted. Further, it pointed out that in the view of the seriousness of the present match-fixing case, it certainly would make sense to hold a hearing and have the witnesses cross-examined.

66. On 17 June 2022, the Appellant filed an unsolicited letter in response to the Respondent's statement and proposed the bifurcation of the case in the sense that the Sole Arbitrator could decide on the purely legal issues raised by the Appellant in his Appeal Brief, Section A, paras. 43 – 95, without holding a hearing and issue an interlocutory award. He considered that no hearing was necessary to decide on these legal issues. In case the Appellant would not succeed on these legal issues, a possible hearing could be discussed thereafter.
67. On 28 June 2022, the Respondent informed the CAS Court Office that it did not object to the Sole Arbitrator deciding the preliminary issue of *res judicata* without holding a hearing.
68. On 30 June 2022, the CAS Court Office informed the Parties that the Sole Arbitrator had decided to render a (Partial) Award on the issue of *res judicata* based on the Parties' written submissions, without a hearing.
69. On 22 August 2022, the CAS Court Office notified to the Parties the Interlocutory Award issued by the Sole Arbitrator which fully dismissed the Coach's objection of *res judicata* with respect to the Appealed Decision. It further stated that the costs of this Interlocutory Award shall be determined in the final Award.
70. On 24 August 2022, the Coach filed another Request for a Stay of the Appealed Decision and asked the Sole Arbitrator to issue the operative part on this Request by 29 August 2022 the latest.
71. On 26 August 2022, the CAS Court Office informed the Parties that the Coach did not establish in his application for provisional measures the existence of genuine urgency to rule on his Request by 29 August 2022 and that the Sole Arbitrator saw no reason to depart from the general rule of Article R37 (4) of the Code which provides that the other party shall be invited to express its position on the application for provisional measures within 10 days.
72. On 29 August 2022, the CAS Court Office informed the Parties that the hearing would be held on Thursday, 6 October 2022 by video-conference.
73. On 31 August 2022, the UAF objected to the Coach's request that his name and the names of all persons mentioned in the Interlocutory Award be kept confidential.
74. On 5 September 2022, the UAF filed its Answer to the Request for Provisional Measures, mainly referring to its Statement of 1 December 2021. It pointed out that the "two job offers in April 2022" were merely invitations for an interview and the Coach waited for roughly four months before filing another request for provisional measures. As a consequence, the UAF considered the Coach's request to be moot and devoid of any merit.
75. On 7 September 2022, the Coach sent an email to the CAS Court Office referring to a letter of the UAF to the Uzbekistan Football Federation in relation to the Coach and complained that the UAF was actively blocking the Coach from finding a new job outside Ukraine.

76. On 9 September 2022, the UAF replied to the CAS Court Office that it had an obligation to seek to verify the veracity of the Coach's account.
77. On 12 September 2022, the Coach sent another email to the CAS Court Office complaining about the UAF's behavior in contacting the Azerbaijan Football Association and trying to prevent the Coach from being employed. Therefore, the Appealed Decision should be stayed by notifying the operative part of the Order as soon as possible.
78. Still on 12 September 2022, the CAS Court Office acknowledged receipt of the Coach's email and invited the Parties to refrain from filing unsolicited submissions.
79. On 23 September 2022, the CAS Court Office issued the Second Order on Request for a Stay which fully dismissed the Coach's request and stated that the costs of this Order shall be determined in the final Award.
80. On 27 September and 4 October 2022, the Coach and the UAF signed the Order of Procedure and returned it to the CAS Court Office.
81. On 3 October 2022, the CAS Court Office sent the Parties a Draft Tentative Hearing Schedule for their review.
82. On 4 October 2022, the Coach replied to the CAS Court Office and pointed out that he could not testify regarding details of the merits of the present case to keep the confidentiality and not risk that information will be passed by the UAF to the Ukrainian police. Further, the Coach confirmed to not dispute the witness statement provided by Mr Oleksandr Solovian.
83. Still on 4 October 2022, the CAS Court Office informed the Coach that the UAF had provided the name of the Anonymous Witness and in view to keep him anonymous, the Sole Arbitrator and the Counsel of the CAS would verify his identity in a separate virtual room, before admitting him to the main hearing room. Further, the UAF requested that the Coach shall send his list of proposed questions for cross-examination in order to verify such questions and avoid any risk of removing the witness' anonymity.
84. On 5 October 2022, the CAS Court Office sent the amended Hearing Schedule to the Parties.
85. On 6 October 2022, in accordance with the Order of Procedure and the Parties' agreement, a hearing by video-conference was held in the present matter. In addition to the Sole Arbitrator, Mrs Delphine Deschenaux-Rochat, Counsel with the CAS and the following persons attended the hearing, by video-conference:

For the Appellant:

Mr Georgi Gradev, Counsel  
Mr Márton Kiss, Counsel  
Mr Oleksandr Sevidov, Appellant  
Witness A., Witness  
Witness B., Witness  
Witness C., Witness

Witness D., Witness  
Witness E., Witness  
Witness F., Witness  
Mrs Maliga Elena Aleksandrovna, Interpreter

For the Respondent:

Mr Adam Taylor, Counsel  
Mr Anton Sotir, Counsel  
Mrs Oksana Zalizko, Legal Department UAF  
Witness G., Witness  
Witness H., Witness  
Witness K., Witness (could not be reached)  
Mr Francesco Baranca, Head UAF Ethics Committee  
Anonymous Witness  
Mr Anton Shpygunov, Interpreter

86. At the outset of the hearing, the Parties did not object to the Sole Arbitrator deciding this case. During the hearing, the Sole Arbitrator heard the testimonies of Witness A., Witness B., Witness F., Witness E., Witness D. and Witness C. as witnesses of the Coach as well as the Anonymous Witness, Witness H., Witness G. and Francesco Baranca as witnesses of the UAF. The testimonies, in essence, may be summarized as follows:

Witness A.: He is the former director of the Club where he worked from 2009 until the end of 2018. He had an office job and was not at the team's trainings respectively in the locker room. However, on 31 August 2018, he went to the dressing room and told the players what the Club's Committee has told him in relation to the phone call received from the UAF EFC that there were abnormal bets on this match which could be a sign that the match is manipulated. When he spoke to the players of the Club, he could not see the Coach in the dressing room. He only saw him in the stands sitting, but he does not remember if this was before or after the match and if he spoke to him. He stated that he did not know for which club the Coach worked then. He did never interfere with the team's coaching. The Coach did not interfere with coaching the Club's team, but Witness A. has only seen the team when it played at home, in other words, he was not aware what happened in coaching of the Club's team.

Witness F.: Since 2011, he is a retired professional football player from Ukraine and he is currently not employed. He confirms his witness statement of 18 November 2021. He knows the Coach from a common career they had as professional football players; he would not call the Coach a friend. When the Coach still worked as a football coach, he sometimes spoke with him on the phone, he recommended him to FC Tombov as a Coach. He confirms that he was never officially or unofficially the head of the Club. When he spoke with the Coach on 14 April 2018, he did not discuss anything regarding fixing the match FC Rukh vs. the Club or the referee. In the call they discussed several matches, but he does not recall the details. FC Rukh seemed to be a promising team and there were promising players, therefore he called the Coach to possibly use his contacts. He did not know what happened at the Club. He does not understand English well, but when he signed, he did understand the witness statement; he also received a translation. He continued to have sometimes calls with the Coach, but not recently.

Witness B.: He is a professional football coach from Ukraine and he was coaching the Club from January 2018 until May 2019. He confirms his witness statement of 18 November 2021 and repeats that he knows the Coach from the common time at FC Shakhtar and when they played together at Metalurh. During the time he was coaching the team at the Club, the Coach did not have any official function at the Club. When he went on sick leave in September 2018, it was Witness C. who took over as acting head coach of the Club's first team. On 31 August 2018, he saw Witness A. enter the locker room and speak to a total of 3 persons (Witness A., Witness C. and Witness B.) regarding the possibility of the match being manipulated. The Coach was not present there and he is quite sure that Witness A. did not speak in front of the team. He confirmed that the Coach was never in the Club's dressing room. He was acting as the assistant coach, meanwhile Witness C. was the head coach. Therefore, para. 6 in his witness statement cannot be correct, he could not have said this to the head coach. He does not know from where this information in the statement would come from; possibly it's a translation mistake. When he was working with the Coach, he was the assistant and Witness C. was the goalkeeper coach. He confirms never having engaged the Coach as consultant or in any other capacity for the Club; this was outside of his competence. Only from time to time, the Coach showed up during trainings of the team and on certain occasions, he visited mainly home matches of the Club's first team. This happened roughly once a month. The Coach's sister is living in Sumy. Further, the Coach visited him as well when he was with the team in Shchastlyve where several teams were training. This is around 300 km from Sumy. He does not recall when and where he spoke with the Coach as during matches, he was busy with the team; but when they spoke together, it was only about general football topics. At the end he informed that he appealed the decision of the UAF authority against him and as he was never heard during the proceedings, he won this appeal.

Witness E.: He is an ex-professional football player from Ukraine who played for the Club from January 2013 to September 2014 and after July 2017 and changed to an administrative job in the Club in January 2018. On 31 August 2018, he was only formally part of the Club but factually not working for the Club anymore. Therefore, he was not present at the Club's premises on this day. Regarding the game on 22 April 2018, he saw it online at home and he possibly had a call with Mr Kozar in the half time. However, he did certainly not discuss with him regarding a possible match-fixing. He does not recall from where exactly he knows Mr Kozar and he did not speak to him for the last four years. He knows the Coach as he is a well-known personality in Ukrainian football, but he does not recall where exactly he got to know him personally. He thinks that he met the Coach when he came to visit the Club's coaches. It is possible that he had a conversation with the Coach a few days after the game of 22 April 2018. The call was certainly not in relation to match-fixing, mainly as the Coach was without any function in the Club. Witness E. assisted the technical staff to prepare training camps, talk to agents and do scouting as well as analyst work. On 22 April 2018, Mr Kozar did not state anything regarding match-fixing or five players who already knew that the match was fixed. Since January 2018, he organized the scouting and training camps and the Coach has occasionally spoken with the Club's coaches, possibly because they are friends.

Witness D.: He is a former professional football player from Ukraine who notably played as the Club's [...] from January 2017 until March 2019. For the moment he is without a job. On 31 August 2018, there were players and other staff members in the dressing room

when Witness A. entered, however, the Coach was not there. After September 2018, the Coach did not train the Club's first team, it was Witness C. The Coach did not give theoretical classes nor was he present during game analysis. He does not recall if after the sick leave Witness B. came back to coach the team. He further does not recall if the Coach had any involvement in the Club at the time.

Witness C.: He is a former professional football coach from Ukraine, holding a UEFA A license and he worked as goalkeeping coach from January 2018 until June 2019 at the Club. Currently he is working as a football agent. He confirms his written statement of 18 November 2021. On 31 August 2018, he was present in the dressing room before the game but he could not see the Coach there. In September 2018, he was the coach of the Club's first team and trained the goalkeepers as well; the Coach was not involved in the training process, he did not give any theoretical sessions neither was he involved in game analysis as he was in general not involved in the Club's team management. The Coach was only rarely present at the trainings of the team, possibly once a month and he did not give any instructions or had any influence on the trainings of the team. They only discussed general football matters when they spoke together.

Anonymous Witness: He was a professional player at the Club and confirmed that the Coach was in fact the head coach of the Club's first team when Witness B. was on sick leave starting in September 2018. The Coach trained the team every day except for the match days and Witness C. was the coach of the goalkeepers. On match days – home and away –, the Coach was in the dressing room and gave the tactics for the team. The Coach was mostly present to train the team, even in Shchastlyve. He thinks that the Coach was staying in the training center as well, having his own room as he once saw him with a towel and wearing flip-flops. In relation to match-fixing, the Coach was mainly in touch with around four to five players with whom he spoke continuously and had a closer contact than with the rest of the players. These players did not really open up to the rest of the team. Before the sick leave of Witness B., the Coach did not regularly train the team, however, he was often present. He confirms that on 31 August 2018, Witness A. informed the whole team in the locker room regarding the corruption and the Coach was present there as well, standing close to the window, holding his mobile and looking at it all the time. The Coach was facing the team and the Club's staff did not ask about his presence. Starting from September 2018, when Witness B. was on sick leave, the Coach was all the time with the team, he was in the locker room before and after the games; he was the factual head coach of the team. On the bench in the matches was Witness C. Theoretical classes were not given by the Coach. In 10 games there was only one analysis, not more and such analysis was led by Witness C., receiving tips and advices from the Coach. The Coach was clearly the head coach to Witness C. He witnessed that the Coach instigated players for match-fixing; he was not blind and saw that the Coach extensively communicated with them. In addition, it was obvious that the involved players did not show the passion they usually showed on the field. These five players are to same sticking together after the games and the next days, continuously discussing. These were the same players showing off with new phones, headphones etc. even during a time when salary payments by the Club were delayed. This happened already before Witness B. went on sick leave in September 2018. He is further of the opinion that also Witness B. was involved, as he was always communicating with the Coach and it was impossible for him not to know about the match-fixing.

Witness H.: He was a player at the Club from February 2018 to June 2018. He is now employed by a Polish company producing tiles. He first confirms his written statement. When he arrived, the Coach had a personal conversation with him and asked him to help to get the right results in order to get him a higher ranking in the team. During this conversation, Witness B. was present and possibly Witness C. as well. The Coach held theoretical classes with the team, made video analysis and pointed out to mistakes during the pre-season games in late February to March 2018. The Coach was always present with the team. Formally, Witness B. was the leader of the coaching team. On 22 April 2018, the Coach was in the locker room and the team was coached from the bench by Witness B. Even in the half-time, the Coach was in the locker room giving an analysis, but he does not recall if the Coach had specific discussions with players. He was in the line-up of the team in the first half. During training sessions, the Coach was in the pitch, dressed with apparel of the Coach's previous team. Witness B. was leading the training, but the Coach sometimes intervened with corrections.

Witness G.: He is a professional player, playing at the Club from July 2018 to December 2018. He was transferred on lease from Olympics based on the Coach's request at Olympics. It was the head coach of the Olympics team who told him to see the Coach. When starting at the Club, in the beginning, he did not meet the Coach as the Coach did not show up at the Club. After Witness B. was on sick leave, the Coach took over and trained the team. The Coach was always in the locker room, but not on the bench during the games. The Coach lived partially at his home, partially in the training facilities of the team as well, as he ate with the team. He did not see the Coach to be involved in match-fixing. The Coach was dressed in an unmarked Adidas sports dress when he led the trainings, as far as he recalls. On 31 August 2018, he was in the reserve and he is of the opinion that the Coach was most likely in the dressing room as well. However, he is not sure if Witness A. entered the dressing room and he does not recall anything unusual happening. It could well be that he was warming up in the half-time and, therefore, not going to the dressing room during the break as he was a reserve player. He does not recall having any theoretical sessions. From September 2018, the Coach trained the team, but it was a break-down and they played not full strength. He recalls four to five players with an underperformance and they were discussing a lot together, however, he did not care about this. He only wanted to return to Olympics as he was underpaid in the Club. Mr Lugovyi (another player) once called him in his room and asked him if "he plays along". When he replied "no", Mr Lugovyi told him that he will not get paid.

Mr Francesco Baranca: He is a trained lawyer and the President of the UAF EFC. He was called by the UAF in 2017 as expert to help solve the problem of match-fixing in Ukraine existing since around 2015. All started in Mariupol where the Coach was acting as head coach in September 2017. In spring 2018 the episodes in Sumy started. The investigation around the Club was very complex and based on the Ukrainian police, it is one of the biggest cases they ever saw. The match-fixing was mainly done by buying the referee and if it was not possible to win a game, the Club sold this game to investors (betting). He put the light on the Club which was the main organization for match-fixing in Ukraine. There was also an expert group involved which observed the referees and matches for strange episodes. Based on this, they made reports on the suspicious matches. In relation to the Coach, he knows that when the Coach left the Club and went to Bulgaria, such team was owned by Mr Mao who is a big player in the field of match-fixing. When the Coach left Bulgaria and came back to Ukraine, he became a consultant at the team of Minaj. With

this, Minaj started to be involved in match-fixing; especially known is the episode against Shakhtar when the team decided not to go on the pitch. Wherever the Coach appeared, the teams were involved in match-fixing. In his view, the Coach was clearly the organizer of the match-fixing. In the end, he observed that the money being involved in the betting was enormous. He was involved in preparing the report of November 2018. The proofs mentioned in this report include many information received from the Ukrainian police, including audio recordings. A lot of the evidence was kept secret by the police and was not shared with the UAF EFC. All which was shared with the UAF EFC, the police had authorized. Regarding the games of the Club against FC Kremen (04.11.2017), FC Rukh (14.04.2018) and FC Desna (22.04.2018) he was of the opinion that they were manipulated. The clearest case is the “Desna-game” where the odds moved the most. In the table on page 39/40 of the Report of 14 November 2018, the “Kremen-game” and the “Rukh-game” were not listed as the odds did not move dramatically which doesn’t mean that the games were not manipulated. The matches listed in the table on these pages were listed as manipulated based on the Federbet Reports. In addition, many players involved in match-fixing at Olympics changed to the Club and with these transfers, the strange episodes started at the Club. On top of page 39 of the Report of 14 November 2018 is stated that the conclusion was that the UAF EFC was comfortably satisfied that the Coach failed to inform the relevant authorities within UAF about match-fixing he was aware of. This was the conclusion at the time when this Report was drafted. Regarding the alleged breaches of clause 1.7 of Article 12 of the UAF Ethics Code, he does not recall in detail when he spoke with the Coach or summoned him. In relation to the First UAF DC Decision, he stated that the UAF EFC was in no hurry to move ahead regarding the Coach as they knew about new evidence coming up in his relation. Therefore, the UAF EFC did not appeal, but prepared the new claim against the Coach.

87. Before the hearing was concluded, all parties expressly stated that they had no objection to the procedure adopted by the Sole Arbitrator and that their right to be heard had been respected.
88. On 10 October 2022, the CAS Court Office informed the Parties about the Coach’s email of 9 October 2022 stating that he considered the UAF to have breached the confidentiality of the present proceedings and requesting that such breach be taken into account by the Sole Arbitrator when ruling on the costs of the procedure.
89. Still on 10 October 2022, the UAF replied to the CAS Court Office stating that it did not communicate the name of the firm representing the Coach to the publication in question, nor to any other media outlet. The Coach’s allegations are false.

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

90. In the following summaries, the Sole Arbitrator will not include every argument put forward to support the Parties’ prayers for relief. Nevertheless, the Sole Arbitrator has carefully considered and taken into account all of the evidence and arguments submitted by the Parties in writing and during the hearing, but limits his explicit references to those arguments that are necessary in order to justify his decision.



## A. Appellant's Submissions and Requests for Relief

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

- The Appealed Decision is wrong in stating that the Coach should have appealed the First UAF AC Decision which cancelled the First UAF DC Decision and as a consequence, no *res judicata* is given. Further it is wrong that the UAF DC had sufficient reasons to re-open disciplinary proceedings against the Appellant as he did not appeal against the First UAF AC Decision.
- The Appellant is of the opinion that the First UAF AC Decision did not reverse the First UAF DC Decision regarding the Appellant and, as a consequence, the Appealed Decision shall be annulled. If such is not the case, looking into the merits, if the Appellant's alleged misconduct to not report manipulations to the UAF is not proven, the Appealed Decision shall be annulled as well. Otherwise, a fair and proportional sanction shall be determined against the Appellant.
- The First UAF AC Decision did not set aside the First UAF DC Decision in relation to the Appellant and, as a consequence, the UAF DC could not re-open the disciplinary proceedings against the Appellant without violating the principle of *res judicata*. Therefore, the Sole Arbitrator shall determine the scope of the First UAF AC Decision which was issued based on the appeals of 11 persons complaining that their procedural rights were injured by the UAF DC. However, neither the UAF EFC nor the Appellant himself appealed the First UAF DC Decision. The Appellant was included in the procedure before the UAF DC as a third party based on Article 49 of the UAF DR.
- The UAF AC partially accepted the appeals of the 11 persons, cancelled the First UAF DC Decision of 11 April 2019 and referred the case back to the UAF DC. This First UAF AC Decision exclusively dealt with the breach of procedural rights of the 11 appellants. However, no party claimed a violation of the Coach's procedural rights by the UAF DC. This means that the Coach was not subject of the First UAF AC Decision which did not reverse the First UAF DC Decision in relation to the Appellant.
- The second proceedings before the UAF DC involved the same parties, the same claim and the same facts as in the first procedure before the UAF DC; in relation to the Appellant, the *res judicata* effect shall be considered. The Appellant's participation in the appeal proceedings as a third party did not take away this *res judicata* effect. The UAF EFC requested the Appellant's joinder based on Article 49 UAF DR as a third party based on the new circumstances reported. However, Article 49 para. 3 UAF DR states that the time limit for a party to the proceedings to cause a third party to participate is only possible until a decision is taken by the UAF DC. Thus, the joinder of the Appellant in the appeal proceedings was not possible anymore and the UAF AC erroneously constituted the Appellant as a third party to the proceedings.
- From the reasoning in the First UAF AC Decision it can be taken that the UAF EFC did not establish any new facts regarding the Appellant during the first appeal

proceedings. Even if the UAF EFC would have established new facts, they would not have an impact because of the *res judicata* effect.

- The Appellant complained, therefore, against the UAF DC’s conduct in the second disciplinary proceedings and not in relation to the findings of the First UAF AC Decision. As the Appellant was not mentioned in the operative part of the First UAF AC Decision, he could not appeal against this decision. The First UAF AC Decision did not set aside the First UAF DC Decision regarding the Appellant, and, therefore, this First UAF DC Decision in respect of the Appellant remained in force.
- The UAF sanctioned the Appellant for failure to report match manipulations as per Article 3.1 in conjunction with Articles 1.5, 4.1.8 and 8.1 of the UAF Ethics Code. This means that the UAF must first establish the facts of the match manipulation for which the burden of proof lies with the UAF. The UAF AC neither listed the reasons and evidence it assessed to reach the conclusion that matches of FC Sumy were manipulated nor did it specify which matches were concerned. The report of 14 November 2018 made by UAF EFC was published without hearing the Appellant. Further, the Appellant never had any duty to report possible match-fixing in relation with FC Sumy. The Appealed Decision is self-contradictory as it stated that the Appellant participated “*in influencing and conspiring to change the results of the matches*” but ultimately, it sanctioned the Appellant only for failure to report match manipulation.
- None of the witnesses testifying before the UAF disciplinary organs confirmed that the Appellant knew about the alleged match manipulations in FC Sumy. These witnesses were unanimous in stating that the Appellant was visiting FC Sumy’s training sessions and matches sometimes and speaking to the Club’s officials. However, they did disagree regarding the Appellant’s role for FC Sumy. The Appellant is mentioned to be the advisor and even the *de facto* coach of FC Sumy’s team. However, the Appellant never had a badge to be able to access the team’s dressing room on a match day. Therefore, he was certainly not able to get in direct contact with the Club’s representatives on his own.
- The Appealed Decision did not consider that on 10 December 2018, the national police of Ukraine stopped the criminal investigations against the Appellant without any indictment. Strange to see is further, that the UAF DC and the UAF AC mainly relied up on the alleged police recordings, however these were not presented to or heard by the previous instances or the CAS. As a consequence, the UAF failed to discharge its burden of proof that the Appellant knew about and/or participated in match manipulations. As a consequence, the Appealed Decision shall be annulled.
- In the Second UAF DC Decision, the Appellant was banned for all football related activities for 5 years effectively and 5 years conditionally with a two-year probationary period. It is important that such disciplinary measures comply with the proportionality principle, meaning that there must be a reasonable balance between the kind of misconduct and the sanction. This proportionality principle was used in several CAS awards, like e.g., 2010/A/2172, 2010/A/2266 and 2010/A/2267, 2078-81. Further, the UAF DC decided to ban several players for a period between six months and one year. The UAF EFC did not appeal this Second UAF DC Decision

and, in other words, accepted that the sanctions are proportionate to the gravity of the committed offenses.

- The Appellant was not sanctioned for his alleged involvement in the organization of match-fixing, but only for not reporting. No witness testified that the Appellant knew or could have known anything about the allegedly ongoing match manipulations in FC Sumy. Further, the Appellant has fully cooperated with the UAF disciplinary organs to establish the facts. Important is that the Appellant was not the coach at FC Sumy, but he was unemployed. Therefore, there is no reason to impose a more severe sanction on the Appellant than on the involved players stated before. A life ban is grossly unfair and disproportionate. If any sanction is given, it should be reduced in accordance to the Sole Arbitrator’s discretion, preferably it should be a conditional ban with a probationary period.

92. In his prayers for relief, the Appellant requested as follows:

*“On a preliminary basis:*

1. *Stay the execution of the Decision the UAF Appeals Committee issued on May 13, 2021, until CAS notifies the final award to the Parties.*

*On a definitive basis:*

2. *Annul the Decision the UAF Appeals Committee issued on May 13, 2021, and, respectively, annul the sanction to ban the Appellant from exercising any football-related activity (administrative, sports, or any other) for life.*
3. *Alternatively, only if the request per item 2. above is rejected, replace the sanction to ban the Appellant from exercising any football-related activity (administrative, sports, or any other) for life with a less severe measure at the Sole Arbitrator’s discretion.*
4. *Order the Respondent to reimburse the Appellant with UAH 2’500 for the appeal fee he paid to the UAF Appeal Committee for his appeal in the previous instance.*
5. *Order the Respondent to bear all costs incurred with the present procedure.*
6. *Order the Respondent to pay the Appellant a contribution towards his legal and other costs for two counsels in an amount to be determined at the Sole Arbitrator’s discretion.”*

## **B. Respondent’s Submissions and Requests for Relief**

93. The Respondent’s submissions, in essence, may be summarized as follows:

- The First UAF DC Decision did not state any formal decision with respect to the Appellant as can be seen in its operative part. As a consequence, the Appellant did not even receive a copy of this First UAF DC Decision. In the reasoning it is stated that *“the Ethics Committee did not sufficiently prove a link and guilt of Oleksandr*

*Sevidov in breaching the UAF Code of Ethics*”; no conclusion was taken as decision. Therefore, the Appellant’s legal situation was not affected by the First UAF DC Decision. Article 72 of the 2016 UAF DR states that a procedure may be closed if the case is not sufficiently substantiated or when no violation was found. It is undisputable that the proceedings with respect to the Appellant were not closed, however based on the applicable regulations, the UAF DC is even competent to prosecute disciplinary cases *ex officio*, without application from a third party. The Second UAF DC Decision was the first decision with which the UAF ruled on the substantive case of the Appellant and, consequently, *res judicata* is not applicable.

- The principle *res judicata* is limited to the contents of the operative part and it applies if there is an identity of the parties and of the subject-matter. No *res judicata* effect exists for the new claim against the Appellant, although it arises from the same cause of action, as it is based on relevant new facts. Further, for the principle of *res judicata* to be applied, it is necessary that a foreign judgement can be recognized in Switzerland according to Article 25 Private International Law Act (“PILA”) or a foreign arbitral award satisfies the requirements for recognition in Switzerland pursuant to Article 190 PILA.
- As stated in the “Gundel decision” of the CAS respectively in the jurisprudence of the Swiss Federal Tribunal (“SFT”), it is clear that the decision issued by the UAF DC and UAF AC are not “foreign judgments” and do not meet the requirements set out in Article 25 PILA. Newer CAS decisions confirming this are CAS 2020/A/7371 and CAS 2019/A/6483.
- The Appellant was a third-party to the first proceedings before the UAF AC and he received a copy of the First UAF AC Decision. However, he did not file an appeal against this decision before the CAS and, therefore, the First UAF AC Decision became final and binding. In view of the principle of *venire contra factum proprium* the Appellant should now be precluded from raising the argument that the First UAF AC Decision wrongly annulled the First UAF DC Decision and the First UAF DC Decision would have *res judicata* effect. Further, the UAF bodies are entitled to reconsider the decision that has already entered into force based on newly discovered evidence (Article 86 of the 2019 UAF DR). The testimonies and confessions with respect to match-fixing in FC Sumy from players and other persons during the first proceedings before the UAF AC were not available during the first proceedings of the UAF DC. As a consequence, the Appealed Decision may not be set aside on the basis of the principle of *res judicata*.
- The Appellant does not challenge the findings of the BFDS and Federbet reports regarding the system of match-fixing at FC Sumy. Based on these evidences and the opinions of the expert group respectively further evidence filed, it is uncontroversial that FC Sumy was systematically involved in fixing football matches and bribing referees. The Appellant had been consulting the Club and coaching the Club’s team since at least February 2018. The UAF has received information about 10 official matches of FC Sumy which were fixed with the involvement of the Appellant. The Appellant did not dispute these findings and he has not offered any evidence to challenge these findings. In CAS 2016/A/4650 it is confirmed “*that the BFDS is a reliable means of evidence to prove indirect involvement in match-fixing*”.

- Match-fixing is one of the worst possible infringements of the integrity of sports and it is a real threat to the survival of sport as other CAS panels have stated in the past. The Appellant does not expressly deny that he was a consultant in FC Sumy or that he was involved in the training. He only claimed that the UAF failed to prove what his role was in FC Sumy. On 7 February 2018, FC Sumy published information on its website that the Appellant had been working in the Club as a consultant and that Witness B. and Witness C. had been coaching the team. On 28 February 2018, Witness C. became the official head coach of FC Sumy and Witness B. became the official assistant coach until November 2018. The Appellant worked with Witness B. and Witness C. officially together for 14 uninterrupted years as coaching staff. Further, the police report and witnesses like several players confirmed that the Appellant was working for FC Sumy. As Witness B. had to undergo medical treatment from 11 September 2018, the Appellant was more proactively involved in the training of FC Sumy's team.
- It is not contested that it is for the UAF to prove that the Appellant has committed violations of the UAF DR. The UAF judicial bodies were comfortably satisfied that this burden was met. The burden of proof is "*comfortable satisfaction*" as confirmed e.g. in CAS 2013/A/3256. The UAF DC and UAF AC were comfortably satisfied that in a significant number of matches of FC Sumy, the results were manipulated and the Appellant was personally involved in fixing these matches for FC Sumy and he failed to report match-fixing incidents to the UAF. The Appellant was a consultant in the Club and at least since September 2018, he was the unofficial coach deciding who would be playing in the first 11 and whom to substitute. The matches were fixed on a systematic basis and the Appellant was officially charged by the police having committed a crime under Article 369-30 of the Ukrainian Criminal Code.
- The Appellant misled the CAS and provided an incomplete and manipulated order to support his allegations. The correct version is that the police did not stop or close the investigation but only suspended it due to a severe illness of one of the suspects. The police have several secretly recorded phone conversations which clearly demonstrate that the Appellant was actively involved in arranging bribes for the referees. The BFDS report shows that on 14 November 2016, the Appellant was the official head coach FC Illychivets Mariupol when "*clear and overwhelming betting evidence that the course of result of this match was unduly influenced with a view to gaining corrupt betting profits*" was found. Shortly after leaving FC Sumy, the Appellant joined FC Vereiya, Bulgaria which is a club financed by Chinese citizens associated with international groups organising the manipulation of football matches in Europe and worldwide based on the UEFA Integrity Office. On 6 May 2021, when the Appellant was officially banned, he worked in FC Minaj, Ukraine that was involved in a match-fixing scandal: before the kick-off, the players locked themselves in the dressing room and refused to play the match against Shakhtar because of the information that the match result was to be fixed.
- The Coach influenced the results in at least 13 official matches of FC Sumy as shown in the evidence. He arranged bribes for referees and gave instructions to the players to play proactively as the referee was bribed. He breached Article 20 of the 2016

UAF DR. When being at FC Sumy, the Appellant could not have been unaware that the matches were fixed, but he failed to report this.

- The CAS jurisprudence shows that failing to report offers of bribes to fix a match led to a ban for a referee for life (CAS 2010/A/2172 and 2017/A/5173) respectively to a multiple-year suspension of players (CAS 2010/A/2266). Further, in CAS 2016/A/4650, it was stated that the BFDS analyses need to have additional elements pointing to the same direction in order to reach a decision that a match was fixed. The evidence provided proofs beyond a comfortable satisfaction that the Appellant breached the applicable UAF rules and regulations.
- The sanction imposed by the UAF AC is just and proportionate. Article 20.2 of the 2016 UAF DR in connection with Article 6 para. 2.7 of the UAF DR provide for the possibility to impose a ban. The same sanction is foreseen based on section II of the 2015 UAF Ethics Code. Based on the CAS jurisprudence, the Sole Arbitrator should only amend disciplinary decisions in case he finds that the relevant UAF judicial body exceeded the margin of discretion (CAS 2018/A/5886). The UAF judicial bodies acted within their powers and exercised the discretion afforded to them by the UAF DR when imposing the lifetime ban on the Appellant. The UAF has adopted a zero-tolerance approach to match manipulation; the importance of this zero-tolerance has been underlined in several CAS awards. The Appellant has more than 20 years of coaching experience and he is holder of the UEFA Pro Licence; he was an influential personality for a long time in Ukrainian professional football and is or at least should have been aware of his responsibilities as a coach to serve as an example for the football community. The involvement in match-fixing is one of the worst possible infringements to the integrity of football. As the Appellant acted proactively and with intent, he shows one of the highest degrees of guilt. Therefore, the sanction in such a situation is of utmost importance and the CAS jurisprudence – e.g. CAS 2010/A/2172 – shows in the direction that the only measure being proportional to such a serious offense is the lifetime ban.

94. In its prayers for relief, the Respondent requested as follows:

- “ (1) *To dismiss the appeal filed by Mr Oleksandr Sevidov on 16 August 2021 in its entirety.*
- (2) *To confirm the decision of the Appeals Committee of the Ukrainian Association of Football dated 13 May 2021.*
- (3) *To order Mr Oleksandr Sevidov to bear the full CAS arbitration costs, if any.*
- (4) *To order Mr Oleksandr Sevidov to make a significant contribution to the legal and other costs of the Ukrainian Association of Football in connection with these proceedings.”*

## V. JURISDICTION

95. In accordance with Article 186 PILA, the CAS has the power to decide upon its own jurisdiction.

96. Article R47 of the Code states:

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

97. In the absence of a specific arbitration agreement, in order for the CAS to have jurisdiction to hear an appeal, the statutes or regulations of the sports-related body from whose decision the appeal is being made must expressly recognise the CAS as an arbitral body of appeal.

98. The Appellant refers to Article 54 of the UAF Statutes (edition 2020) and Article 39.1 of the 2020 UAF DR which refer appeals against decisions taken by the UAF AC to the CAS.

99. The Respondent did not object to the CAS jurisdiction in its Answer. In addition, both Parties signed the Order of Procedure and with this, explicitly accepted the CAS jurisdiction.

100. The Sole Arbitrator refers to Article 54 of the UAF Statutes and Article 39 of the UAF DR which states (in its English translation filed): *“Decisions, made by the Appeal Committee of UAF, can be appealed in the Court of Arbitration for Sport located in Lausanne, Switzerland. [...]”*. Further, the Appealed Decision stated in para. 5 of its operative part that the decision can be appealed to the CAS based on the UAF DR.

101. As a consequence, the Sole Arbitrator holds that the CAS has jurisdiction to decide on the present Appeal.

## **VI. ADMISSIBILITY**

102. 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.”*

103. Neither Article 54 of the UAF Statutes nor Article 39.1 of the 2020 UAF DR state a time limit for the appeal to the CAS. Nevertheless, Article 5 of the Appealed Decision referred to Article R49 of the Code and explicitly states a time limit of 21 days to file the appeal.

104. The Appealed Decision was sent to the Parties by email of 27 July 2021. The Statement of Appeal was filed on 16 August 2021 and, therefore, within the time limit of 21 days. It further complied with the requirements of Article R48 of the Code.

105. Therefore, the Sole Arbitrator finds that the Appeal is admissible.

## VII. APPLICABLE LAW

106. Article R58 of the Code provides as follows:

*“The Panel shall decide the dispute according to the applicable regulations and, subsidiarily, to 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 Panel deems appropriate. In the latter case, the Panel shall give reasons for its decision.”*

107. The Appellant stated in his Appeal Brief that primarily the UAF regulations shall apply and, subsidiarily, Ukrainian law to fill possible gaps in the UAF regulations.

108. The Respondent stated in its Answer that with respect to the substance the UAF DR, edition 2016 and the UAF Ethics Code, edition 2015 for events before 24 April 2018 respectively edition 2018 for events after 24 April 2018 shall be applicable. For the procedure, the UAF DR edition 2016 for the First DC Decision, edition 2019 for the First AC Decision and Second DC Decision respectively edition 2020 for the Appealed Decision shall be applied. In addition, Swiss law shall be applicable subsidiarily (“*lex arbitri*”).

109. The Sole Arbitrator, in looking at Article R58 of the Code, is of the opinion that primarily the UAF regulations shall be applied as the Parties have stated in their written statements. In case the UAF regulations do have a lacuna, this lacuna shall be filled by Ukrainian law as the UAF has its seat in Ukraine and even the Appellant is of Ukrainian nationality. This corresponds to Article 187 para. 1 of the PILA which states that the arbitral tribunal shall decide a case based on the law chosen by the parties and in case of no explicit choice based on the law being closest to the facts. As the present matter is a (national) disciplinary case related to Ukrainian football, decided by the UAF legal bodies, Ukrainian law is obviously the closest law to be applied.

## VIII. MERITS

### A. Position of the UAF Bodies

110. As a preliminary issue, the Sole Arbitrator notes that both the UAF DC and the UAF AC found that the Coach had the knowledge and participated in the organization of match-fixing in the Club where he was involved as a consultant and unofficial coach. As a consequence, the Coach fulfilled Articles 2, 4 and 20 of the UAF DR.

111. Para. 69 of the Appealed Decision stated: *“The AC of UFA agrees with the conclusion of the CDC of UFA that the guilt of Sevidov O. was proved with the evidences as individually, as in common and it has a comfortable confidence about the knowledge and / or direct participation of the coach in influencing and conspiring to change the results of the matches, as well as violating the principle of fair play.”*

112. Further, para. 73 of the Appealed Decision stated: *“The AC of UFA comes to conclusion that direct and indirect proofs, the objective and subjective facts in this case certify the*



*existence of rigged matches in the football club “Sumy” from Sumy, and knowledge and participation in their organization of Sevidov O. From the analysis of the case materials, it can be seen that the well-known Ukrainian Coach “consulted” the owner of the Club and negotiated about the amount of bribes for the judges, helped and influenced the training process in the Club via his old friends - [Witness C.] and [Witness B.]”*

113. The Second UAF DC Decision stated on p. 31 ss.: *“The CDC UAF concludes that O. Sevidov’s guilt was confirmed by the evidence examined during the meetings of the Control and Disciplinary Committee, both separately and entirety. [...] CDC UAF believes that O. Sevidov was related to FC “Sumy” performing different functions at different times. The analysis of the available case materials shows that O. Sevidov provided “consultations” on “work” with the referees, coached the team for certain periods of time, therefore, working with the players, the coaching staff, with whom he shared a close working past and now has a family relationship, as well as with the president of the club, could not help but be aware of the situation with the manipulation of match results in order to place bets that took place directly in FC “Sumy” Sumy. Sevidov O. did not inform the law enforcement agencies or the relevant UAF bodies about these events, did not take measures to stop such a shameful phenomenon as “fixed matches”, moreover - took an active part in them.”*

## **B. Applicable Regulations**

114. Before going into the merits, the Sole Arbitrator lists the main relevant provisions of the UAF DR below, in order to have the legal basis to assess the facts of the case and decide if the Appealed Decision respectively the Second UAF DC Decision were correct. As the wording of the English translations of the 2016 and 2019 UAF DC are similar, below only the 2016 UAF DR is cited:

### **“Article 1. General provisions**

[...]

2. *The Rules contain substantive and formal provisions that stipulate the imposition of disciplinary sanctions for violations of statutory and regulatory documents. The Rules define and describe violations, regulate the conditions for the application of sanctions, the structure and actions of disciplinary bodies, as well as the procedures to be followed by such bodies.*
3. *The Rules apply to all relations directly related to football activities in accordance with the legislation of Ukraine, statutory and regulatory documents of the FFU, except for the exclusive competence of UEFA and FIFA.*

### **Article 2. Types of violations**

1. *The violation is illegal, unsportsmanlike conduct that contradicts the rules of statutory and regulatory documents of the UAF, UEFA, FIFA and the legislation of Ukraine.*
2. *Types of violations are:*

[...]

9) *participation or attempt to participate in corruption;*

[...]

14) *manipulation of match results;*

[...]

20) *any other actions that may influence the occurrence of the match or its result;*

[...]

23) *other violations provided for in the text of these Rules, regulations of UEFA, FIFA and provisions of the regulations of All-Ukrainian football competitions.*

#### **Article 4. Repeated violation**

1. *Recurrence of a violation is the commission of the same and / or other similar in nature disciplinary violation, for which the person is subject to disciplinary sanctions during:*

[...]

1.2 *ten years, if the violation concerns the manipulation of match results or any manifestations of corruption;*

#### **Article 5. Disciplinary sanction**

1. *Disciplinary sanctions may be imposed cumulatively.*

2. *A disciplinary sanction shall be imposed taking into account all the circumstances of the case, given the gravity of the violations, the form and degree of guilt (except in cases of liability regardless of fault), the characteristics of the person to whom the disciplinary sanction is applied. The sanction must be appropriate to the unlawful act and consistent with the aim of preventing future violations.*

#### **Article 6. Types of disciplinary sanctions**

[...]

2. *Disciplinary sanctions applicable only to individuals:*

[...]

2.7 *Ban on taking part in any football-related activity (administrative, sporting, etc.).*

**Article 20. Manipulation of match results**

1. *Manipulation of match results is:*

  - 1.1 *Any influence or conspiracy aimed to change the outcome of the match.*
  - 1.2 *Any proposals to encourage the team, individual or group of players (representatives of the club, team) in any form to achieve the result of the match in the interests of a third party.*
  - 1.3 *Submission of statements and / or other documents by a person who works or is involved in football, the content of which does not correspond to the actual course of events at the stadium (football field) before, during and after the match.*
  - 1.4 *Absence in the actions of the team's players of signs of fair competition according to the principles of Fair Play.*

2. *Any person who influences the outcome of a match shall be subject to sanctions provided for in Article 6 of the Rules.*
3. *If a player or official influences the outcome of a match in accordance with paragraph 2 of this Article, the player / official and the club shall be subject to the sanctions provided for in Article 6 of the Rules.*

**Article 26. Statute of limitations for application of disciplinary sanctions**

[...]

2. *Prosecution for corruption and manipulation of match results has no statute of limitations.”*

The 2015 UAF Ethics Code states:

**“I. Ethical Code of Conduct by FFU members and members of football competitions**

*A victory secured by means of unfair play has no value, since being a result of non-integrity. Only fair play itself and highly committed competition at football pitch evoke positive emotional response and respect even in the event of a defeat. Non-integrity lowers both supporters and footballers in dignity. Football is a game, and if conducted with the lack of integrity, it loses its essence and to be neglected.*

[...]

*FFU members shall act in conformity with the following provisions:*

[...]

2. *To run activities bound by FFU principles and provisions, refrain from committing any actions which may cause material or moral injury to FFU in general and football in particular.*
  - 2.1 *To stand up against anyone who violates the provisions set out by this Code. Passive conduct at the event of misconduct is equal to a display of dishonesty.*
3. *To respect core values of fair play in each and every respect while running its activities, to promote football in the manner of integrity and availability with strict adherence to the Laws of the Game, Competitions Regulations and principles of fair play; to refrain from taking any measures or methods in the course of their activities that are in breach with the spirit of fair competition.*
  - 3.1 *To prevent any attempts that might jeopardize sporting competition to be conducted in a fair manner.*
  - 3.2 *To apply zero-tolerance while fighting against any cases of fraud or feigning in respect to the violation of the Laws of the Game at football pitch.*

[...]
6. *To fight with zero-tolerance policy against any forms of corruption, fraud or blackmailing in football or against any attempts to misuse football for one's personal advantage.*
  - 6.1 *To counter any form of bribery. Any person, undertaking obligations under this Code, shall no way offer, promise, give or receive any non-appropriate material benefit or any other advantage for committed or non-committed action related to their official duties and activities or falling within their scope of influence. Any proposal of such a kind shall be immediately reported to respective governmental or football bodies in charge.*
  - 6.2 *To adhere to one of the core principles of professional activity, i.e. the integrity within their professional environment.*
7. *Any official shall be obligated to refrain from any direct or indirect involvement into gambling or betting, as well as from any involvement within any activities of betting offices and betting pools related to football matches.*

## **II. Disciplinary Measures**

*Breach of this Code by any person shall be subject to imposing disciplinary sanctions upon lodging a request by Ethics and Fair Play Committee.*

[...]

*Disciplinary sanctions shall be imposed based upon the outcomes of investigation and established facts of violations of the rules in question.*

### **III. Scope of application**

*The provisions of the Code together with the provisions of the FFU Statutes and other regulatory documents of the FFU shall apply to all collective and individual FFU members and everyone who is involved or working within football.*

*All those involved or working within football shall be immediately bound by the provisions set forth by this Code with no further need to conclude any additional agreements.”*

*The 2018 UAF Code of Ethics states amongst others:*

#### **“Article 1. Scope and application**

- 1. This Code is applied to all individuals and legal entities who directly or indirectly permanently or temporarily engaged or work in football in Ukraine, including, but not limited to, members of the FFU, employees and officials of the FFU, clubs and their employees, football players, coaches, fans, spectators.*

*[...]*

- 3. Any person provided for in para. 1 of this Article shall automatically be subject to the provisions of this Code, without the need for additional agreements.*
- 4. Persons subject to this Code are obliged to refrain from any actions or inactivity that may lead to appearance or suspicion of misconduct or any attempt to do so.*

#### **Article 3. Liability for non-compliance with the Code**

- 1. Any person found to be in breach of the provisions of this Code or of any other regulations of FIFA, UEFA or FFU with respect to the subject matter of this Code shall be subject to disciplinary sanctions by the football judicial bodies.*

#### **Article 4. General responsibilities**

- 1. Persons subject to this Code are obliged to comply with the following rules:*

*[...]*

- 1.8 Strictly follow the fair play principle and avoid application of any methods and means that contradict the spirit of fair competition;*

#### **Article 8. Bribery and corruption**

- 1. Persons subject thereto are obliged not to offer, not to promise, not to give or not to accept directly or indirectly any unjustified financial assistance or other benefit in any form in order to influence the actions or inaction within its own competence.*

2. *Persons subject thereto shall immediately inform the relevant working body of the FFU of any proposal referred to in Part 1 of this Article.*
3. *Persons subject thereto are prohibited from appropriating property and property owned by the FFU, regardless of whether they are carried out directly or indirectly through intermediaries or relate other related parties.*

## **II. Fair Play**

*Fair play is a generally accepted moral and ethical norm in sports duly provided for in the statutory and regulatory documents and relevant international organizations, which is based on the inner belief of all participants in sporting events and competitions in the supremacy of mutual respect and competition, and the uncompromising fight against illegal incentives to achieve results.*

*The principle of fair play means acting in accordance with the principles of ethics, which oppose the concept of success in sport at any cost, promote honesty and equal opportunities for all competitors, and emphasize respect for the personality and dignity of everyone involved in sport.*

*A victory obtained by unfair play loses its value because it is a deception. Only a fair play, selfless struggle on the field evokes positive emotions and respect, even in case of defeat. Deception degrades the dignity of both footballers and fans. Football is a game, if it is unfair, it is a waste of time and deserves contempt. Defeat in a fair fight deserves more respect than an unfair victory.*

### **Article 12 General responsibilities**

1. *Persons subject thereto shall comply with the following rules:*
  - 1.1 *Respect the core values of fair play in all respects;*
  - 1.2 *Refraining from any behavior that harms the or may harm the fairness of matches and competitions;*
  - 1.3 *Promote fair and open football;*
  - 1.4 *Do not use in their activities methods and techniques that may have an illegal or unjustified influence on the course and / or result of the match or competition in order to gain an advantage for themselves or a third party;*
  - 1.5 *Do not allow evasion of fair sports fights;*
  - 1.6 *To conduct a principal fight against cases of deception and simulation of violations of the rules of the game on the football field;*
  - 1.7 *Cooperate with the FFU at any time in its attempts to combat violations of the principal of fair play;*

- 1.8 *Notify the relevant FFU working body immediately and voluntarily if it is approached about actions aimed at influencing in an illegal or improper manner the course and / or outcome of a match or competitions;*

**Article 13. Integrity of matches and competitions**

1. *Persons participating in competitions or in their organization are prohibited from participating directly, indirectly or otherwise in activities related to betting, tote, gambling, lotteries, similar events or related transactions with sports.*
2. *Persons subject to this Code shall be prohibited, without a duly issued authorisation, from personally or by using third parties (including on a contractual basis) collecting, transmitting or processing information (including statistical information), during football matches on the territory of Ukraine for their further use in order to organize sports pairs and participate in them (placing bets on sports) in the “life” mode.”*

**C. Applicable General Standards**

115. According to Article R57 of the Code, the Sole Arbitrator has the full power to review the facts and the law of the case; he can rule *de novo*. The Sole Arbitrator may issue a new decision which replaces the decision challenged, or may annul the decision and refer the case back to the previous instance.
116. Looking at the CAS jurisprudence, the Sole Arbitrator holds that the measure of the sanctions imposed by a disciplinary body in the exercise of discretion allowed by the relevant rules can be reviewed only when the sanction is evidently and grossly disproportionate to the offense (CAS 2004/A/547; CAS 2004/A/690; CAS 2005/A/813; CAS 2005/C/976&986; CAS 2006/A/1175; CAS 2007/A/1217; CAS 2010/A/2266). This factually limits the Sole Arbitrator’s power.
117. The Sole Arbitrator further holds that it is uncontested that the UAF has the burden of proving that the Coach’s conduct violated the UAF DR and/or the UAF Ethics Code. Therefore, it is the Sole Arbitrator’s duty to verify whether the UAF has discharged its burden proving that the Coach committed infringements of the applicable regulations.
118. The Sole Arbitrator acknowledges that the UAF DR does not contain any regulations about the standard of proof. The Appealed Decision stated in para. 68 as follows: *“The AC of UFA considers the practice of the Sports Arbitration Court as consistent, and that the decision in the cases regarding manipulation of the match results should be made using the ‘comfortable confidence’ standard.”*
119. In looking at the CAS jurisprudence, the Sole Arbitrator notes that the applicable standard of proof for disciplinary matters is ‘comfortable satisfaction’ which is more than the balance of probabilities, but less than beyond any reasonable doubt. CAS 2009/A/1920 sums up the position as follows:

*“Taking into account the nature of the conduct in question and the paramount importance of fighting corruption of any kind in sport and also considering the nature and restricted*

*powers of the investigation authorities of the governing bodies of sport as compared to national formal interrogation authorities, the Panel is of the opinion that cases of match-fixing should be dealt in line with the CAS constant jurisprudence on disciplinary doping cases. Therefore, the UEFA must establish the relevant facts “to the comfortable satisfaction of the Court having in mind the seriousness of allegation which is made” (CAS 2005/A/908).”*

120. After having clarified these preliminary points, the Sole Arbitrator can now turn his attention to the main relevant points which are on one hand if the UAF did comply with its burden of proof to show that the Coach was involved in match-fixing in the Ukrainian football and if the lifelong ban on any football related activity is a proportional sanction in view of the offenses under discussion.

**D. Did the UAF fulfill its Burden of Proof in relation to the Coach being involved in Match-Fixing?**

**1. Overview of the Parties’ Position**

121. As the problem of corruption and match-fixing is one of the biggest risks endangering the whole football respectively sports business, FIFA and UEFA practice a zero-tolerance politic against such behaviour and they request their member federations to be strict against any such behaviour. As a consequence, this is shown by the disciplinary measures imposed in connection with match-fixing and the jurisprudence of UEFA, FIFA and CAS.

122. The Appealed Decision stated that for the UAF AC as well as the UAF DC the evidence in the file, including evidence out of the investigation led by the national police of Ukraine, did clearly show the Coach’s active involvement in match-fixing as he negotiated the amount of bribes to be paid to referees and as he was in regular contact with the Club’s owner and further involved in the training process and matches of the Club’s first team, together with his close friends, Witness C. and Witness B.

123. In the present proceedings, the Coach pointed first out to the fact of *res judicata* which was rejected by the Interlocutory Award of 22 August 2022. Further, he denied that the UAF EFC brought new facts and evidence in the first appeal proceedings leading to the First UAF AC Decision respectively the Second UAF DC Decision. In the view of the Coach, the UAF AC did not state the reasons respectively the evidence it assessed to take the conclusion that the matches of the Club were manipulated and the Coach fully denied all accusations as unproven and unfounded that he failed to report match manipulations. He alleged that he was never involved in the Club’s training process and he had no knowledge about any of the alleged games to be manipulated.

124. The UAF pointed out to the investigations conducted by the UAF EFC and the matches considered as manipulated based on BFDS and/or Federbet reports. In addition, it relied on investigations of the national police of Ukraine and the part of evidence provided by the police to the UAF which clearly showed that the Club’s matches as listed were fixed, especially the matches during the period when the Coach had been consultant at the Club, since at least February 2018. There is also evidence that the Coach was a consultant of the Club respectively that he was involved in the training of the Club’s first team. In addition, there is evidence that the Coach was actively involved in match-fixing for the



Club. As a consequence, the UAF is of the opinion to have clearly fulfilled its burden of proof.

125. First of all, the Sole Arbitrator holds that there is no need to take the subject of *res judicata* up in this Award as the Interlocutory Award of 22 August 2022 treated all allegations brought forward by the Coach and rejected his reasoning of *res judicata* in order to win this Appeal. Second, the Sole Arbitrator is assessing all evidence filed in these proceedings to be able to decide the question if the UAF fulfilled its burden of proof and he starts with the overview about the Coach's functions in football, mainly in Ukraine.

## **2. Coach's Involvement in Football**

126. The Sole Arbitrator first looks at the Coach's career as a football coach and holds that, based on UAF's statements and evidence filed, he was the head coach of FC Mariupol in the season 2016/17, until 22 September 2017 when he left the club. In addition, Witness B. was his assistant coach and Witness C. was the goalkeeper coach in Mariupol during this period. On February 2018, the Club announced that the Coach was working as consultant of FC Sumy and Witness B. and Witness C. were coaching the team. On 19 November 2018, five days after the UAF EFC report was issued, Witness B. left the Club based on a mutual agreement. Shortly afterwards, Witness C. and the Coach left the Club as well. From January to March 2019, the Coach was then the head coach of FC Vereya, Bulgaria and Witness B. was his assistant coach. Since March 2021, the Coach is acting as advisor of FC Minaj and he confirmed in an interview in May 2021 that he will stay with the Club despite its relegation.
127. In the evidence filed, there are BFDS and Federbet reports related to a match of FC Mariupol of 14 November 2016, five matches of FC Sumy in 2017 and 12 matches in 2018, also of FC Sumy, which were considered as being fixed. All these matches considered to be fixed concerned clubs and time periods when the Coach was officially or unofficially involved at such clubs. In addition, FC Vereya, Bulgaria was disqualified for match-fixing in May 2019, in relation to matches fixed in February 2019. For the experts in the UAF EFC all this was a clear sign that the Coach must have been involved in match-fixing in these clubs and, as a consequence, the investigations focused on these facts.
128. The Sole Arbitrator acknowledges that the allegations and discussions in the Parties' written statements as well as during the hearing were mainly focusing on the Club and its involvement in match-fixing respectively the Coach's position with the Club. More specifically, the discussions and witness statements especially focused on the game between the Club and FC Dnipro-1 of 31 August 2018 when the Club's [...], Witness A., entered the team's dressing room before the game and informed the players about the information received from the UAF EFC of abnormal bets on this match which possibly showed that such game was fixed. A total of six witnesses for the Coach and four witnesses for the UAF gave testimonies about the Coach's involvement in the Club and possible match-fixing which included the facts of 31 August 2018. For the Sole Arbitrator, this match of 31 August 2018 and what happened before, during and after this game is a very important detail of the involvement of the Coach in the Club. However, there exist other statements and evidence regarding the Coach's involvement in the Club

which means that this game of 31 August 2018 is not the only evidence, but one of the evidences looked at in great detail.

129. The Sole Arbitrator will go through the Coach's last four clubs where he was involved as stated in para. 125 before: FC Mariupol, FC Sumy, FC Vereya and FC Minaj. To start with FC Mariupol, the Sole Arbitrator points out to the exhibits 7 and 8 of the Answer which are a newspaper article of 6 March 2018 stating that the Coach was fired in Mariupol due to suspicion of participating in fixed matches and a Federbet report of 1 July 2018 regarding the game between FC Zoria Luhansk against FC Mariupol of 2 September 2017. This report clearly stated in details regarding betting on this match which happened in a very uncommon way and which, based on the experts' opinion, is a clear proof that the match was fixed. At this time, the Coach was still the head coach of FC Mariupol.
130. Focusing then on FC Vereya, exhibits 15 and 17 of the Answer show the Coach's involvement in the Bulgarian club. The first newspaper article is of 18 January 2019 and it presents the Coach as the new head coach of FC Vereya, Bulgaria. Another news article dated 9 May 2019 states that the Bulgarian Football Union decided to relegate FC Vereya after having received information from UEFA that the club had been involved in match-fixing on 18 February 2019. At this moment, the Coach was the head coach of FC Vereya.
131. In relation to FC Minaj, exhibits 20 to 29 of the Answer are all news articles. The first two are of 29 March 2021 where the Coach in an interview confirmed that he was invited from FC Minaj and for the time being, he will be involved in setting up a scientific and methodological department and if any of the coaches would need his advice, he would certainly help. In the news article of 5 April 2021, the coach of FC Minaj, Mykola Tsymbal, informed that he is in touch with the Coach who runs the scientific and methodological department of FC Minaj. On 17 May 2021, the Coach gave an interview and explained what happened before the match between FC Minaj against Shakhtar Donetsk where the whole team of FC Shakhtar decided not to play the game. In the article of 4 July 2021 (exhibit 21) it was stated: "*The club maintains secrecy and instructed employees not to photograph or film Alexander Sevidov during training.*" In an interview of 27 October 2021, Mr Vasily Kobin stated that the Coach was working with a young player and did individual trainings with him, but that he didn't know more and how the Coach was possibly involved in FC Minaj.

### **3. Coach's Involvement with the Club and in Match-Fixing**

132. The Sole Arbitrator is first looking at interviews with the Club's sports director, Irakli Kvaratskhelia of 7 February 2018 in which he stated: "*No one would imagine that the team will be consulted by Oleksandr Sevidov, and coached by experienced [Witness B.] and [Witness C.], who have a lot of experience behind them.*" Other evidence states that Witness C. was appointed as head coach of the Club and shows the extract of Witness B.'s labour book showing that on 19 March 2018 he was hired as assistant head coach of the Club and on 1 August 2018, his position was renamed as football coach, whereas responsibilities remained unchanged. On 19 November 2018, he was then dismissed as the Club's football coach by mutual agreement.

133. When looking at the witness statements made by the Coach's witnesses during the hearing and in writing, the Sole Arbitrator acknowledges that not one of the six witnesses did see the Coach in the dressing room before the game on 31 August 2018 when Witness A. entered the dressing room and informed about the possibility that the match is fixed. However, the Sole Arbitrator points out that Witness A. himself stated that on 31 August 2018 he informed all players of the Club and on the other hand, Witness B. clearly stated that Witness A. only spoke to him and Witness C. Witness D., who was the Club's [...] at this time, confirmed that Witness A. informed the players and staff members in the dressing room before the game on 31 August 2018. All six witnesses of the Coach alleged that the Coach was not involved in any official role at the Club and he was not present in the dressing room on 31 August 2018. Witness A. confirmed in the hearing having seen the Coach on 31 August 2018 sitting on the stands, but he could not remember if this was before or after the match and if he spoke to him this day.
134. The Sole Arbitrator acknowledges that the Coach filed with his Appeal Brief two extracts of transcripts of the Anonymous Witnesses, one of 11 December 2019 and the second one of 30 January 2020. In these extracts it is clearly stated that the Coach was with the Club's team all the time and he even lived with the team in the hotel when they were training in Shchastlyve. Further, he confirmed that on 31 August 2019, the Coach was present in the dressing room when Witness A. entered and informed the persons present about the possibility that the match was fixed.
135. Witness A. stated in his written witness statement as follows: *"As far as I am aware, Oleksandr Sevidov has never taken a team's practice. He has never been appointed to any position at the Club. [Witness C.] replaced our head coach, [Witness B.], when the latter was on sick leave in September 2018"*. Based on his statement, the Coach was not present in the dressing room before the game on 31 August 2018, but Witness A. saw him later sitting at the stands. He further confirmed having informed all the players in the dressing room regarding the possibility of a fixed match on 31 August 2018. Witness B. declared in his written witness statement: *"Oleksandr Sevidov visited training and matches of FC Sumy from time to time. However, he never conducted training or took part in matches"*. On 31 August 2018, he did not see the Coach in the dressing room when Witness A. informed them. When he left on sick leave in September 2018, he nominated Witness C. as acting head coach of the Club's team. This was confirmed by Witness C. in his written witness statement; he further stated: *"In September 2018, when [Witness B.] went on sick leave, I was in charge of the team practices. At that time, [Witness B.] and I discussed the training plan. Mr. Sevidov visited training from time to time as my friend. He did not conduct practice or involve himself with the team"*. In addition, he confirmed that on 31 August 2018 Witness A. informed all the players and technical staff about the possibility of match manipulation. The Coach was not present in the dressing room at this moment.
136. Witness D. was the [...] of the Club's team until March 2019. In his written witness statement he stated: *"In September 2018, [Witness B.] went on sick leave for about a week. [Witness C.] coached the team during this period. Mr. Sevidov came to team practice from time to only to watch. He also spoke to [Witness C.]. However, Mr. Sevidov never conducted the team practice as a coach"*. Witness E. was formally still a player of the Club's team, however, as of January 2018, he worked in an administrative capacity for the Club. As he helped prepare training camps, speak to agents and do scouting and

analyst work, he often attended matches of the Club. He stated in his written witness statement: *“Oleksandr Sevidov came to team training and official matches only to watch. I never saw Mr. Sevidov take a practice of FC Sumy. I never saw Mr. Sevidov in the dressing room before a match”*.

137. For the Sole Arbitrator it is interesting to see that Witness B. stated as a witness before the CAS that Witness A. entered the dressing room on 31 August 2018 and spoke to a total of three persons. His written witness statement differs from this. Based on questions, he even confirmed that he is quite sure that Witness A. did not speak in front of the team and he further informed that he was acting as assistant coach, meanwhile Witness C. was the head coach. Interestingly, Witness C. stated in his written witness statement that he worked at the Club as a goalkeeping coach from January 2018 until June 2019 and Witness B. was the head coach at the time. The Sole Arbitrator holds that as a matter of fact, during all their coaching careers with the Coach, Witness B. was always the assistant coach and Witness C. was the goalkeeping coach. Therefore, the Sole Arbitrator acknowledges some inconsistencies between these witness statements regarding the functions they had at the Club which possibly is a consequence of the fact that the Coach was somehow involved not only as consultant but as unofficial head coach. It is obvious for the Sole Arbitrator that the Coach certainly was involved at the Club, even if such involvement was only unofficial. However, the Sole Arbitrator is of the opinion that the Coach was more involved than just being a consultant to the Club; he was certainly directly involved in training and coaching the team. This is also shown by the fact that the Coach visited the team as well when it was training in Shchastlyve which is around 300 km from Sumy. In view of the Sole Arbitrator, the Coach did not only travel so far to visit his friends Witness B. and Witness C. without having a task with the Club's team; the Coach was certainly involved at the Club. This is further indirectly confirmed by all of the witness statements as they only stated that the Coach was not in an official function at the Club; the Sole Arbitrator has no doubts that this statement is correct, but it clearly leaves room for the unofficial involvement of the Coach.
138. Having realized that there are some inconsistencies in the witness statements of the Coach's witnesses, the Sole Arbitrator looks at UAF's witnesses and begins with the Anonymous Witness and the transcript of his statements of 11 December 2019 and of 30 January 2020. These transcripts are the same ones as filed by the Coach, but they are complete translations of the transcripts and not extracts as provided by the Coach. The Anonymous Witness confirmed that the Club's first team was trained by the Coach all the time, even if the Coach was doing this work unofficially. He further pointed out to the players Luhovyi, Kokhiia and Vechurko who were discussing together a lot and played sometimes in a quite unexpected way. Mr Luhovyi once mentioned to the other players when they were in a restaurant that they must meet on the benches, distribute and go. The Anonymous Witness was of the opinion that he spoke about money. A total of five players were closely involved and discussed a lot together remote of the rest of the team and the Anonymous Witness was of the opinion that they were involved in match-fixing. Regarding the Coach he stated: *“I came, and he [the Coach] was already in the Club. At first, when I found out that he would train us, I think it's generally cool. He's also a good coach. But then, when I found out that he was starting ...”*. In the hearing, the Anonymous Witness clearly stated that he saw the Coach in the dressing room before the game on 31 August 2018. The Coach was always on his mobile phone and he faced the team. Further, he stated that the Coach was always in the dressing room and gave the tactics for the team.

In addition, he was mostly present to train the team, even in Shchastlyve. He once met the Coach there with a towel and wearing flip-flops. He observed that the Coach was mainly in touch with the four players the Anonymous Witness mentioned before and the Coach spoke continuously with these players (Luhovyi, Kokhiia, Vechurko and a fourth player) who did not really open up to the rest of the team. The Coach was the factual head coach of the team, but during the matches it was Witness C. sitting on the bench after September 2018. The Anonymous Witness got suspicious when he realised that the four players being in touch with the Coach did not show the passion they usually showed on the field and when they arrived and showed off with new mobile phones, headphones etc. during a time when the Club delayed salary payments.

139. The other witnesses of the UAF, Witness G., Witness H. and Witness K. mainly confirmed that after Witness B.'s sick leave it was the Coach taking over to manage the team and he was perceived as the team's coach by the players.
140. Further, the Sole Arbitrator acknowledges the written witness statement by the UAF referee Mr Solovian. As he is a party in the criminal proceedings run by the national police of Ukraine, he could not comment in detail on this case, however he confirmed that he participated in the meetings on 29 March 2018 and 2 April 2018 with Mr Kozar (see para. 9 above). In this relation, the Sole Arbitrator acknowledges as well the secretly recorded phone conversations and videos provided by the national police of Ukraine (see para. 10 above). They evidence that the Coach had several phone calls with the Club's president, Mr Kozar, and they spoke about the prices the referees have for fixing the matches. The Club's president confirmed in the call with the Coach on 4 November 2017 that he will pay the requested amount of UAH 50,000 to the referee as organized by the Coach. On 29 March 2018, Mr Kozar confirmed to the Coach to pay the referee as organized by the Coach (UAH 100,000 for a win respectively UAH 30,000 for a draw against FC Volyn, played on 1 April 2018) and on 2 April 2018, the Club's president met the referee and handed him over the amount agreed, which is evidenced by video footage and Mr Solovian's testimony. On 14 April 2018, the Coach was on the phone with a player of the Club, Oleg Mishchenko, and informed him that they were going to "buy" the referee. On 22 April 2018, the Club's president had a call with the player Witness E. who was supposed to receive the money for fixing the result together with the Coach and during the call it became obvious that Witness E. had already discussed this matter with the Coach.
141. The Sole Arbitrator is of the opinion that the witness statements received by the UAF witnesses in writing and at the hearing were far more credible, without discrepancies and matched the other evidence provided by the national police of Ukraine as shown before compared to the written and oral witness statements provided by the Coach's witnesses. In addition, Witness B. and Witness C. are very close friends of the Coach; they played together professional football and coached together the teams of several clubs for many years. In addition, Witness E. as a player of the Club and witness of the Coach was heard in a secretly recorded telephone call with the Club's president when they discussed the amount to be provided to the referee for helping the Club's team to win. This obviously limits the credibility of the Coach's witness in relation to telling the real facts. In addition, the Sole Arbitrator cannot imagine that the Anonymous Witness, being still a professional football player in Ukraine, would take the risk to lie about the Coach's involvement in the Club respectively in match-fixing. He is still part of the so called 'football family' and

the Coach has a vast network in Ukrainian football; therefore, to lie about the Coach's involvement in the Club and match-fixing would be too high of a risk and not be worth for him, as he could be easily mobbed out of football by the Coach's friends. As a consequence, the Sole Arbitrator is comfortably satisfied, especially in comparing the other evidence provided by the national police of Ukraine that the facts given by the Anonymous Witness are true.

142. Summing up, the Sole Arbitrator is comfortably satisfied that the Coach was at least unofficially involved in the training of the Club's first team and with this had amongst others a direct contact with four to five players of the Club in order to manipulate the games, even with the assistance of the referee as was shown by the video footage and secretly recorded telephone calls of the police. Further, it is certainly not a coincidence that all clubs stated before (FC Mariupol, the Club, FC Vereya and FC Minaj) were involved in match-fixing at a time when the Coach was involved with such clubs.
143. Contrary to the Coach's allegations, there is a lot of evidence like e.g., secret recorded telephone calls and video footages provided by the national police of Ukraine as well as witness statements which undoubtedly show that the Coach was actively involved in match-fixing at least at the Club in the year 2018 and in addition, he had full knowledge of match-fixing at the Club which he never reported to the competent UAF authorities. The Sole Arbitrator can therefore answer the question put in the title of this section that the UAF did fulfil its burden of proof to show that the Coach was involved in match-fixing.

## **E. Proportionality of the Sanction**

### **1. General Remarks**

144. The Sole Arbitrator holds that with the facts proven by the witnesses and evidence, the Coach clearly breached Article 2 para. 2 let. 9), 14) and 20) of the 2016 UAF DR. Based on Article 26 of the 2016 UAF DR there is no statute of limitation for the prosecution for corruption and manipulation of match results. In the present proceedings, the facts referred to reach back to the season 2016/17 which in any case is still within a time period of 10 years. Article 6 of the 2016 UAF DR foresees as one of the disciplinary sanctions for individuals the ban on taking part in any football-related activity. In addition, the manipulation of match results is defined in Article 20 of the 2016 UAF DR and includes “[a]ny influence or conspiracy aimed to change the outcome of the match” and “[a]ny proposals to encourage the team, individual or group of players (representatives of the club, team) in any form to achieve the result of the match in the interests of a third party”.
145. In addition, the 2015 UAF Ethics Code states amongst others that “any official shall be obligated to refrain from any direct or indirect involvement into gambling or betting, as well as from any involvement within any activities of betting offices and betting pools related to football matches”. The 2018 UAF Ethics Code clarifies the application in Article 1 “to all individuals and legal entities who directly or indirectly permanently or temporarily engaged or work in football in Ukraine, including, but not limited to, members of the FFU, employees and officials of the FFU, clubs and their employees, football players, coaches, fans, spectators”. Such persons are automatically subject to the provisions of the UAF Ethics Code without the need for additional agreements. Further

Article 3 of the 2018 UAF Ethics Code states that any person found to be in breach of the provisions of this UAF Ethics Code shall be subject to disciplinary sanctions by the football judicial bodies.

146. In relation to the principle of proportionality, the Sole Arbitrator notes that there must be a reasonable balance between the kind of the misconduct and the sanction. This means that the principle of proportionality requires that (i) the measure taken by the governing body is capable of achieving the envisaged goal, (ii) the measure taken by the governing body is necessary to reach the envisaged goal, and (iii) the constraints which the affected person will suffer as a consequence of the measure are justified by the overall interest to achieve the envisaged goal. In other words, to be proportionate, a measure must not exceed what is reasonably required in the search of the justifiable aim.
147. As a final general remark, the Sole Arbitrator points out to the long-standing CAS jurisprudence under which the measure of the sanction imposed by a disciplinary body in the exercise of the discretion allowed by the relevant rules can be reviewed only when the sanction is evidentially and grossly disproportionate to the offense (CAS 2016/A/4595; CAS 2021/A/7937; CAS 2015/A/4271; CAS 2014/A/3562; CAS 2010/A/2266).

## **2. Comparison with Similar Cases**

148. The Sole Arbitrator is comparing the present case with similar cases decided by the CAS which means that in these cases compared, an individual was sanctioned in the first instance with a life-time ban as a disciplinary measure. The Sole Arbitrator's idea is to compare the facts leading to such life-time bans with the present matter in order to assess if the life-time ban against the Coach could be considered as being proportionate.
149. In CAS 2009/A/1920, the Panel was comfortably satisfied that UEFA had proved, with expert witness testimony (explaining betting patterns) and other testimonies (attesting to behaviour), that the president of FC Pobeda, Macedonia was personally involved in fixing one international match. He was banned for life based on the seriousness of his actions and consequences on football. On the other hand, the Panel cleared the captain of FC Pobeda to be involved in fixing the before stated match as he only played the first 45 minutes of the first game and did not even travel to the return game. As a consequence, he was considered not being involved in fixing this match and his first instance ban was cancelled by the Panel.
150. In CAS 2010/A/2172, the Panel upheld the life-time ban of a referee for an admitted failure to report being contacted to fix a Europe League Group stage match and receiving EUR 50,000 to 60,000 for this. It was essential for the Panel that sporting regulators demonstrate zero-tolerance against all kinds of corruption and impose severe sanctions to serve as an effective deterrent to people who might otherwise be tempted through greed or fear to consider involvement in such criminal activities. Therefore, a life ban from any football related activities was considered a proportionate sanction.
151. In CAS 2011/A/2621, the Panel confirmed the life-time ban of a professional tennis player, but cancelled the fine of USD 100,000 for offering a competitor USD 30,000 to lose the first set against him, leaving him to win the two following sets. The Panel stated

that a life ban can constitute the proportionate sanction because of the damage caused to the integrity and the image of the sport. Match-fixing is the most serious corruption offence in tennis and a threat to the integrity of professional sport, as well as to the physical and moral integrity of players. In the present case, the player tried to corrupt his opponent.

152. In CAS 2013/A/3062, the Panel partially admitted the appeal and reduced the life-time ban of a professional Maltese football player to a 10-year ban for fixing the European Football Championship match against Norway. The Panel based its decision on an anonymous letter and statement confirming the fixing, suspicious betting patterns and witness testimony from those with no incentive to fabricate the allegations. The reduction of the ban was granted as the Panel found no proof of individual involvement of the player in the actual implementation which was more relevant to sanctioning.
153. In CAS 2016/A/4417, 4419 & 4420, the Panel confirmed the life-time bans against three individuals involved in athletics for breaching the IAAF Ethics Code when they conspired together to orchestrate a plan to extract money from the professional Russian marathon runner Mrs Liliya Shobukhova.
154. In CAS 2016/A/4651, the Sole Arbitrator confirmed the CONCACAF Congress' decision to permanently and definitely remove a Panamanian executive committee member from all activities related to football within the CONCACAF region.
155. In CAS 2017/A/5173, the Panel confirmed a life-time ban against a Ghanaian referee sanctioned for match-fixing in connection with the 2018 FIFA World Cup Russia. The Panel relied on unrebutted expert evidence, corresponding monitoring reports and video footage of action scene with betting variations in an otherwise uneventful match.
156. In looking at these cases in which a life-time ban was imposed in the first instance, the Sole Arbitrator has seen that such a life-time ban was confirmed by CAS panels for fixing one match respectively not reporting one event related to one match. However, in the present matter, the evidence and testimonies presented clearly show that the Coach was involved during a longer time period with several clubs and, therefore, in several cases of match-fixing and not reporting having knowledge of such match-fixing. Therefore, the Sole Arbitrator is satisfied that the life-time ban is proportionate in the present matter when comparing the Coach's wrongdoings with the awards issued by the CAS in the before stated cases. With this, the Sole Arbitrator further holds that the sanction against the Coach is not evidentially and grossly disproportionate and, as a consequence, the Appeal has to be fully dismissed respectively the first instance decision confirmed.

## **IX. COSTS**

(...).



## **ON THESE GROUNDS**

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

1. The Appeal filed by Mr Oleksandr Sevidov on 16 August 2021 against the decision issued by the Appeal Committee of the Ukrainian Association of Football on 13 May 2021 is dismissed.
2. The decision issued by the Appeal Committee of the Ukrainian Association of Football on 13 May 2021 in relation to Mr Oleksandr Sevidov is confirmed.
3. (...).
4. (...).
5. All other motions or prayers for relief are dismissed.

Seat of Arbitration: Lausanne, Switzerland

Date: 18 July 2023

(Operative part notified on 17 April 2023)

## **THE COURT OF ARBITRATION FOR SPORT**

Bernhard Welten  
Sole Arbitrator