

CAS 2022/A/9191 CS AL Armatei Steaua v. Federatia Rômană de Fotbal (FRF) & Dinamo 1948 SA

ARBITRAL AWARD

delivered by the

COURT OF ARBITRATION FOR SPORT

sitting in the following composition:

Sole Arbitrator: Mr Benoît Pasquier, Attorney-at-Law in Zurich, Switzerland

in the arbitration between

CS AL Armatei Steaua, Bucharest, Romania

Represented by Mr Sergiu Gherdan, Attorney-at-law in Bihor, Romania

Appellant

and

Federatia Rômană de Fotbal, Bucharest, Romania

Represented by Mr Adrian Stangaciu, Head of Legal Department, and Mr Paul Ciucur, Attorney-at-law.

First Respondent

&

Dinamo 1948 SA, Bucharest, Romania

Represented by Mr Andrei Greceanu, Mr Iustin Armașu and Ms Adina Rusănescu-Horge, Attorneys-at-law

Second Respondent

I. PARTIES

1. CS AL Armatei Steaua (“Steaua” or the “Appellant”) is a football club based in Bucharest, Romania. It is affiliated with the Romanian Football Federation. It plays in the Liga II, which is the second division in the Romanian football league system.
2. The Federatia Rômană de Fotbal (the “FRF” or the “First Respondent”) is a national federation which is the governing body of football in Romania, and which is affiliated with the Union of European Football Associations (“UEFA”) and with the Fédération Internationale de Football Association (“FIFA”). The FRF has its seat in Bucharest, Romania.
3. Dinamo 1948 SA (“Dinamo” or the “Second Respondent”) is a football club based in Bucharest, Romania. It is affiliated with the FRF and it also plays in the Liga II.
4. The Appellant, the First Respondent and the Second Respondent are jointly referred to as the “Parties”.

II. FACTUAL BACKGROUND

5. Below is a summary of the relevant facts and allegations as established by the Sole Arbitrator on the basis of the decision rendered by the FRF Disciplinary Committee (the “Disciplinary Committee”) and confirmed by the FRF Recourse Committee (the “Recourse Committee”) (both referred to as “FRF Commissions”) on 6 October 2022 (the “Appealed Decision”), the written and oral submissions of the Parties and evidence adduced. Additional facts and allegations found in the Parties’ written submissions, pleadings and evidence may be set out, where relevant, in connection with the legal discussion that follows. While the Sole Arbitrator has considered all the facts, allegations, legal arguments and evidence submitted by the Parties in the present proceedings, the Sole Arbitrator refers in his Award only to the submissions and evidence he considers necessary to explain his reasoning.
6. By letter dated 6 September 2022, in anticipation of the championship match between Dinamo and Steaua (the “Match”) at Dinamo’s stadium and given the rivalry between both clubs, Steaua’s President informed Dinamo that, in case Dinamo sells any tickets for the visitors’ sector in the stadium, the responsibility for the supporters’ behaviours from Steaua would lie on Dinamo exclusively.
7. On the same day, in preparation of the Match, Mr George Ogarara from Steaua and Mr Vlad Iacob from Dinamo exchanged several WhatsApp messages related to i) the tickets available for the Steaua supporters, ii) the time of arrival of the Steaua supporters and iii) the details on the choreography planned by the Steaua supporters.
8. On 9 September 2022, Steaua played its match against Dinamo. Prior to the start of the Match, supporters of both clubs threw torches and smoke bombs on the field of play. During the Match, various incidents occurred, obscene chanting and pyrotechnic materials were thrown on the pitch, although the physical integrity of the players was

never in danger. During the halftime break, supporters from Steaua tried to migrate to the section of the stadium intended for the Dinamo supporters. The Steaua supporters confronted the police and threw chairs, fire extinguishers and metal fences at the police. The police had to use tear gas to disperse the Steaua supporters. These incidents (the “Incidents”) were reported by the referee in his report (the “Referee’s Report”) and the match observer in his report (the “Match Observer’s report”) and in his additional report (the “Additional Report”). As a result of the Incidents, the FRF opened disciplinary proceedings against both clubs.

9. On 15 September 2022, the First Respondent invited the Appellant to state its position until 16 September 2022 on the merits of the disciplinary investigation. A copy of the Referee’s Report and of the Match Observer’s and Additional Reports was shared with the Appellant.
10. On the same day, the Appellant submitted its written position on the Incidents related to the Match to the First Respondent.
11. On 16 September 2022, the First Respondent issued an invoice to the Appellant amounting to Romanian leu (“RON”) 87,750 representing the fine imposed by the Disciplinary Committee for the Incidents occurred at the Match.
12. Later, on the same day, the operative part of the decision of the Disciplinary Committee was notified to both clubs. Dinamo was sanctioned as follows:
 - RON 22,500 as a fine for throwing prohibited objects into the field of play (recidivism);
 - RON 50,000 as a fine for entering into conflict with the law enforcement and for destructing goods in the stadium;
 - RON 11,250 as a fine for chanting with obscene content; and
 - Ban on organising games in its home stadium for four (4) matches.
13. On 22 September 2022, the Disciplinary Committee notified its reasoned decision to both clubs.
14. On 23 September 2022, the Appellant appealed to the Recourse Committee. In its appeal, Steaua stated that i) the Disciplinary Committee penalised Steaua more drastically by misinterpreting the facts of the case, ii) no exaggerated sanctions can be imposed on a visiting club when the hosting club poorly organised the match, i.e. the responsibility falls exclusively on the host club), iii) the Disciplinary Committee failed to provide the grounds of its decision in a timely manner, iv) the imposition of a sanction on a club for acts committed by spectators without taking any action against those responsible is a wrong and discriminatory measure, and v) the Disciplinary Committee did not take into consideration any mitigating factors applicable to Appellant.
15. On 27 September 2022, the Appellant served the first match of its ban during the Romanian Cup Playoff against the club Chindia Targoviste.

16. On 6 October 2022, the Recourse Committee dismissed the Appellant’s appeal and confirmed the decision of the Disciplinary Committee.
17. On 8 October 2022, the Appellant served its second match of its ban during the Liga II match against the club Politethnica Timisoara.
18. On 12 October 2022, the Appellant served its third match of its ban during the Liga II match against the club Unirea Constanta.

III. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT

19. On 11 October 2022, the Appellant filed its Statement of Appeal with the Court of Arbitration for Sport (the “CAS”) in accordance with Articles R47 and R48 of the CAS Code of Sports-related Arbitration (the “CAS Code”) against the Appealed Decision. In its Statement of Appeal, the Appellant made an urgent application for provisional measures pursuant to Article R37 of the CAS Code to stay the execution of the Appealed Decision.
20. On 12 October 2022, the CAS Court Office acknowledged receipt of the Statement of Appeal and the request to stay the execution of the Appealed Decision. The Appellant was invited to complete its Statement of Appeal within the deadline provided at Article R49 of the CAS Code by providing an English translation of the Appealed Decision and of the provisions of the statutes or regulations or the specific agreement providing for appeal to CAS.
21. On the same day, the CAS Court Office notified the Operative Part of the Order on Request for a Stay issued by the Deputy Division President.
22. On the same day, the CAS Court Office acknowledged receipt of an email of the First Respondent in which it questioned the process of the provisional measures, namely because it was not given the opportunity to provide its defense. The CAS Court Office informed the Parties that given the request for provisional measures was filed on 11 October 2022 at 15:37 and that the Appellant’s next match was scheduled on 12 October 2022 at 16:00, the Deputy President of the CAS Appeals Arbitration Division (the “Deputy Division President) was forced to issue the Order *ex parte* in view of the utmost urgency of the matter, as provided by Article R37(4) of the CAS Code. As such, the Respondents were invited to comment on the Appellant’s request for stay of execution by 17 October 2022.
23. On 18 October 2022, the CAS Court Office acknowledged receipt of the First and Second Respondents’ emails of 17 October 2022. The Appellant was invited to confirm by 21 October 2022 that Mr. Bichir indeed signed the Power of Attorney in favor of Mr. Gherdan, attorney-at-law, and to provide its position on the Second Respondent’s request to not be included in the proceedings by 21 October 2022. Finally, on the Request for a Stay and the Second Respondent’s comments, the Parties were informed that the Deputy Division President will revert on the issue in due course.

24. On 19 October 2022, the CAS Court Office, upon the First Respondent's request, shared the proof of payment made by the Appellant in these proceedings.
25. On 24 October 2022, the CAS Court Office acknowledged receipt of the Appellant's comments on its representation and that it maintained that the Second Respondent is a proper Respondent in this matter. Consequently, the Parties were informed that the Second Respondent would remain a party to these proceedings.
26. On 27 October 2022, the CAS Court Office acknowledged receipt of the Statement of Appeal filed at CAS via CAS e-Filing on 27 October 2022 by the Appellant and invited the Appellant to complete its appeal by providing an English translation within three (3) days of the decision appealed against and the specific provisions providing for appeal to CAS.
27. On 1 November 2022, the CAS Court Office acknowledged receipt of the completed Statement of Appeal filed at CAS via CAS e-Filing on 31 October 2022. The Respondents were invited to inform the CAS Court Office within five (5) days whether they agreed to the appointment of a sole arbitrator as proposed by the Appellant.
28. On 7 November 2022, the CAS Court Office acknowledged receipt of the First Respondent's request of the same day that the present case be submitted to a three-member panel. The First Respondent was invited to indicate by 10 November 2022 whether it intended to pay its share of the advance of costs.
29. On 8 November 2022, the CAS Court Office acknowledged receipt of the Second Respondent letter dated 7 November 2022 whereby it objected to the appointment of a sole arbitrator and requested that the present matter be submitted to a three-member Panel. The Second Respondent was invited to indicate by 10 November 2022 whether it intended to pay its share of the advance of costs.
30. On 14 November 2022, the CAS Court Office acknowledged receipt of the First and Second Respondents' positions and took note that both Respondents did not intend to pay their share of the advance of costs. The Parties were informed that the President of the CAS Appeals Arbitration Division (the "Division President"), or her deputy, will decide the number of arbitrators.
31. On 21 November 2022, the CAS Court Office acknowledged receipt of a copy of the Appealed Decision in Romanian language. In accordance with Article R29 of the CAS Code, the Appellant was invited to provide a translation into English of the Appealed Decision within the deadline set out in Article R49 of the Code.
32. On 22 November 2022, the CAS Court Office acknowledged receipt of the Appealed Decision, with grounds notified via email dated 1 November 2022 to the Appellant, translated into English provided by the Appellant.
33. On 1 December 2022, the CAS Court Office informed the Parties that the Division President had decided to submit the present case to a sole arbitrator.

34. On 6 December 2022, the CAS Court Office acknowledged receipt of the Appellant's Appeal Brief filed on 5 December 2022 by email and via E-filing, and pursuant to Article R55 of the CAS Code invited the Respondents to submit their Answers within twenty (20) days.
35. On the same day, the CAS Court Office acknowledged receipt of the First Respondent's letter of 6 December 2022 requesting that the time limit to file its Answer be fixed once the advance of costs had been paid by the Appellant. In this regard, the First Respondent was informed that, pursuant to Article R 55(3) of the CAS Code, the time limit to file its Answer was set aside and a new time limit will be fixed upon the Appellant's payment of its share of the advance of costs.
36. On 7 December 2022, the CAS Court Office acknowledged receipt of the Second Respondent's letter of the same day requesting that the time limit to file its Answer be fixed once the advance of costs has been paid by the Appellant. In this regard, the First Respondent was informed that by the CAS Court Office, pursuant to Article R55(3) of the CAS Code, the time limit to file its Answer was set aside and a new time limit will be fixed upon the Appellant's payment of its share of the advance of costs.
37. On 16 December 2022, the CAS Court Office notified to the Parties the reasoned Order on Request for a Stay of Execution issued by the Deputy Division President.
38. On 21 December 2022, on behalf of the Deputy Division President, after reviewing the Respondents' respective Answers to the Appellant's request for a stay of the Appealed Decision, the Parties were advised that the Order on Request for a Stay of Execution is maintained.
39. By letter of 27 December 2022, the CAS Court Office granted the Respondents a new deadline to file their Answers and, in accordance with Article R54 of the CAS Code, the Parties were informed by the CAS Court Office that the Panel had been constituted as follows:

Sole Arbitrator: Mr Benoît Pasquier, Attorney-at-Law in Zurich, Switzerland
40. On 26 January 2023, the CAS Court Office acknowledged receipt of the First Respondent's letter of the same day requesting a further 5-day extension of its time limit to file its Answer and invited the other Parties to comment on such request by 27 January 2023.
41. On 27 January 2023, the CAS Court Office acknowledged receipt of the Appellant's email of the same day, objecting to the First Respondent's request for a further 5-day extension of the time limit to file its Answer.
42. On 30 January 2023, on behalf of the Sole Arbitrator, the CAS Court Office granted the extension of the time limit to the First Respondent to file its Answer and invited it to file it by 31 January 2023.

43. On 1 February 2023, the CAS Court Office acknowledged receipt of the First Respondent's Answer filed on 31 January 2023 and the Second Respondent's Answer filed on 17 January 2023. Furthermore, following the First Respondent's request for a hearing, the other Parties were invited to inform the CAS Court Office whether they preferred a hearing to be held in this matter or the Panel to issue an award based solely on the Parties' written submissions.
44. On 10 February 2023, the CAS Court Office informed the Parties that the Sole Arbitrator had decided to hold a hearing by videoconference on 30 March 2023. The Parties were invited to inform the CAS Court Office on their availability by 15 February 2023.
45. On 15 February 2023, in view of the availability of the Parties, on behalf of the Sole Arbitrator, the CAS Court Office informed the Parties that a hearing will take place on 30 March 2023 by videoconference (Cisco Webex) at 9:30 am CET (Swiss time).
46. The Parties duly signed and returned the Order of Procedure respectively on 6 and 7 March 2023, confirming, *inter alia*, the jurisdiction of the CAS to hear this dispute.
47. On 30 March 2023, a hearing was conducted by videoconference (Cisco Webex).
48. In addition to the Sole Arbitrator and Ms. Delphine Deschenaux-Rochat, Counsel to the CAS, the following persons attended the hearing:

For the Appellant:
 - Mr Sergiu-Valentin Gherdan, Attorney-at-law
For the First Respondent:
 - Mr Adrian Stangaciu, Head of Legal Department
 - Mr Paul Ciucur, Attorney-at-law
For the Second Respondent:
 - Mr Andrei Greceanu, Attorney-at-law
49. The Parties were afforded ample opportunity to present their case, submit their arguments and answer the questions posed by the Sole Arbitrator.
50. After the final submissions of the Parties, the Sole Arbitrator closed the hearing and reserved its final award.
51. Upon the closure of the hearing, the Parties expressly stated that they had no objections in respect of their right to be heard and to have been treated equally and fairly in these arbitration proceedings. At the outset of the hearing, the Parties confirmed that they had no objections to the constitution of the Panel.

52. On 31 March 2023, the CAS Court Office acknowledged receipt of the Second Respondent's email and of its enclosure, noting that the Second Respondent had provided a screenshot in JPEG format corresponding to Exhibit 1 filed with its Answer to the Request for Provisional Measures.

IV. SUBMISSIONS OF THE PARTIES

A. The Appellant

53. In its Appeal Brief, the Appellant requested the CAS:

“1. To annul and set aside the FRF Disciplinary Commission award no. 508/CD/16.09.2022 and the FRF Recourse Commission award issued on 6th of October 2022 and to pronounce a new award in which:

- a) In principal, to exonerate Clubul SPORTIV AL ARMATEI “STEAUA” from any disciplinary sanctions*
- b) Subsidiary, to apply to CLUB SPORTIV AL ARMATEI “STEAUA” disciplinary sanctions as regulated in art. 82 of the FRF Disciplinary Regulation in a “similar way to the club host” (oriented, if possible, to sanctions regarding games played away or on neutral field) and in the hypothesis of concurrent misconducts to establish the most serious offence and to apply any sanctions in accordance with art. 45, par.1 of the FRF Disciplinary Regulation*

2. To order the Respondent to pay the Claimant all procedural costs incurred before the C.A.S., the FRF Recourse Commission and the FRF Disciplinary Commission”

54. The Appellant's submissions, in essence, may be summarised as follows:

- As a preliminary remark, Dinamo shall be included in these proceedings in view of the notice sent by the Steaua on 6 September 2022 to Dinamo. In addition, Dinamo is well suited to represent and defend the will expressed by the FRF.
 - a) Lack of responsibility
- Steaua submitted a notice on 6 September 2022 to Dinamo whereby Steaua informed Dinamo about the schedule Steaua would have on the date of the Match. Such notice contained an express mention that *“Concerning the travel of the supporter groups, we communicate you that we do not have any information about their number and we do not assume their travel and participation from any whatsoever standpoint. In this context, in the case in which you would decide to sell access tickets for the sector designated for the visitors, the responsibility for such organization lies on you completely”*. In other words, in the event Dinamo decided to sell any tickets for the visiting team supporters in the sector reserved for the away supporters for the Match, Dinamo would be fully responsible. Such notice was also served to the First Respondent.

- The Match Observer report from the FRF describes the incidents that occurred at the Match but fails to mention that Steaua had no supporters at the Match. Consequently, Dinamo should bear the responsibility for those incidents. Even the local press noted that *“ultras from Dinamo’s had bought tickets in the II Stands, in the closest sector from the stand where there were Steaua’s supporters”*.
- Pursuant to Articles 2 and 5 from the Law no. 4/2008, the organizer of sports competitions and games must ensure the protection and safety of spectators. In addition, it shall take measures to prevent and eliminate any incidents that may occur on the entry/exit routes and inside sports arenas prior, during and after the competition or match.
- Article 9 of the FRF Disciplinary Regulations also states that the organising clubs are responsible for order and security inside the stadium premises and in the stadium area, before, during and after the end of the game, as well as for any incident caused in connection with it and will be sanctioned, in case of disciplinary misconduct, in accordance with the provisions of its regulation.
- Article 82 par. 1 and 2 of the FRF Disciplinary Regulation stipulates that the host club is responsible for the misbehavior of the spectators and depending on the situation can be sanctioned gradually with a sport penalty and prohibition of organising games at its own stadium or playing games without spectators. On the other hand, the visiting club is responsible for the misbehavior of its own group of supporters and, depending on the gravity of the facts, can be sanctioned in a similar way as the host club. Supporters occupying the stadium sector intended for guests are considered to be supporters of the visiting team, unless proven otherwise.
- Steaua did not have any group of supporters that formally joined the club at the Match and it did not request, ask, or reserve any tickets for any supporters of the club for the Match.
- In light of the notice sent to Dinamo, Law no. 4/2008 and the FRF Disciplinary Regulation, the responsibility for the incidents that occurred prior to, during and after the Match, lies completely with Dinamo. Therefore, Steaua should be exonerated from any sanctions.

b) The sanction

- Different sanctioning treatment is established for visiting clubs than the one effectively applied by the FRF Commissions.
- Indeed, pursuant to Article 82 of the FRF Disciplinary Regulation, the visiting club may be sanctioned in *“a similar way to the club host and/or by banning its own gallery or his own group of supporters at the games played away or on neutral ground from 1 to 10 games”*.

- The FRF Commissions sanctioned the visiting team, Steaua, with different sanctions than the banning of its spectators to participate in away games or neutral grounds. Indeed, the FRF Commissions have imposed a sporting sanction of two (2) matches on Dinamo and a sporting sanction of four (4) matches on Steaua, which represents the double of the sporting sanction imposed on Dinamo.
- Furthermore, the FRF Commissions imposed a pecuniary sanction on both clubs: a fine of RON 83,750 on Steaua and a fine of RON 15,000 on Dinamo. The fine imposed on Steaua is approximatively 5.5 higher than the fine imposed on Dinamo. Such difference in the amount of the imposed fine is not equivalent to the terminology of “similar sanction” set out in Article 82 of the FRF Disciplinary Regulation.
- What is more, the sanction to be imposed for any incidents occurred when a club had the quality of visiting club should be a ban on its own gallery or its own group of supporters from attending matches played away or on neutral ground for 1-10 matches.
- The sanction imposed on Steaua is not only contrary to the law and the Disciplinary Regulations, but is also of an unprecedented harshness. In particular, the pecuniary fines of RON 22,500 and RON 50,000 imposed for its alleged supporters conduct consisting into chants with vulgar content is arbitrary in its application since similar chants are unfortunately present in most Romanian leagues matches without the FRF and its commissions opening any disciplinary proceedings. Unfortunately, these chants seem to be tolerated by the FRF.
- In respect to the method of applying concurrent sanctions, Article 45 of the FRF Disciplinary Regulations states that in the case of multiple concurring disciplinary offenses are committed, the competent Commission shall apply the sanction established for the most serious offense, to which it may apply an increase of 1/2 of the maximum of the sanction prescribed for such offense, without exceeding the general maximum prescribed in the disciplinary regulation for such sanction. In this particular case, Steaua has been sanctioned with the following sanctions:
 - RON 22,500 as a fine for throwing prohibited objects into the field of play (recidivism);
 - RON 50,000 as a fine for entering into conflict with the law enforcement and for destructing goods in the stadium;
 - RON 11,250 as a fine for chanting with obscene content;
 - Ban on organising games in its home stadium for four (4) matches.
- In light of the above sanctions, it is self-evident that the most serious sanction is the ban on hosting matches in its stadium for four (4) matches. While the FRF Commissions decided to impose the above sanction cumulatively, said commissions failed to apply Article 45 par. 3 of the FRF Disciplinary Regulations for the following reasons: i) it is clear which offense is the more serious, the ban on hosting matches, and ii) article 45 par. 3 clearly stipulates that in the event the most

serious offense may not be established, there should not be a more severe disciplinary treatment (arithmetical cumulus) than the standard situation set out in Article 45 par. 1 of the FRF Disciplinary Regulations.

B. The First Respondent

55. In its Answer, the First Respondent requested the CAS:

“A. to dismiss the Appeal and, consequently, to maintain and consider the challenged Decisions (namely, the FRF Disciplinary Commission award no 508/CD/16.09.2022 and the FRF Recourse Commission award no. 50 of 6 October 2022) undisturbed;

B. to order the Appellant to pay all costs, expenses and legal fees relating to the arbitration proceedings before CAS encumbered by the First Respondent.”
(emphasis in original)

56. The First Respondent’s submissions, *in essence*, may be summarised as follows:

- Pursuant to Article 9 par. 2 of the FRF Disciplinary Regulations, clubs are responsible for the actions or behaviour of their supporters, regardless of whether they are on their own ground, away or on neutral ground.
- Pursuant to article 82 par. 2 of the FRF Disciplinary Regulations, the visiting club is responsible for the irregular behaviour of its own group of supporters and the supporters who occupy the sector intended for guests in the stadium are considered to be supporters of the visiting team, unless the contrary is proven. In this regard, Steaua has failed to prove before the FRF Commissions that its supporters were not involved in the incidents that occurred at the Match.
- The match officials’ reports, including the video recording and the photos, regarding the Match are deemed to be accurate and were not contested by the Appellant. In addition, all photos and video images taken from the sport media attest without any doubt that the incidents were initiated by the supporters belonging to Steaua.
- Before the Disciplinary Commission, Steaua claimed that, while the club does not agree with the supporters’ behaviour in chants of the nature heard at the Match, the supporters were provoked both at the beginning of the Match and during the Match by the supporters of Dinamo. In other terms, the statement made by Steaua confirms that the Steaua supporters had chants at the Match and that they consider the content of these chants to be of low gravity.
- In respect to the sanctions imposed on Steaua, the FRF Commissions took into consideration that Steaua was already sanctioned in two previous matches. Indeed, by decision dated 24 August 2022, Steaua was sanctioned for the following incidents that occurred at the match against the club Metaloglobus:

- RON 10,000 for throwing 2 lighted torches and a firecracker; and
- RON 5,000 for obscene expression and offensive word addressed to the management of Steaua, the Romanian Media and of a racist nature to the player Ovidiu Herea.

In a second decision dated 31 August 2022, Steaua was sanctioned for the behaviour of its supporters for the following incidents that occurred at the match against the club CSM Slatina:

- RON 15,000 (minimum penalty of 10,000 plus 5,000 for recidivism) for throwing smoke bombs, firecrackers and other pyrotechnic materials;
- RON 5,000 for obscene chanting during the match;
- RON 10,000 for concurrent offences.

In view of the two precedents cases of spectators misconduct, the FRF Commissions imposed the sanctions that are in accordance with the applicable regulations and in taking into consideration the great gravity of the behaviour of the Appellant's supporters, namely:

- Introduction into the sports arena of explosive, incendiary and fumigant objects and materials, and the throwing of pyrotechnic objects or objects prohibited by the regulations, the consequence of which was the delay of the start of the match, interruption of it and the endangerment of the players' and spectators' integrity;
 - Chants with obscene, insulting, vulgar or xenophobic content by Steaua supporters;
 - Conflict between the Steaua supporters and the law enforcement, and the destruction of goods in the stadium.
- Furthermore, the Steaua representative, Mr Grigorie George Valentin, declared in front of the Disciplinary Commission that he does not contest the records of the match officials and never claimed that the supporters who committed the acts at the Match were not supporters belonging to Steaua.
- Regarding the argument that Steaua must be sanctioned in the same way as the hosting club, the Appealed Decision is more than explicit on that point and well founded. The only addition is that the notion of "may" in the regulations establishes the possibility, respectively the right and by no means the obligation to decide the sanction to be applied in view of the gravity of the committed acts.
- Steaua did not present any evidence that would rebut the presumption that the supporters who supported Steaua at the Match were not Steaua supporters. To the contrary, through the behaviour of the Steaua's players, namely the greeting of their own supporters prior to the start of the match and then the celebration of the victory after of the Match by chanting with the players and coaches, such behaviour demonstrates that the supporters at the Match were from Steaua. Consequently, Steaua must be held responsible for the acts of its own supporters.

- About the proportionality of the sanction, there is a well-established CAS and Swiss Federal Tribunal jurisprudence regarding the principle of proportionality in sport cases. Such principle provides that the severity of a sanction must be proportionate to the offense committed. To be proportionate, the sanction must not exceed what is reasonably required in the search of the justifiable aim. The sanctions imposed on Steaua are consistent with the principle of proportionality. On the other hand, the annulment of the Appealed Decision would be completely out of proportion and excessive as opposed to the effects.

C. The Second Respondent

57. In its Answer, the Second Respondent requested the CAS to:

- “- *Rule that the Second Respondent lacks standing to be sued, with the consequence of excluding it from the proceedings;*
- *Reject the appeal formulated by CSA in its entirety.*”

58. The Second Respondent’s submissions, *in essence*, may be summarised as follows:

- a) Lack of standing to be sued
- The Appellant has no claim against the Second Respondent. Indeed, the present proceedings concern the challenge of the Appealed Decision which relates to disciplinary measures taken by the First Respondent against both clubs. In other terms, both clubs are in a similar position and the Appellant cannot formulate a claim against the Second Respondent.
- The only entity against which the Appellant can request the lifting of the disciplinary measures imposed on it is the First Respondent. The standing to be sued of a party is conditioned upon that party having something sought against it by the appellant. In this particular case, the Appellant is not seeking anything against Dinamo.
- The Appellant cannot obtain a decision against or concerning Dinamo. Indeed, the CAS has been vested with deciding on the disciplinary measures imposed by the First Respondent on the Appellant and has not been vested in any manner to review any part of the Appealed Decision related to Dinamo. The sanction imposed by the FRF on Dinamo has not been challenged. Therefore, the appeal does not affect Dinamo in any way and does not warrant its presence in the proceedings.
- The claim that Dinamo’s standing to be sued is given by an ability to express the will of the FRF is unfounded. Such argument has never been seen as a reason for including any party to any proceedings. The case-law cited by the Appellant is irrelevant here since it either refers to the conditions for a party to have standing to be sued or discuss the exceptions to the rule that only sports association rendering

the appealed decision should be included in the proceedings, exceptions that do not apply in the present proceedings. Indeed, in the present case, the Appellant is not seeking anything against Dinamo and the FRF did not act as an adjudicatory body in a dispute between two clubs but as an enforcer of disciplinary rules.

- The Appellant seems to suggest that FRF could be represented by Dinamo in these proceedings. FRF does not require any support from Dinamo and Dinamo cannot supplant FRF in providing an explanation for the Appealed Decision. Dinamo has the right to submit its own position and argumentation, which are its own. CAS case-law regarding disciplinary proceedings launched by national football associations against clubs for the behavior of their supporters do not include the other club involved in the Match where the incidents occurred, even if both groups of supporters were guilty of breaching disciplinary rules.

b) On the merits of the case

- The claims made by the Appellant that it bears no responsibility for its own supporters and that the sanctions imposed are disproportionate and unsubstantiated are erroneous given both the factual situation and the applicable rules. Pursuant to the well-established CAS jurisprudence, football clubs are strictly liable for the behavior of their supporters. Such principle is one of the few legal tools available to football authorities to deter hooliganism and other improper conduct on the part of supporters.
- The FRF legal framework and Romanian Law encompass and recognize such principle. Article 82 of the Disciplinary Regulations rules that football clubs are strictly liable for the breaches of disciplinary rules made by their supporters. Such liability does not extend to the host club but also to the visiting club, for its own supporters. In other terms, both clubs can be held liable for the conduct of their supporters, as it is the case in the proceedings in front of the FRF. In addition, law 4/2008 specifies the duties of the host club in ensuring the organizational safety of a match. To the contrary to what the Appellant suggests, said law does not provide a sole liability of the host club for any event occurring during a hosted match.
- The Appellant cannot exonerate itself from the principle of strict liability. Indeed, the written communication sent by the Appellant prior to the Match to Dinamo stating that it does not intend to be liable for any incident that might occur at the Match has no legal foundation and is contrary to the principle of strict liability set out in article 82 of the FRF Disciplinary Regulations. Furthermore, contrary to the submission made by the Appellant whereby it submits that it had no supporters present at the Match, the Appellant had supporters present at the Match. Indeed, first, article 82 par. 2 of the FRF Disciplinary Regulations presumes that supporters occupying the visitor's stand in the stadium are supporters of the visiting club. In this respect, the Appellant bought tickets for its supporters for the south stand, which is reserved for the visiting supporters, as recognized by the Appellant in its Appeal Brief. Secondly, the Additional Report is very specific in pointing out which supporters' groups caused certain incidents, in particular that the visiting supporters

were responsible for throwing flares and other pyrotechnical materials as well as fighting with Dinamo supporters before the game and causing riot during the half-time break. Thirdly, the Appellant failed to disprove the contents of the Additional Report in the proceedings in front of the FRF and, in the current proceedings, it does not bring any evidence that would discharge its liability in the incidents that occurred at the Match. Both supporters' groups were responsible for the incidents at the match, in particular the Appellant's supporters in view of their aggressive behavior towards the gendarmerie.

- The sanctions imposed by FRF on the Appellant are lawful and proportionate. Indeed, in view of the applicable standard in front of CAS which requires that a disciplinary sanction must be considered as manifestly disproportionate in order to be reviewed, the Appellant has to prove that indeed the sanctions imposed by the FRF are disproportionate to the breach caused by its supporters. In this respect, the behavior of the Appellant's supporters is to be considered as more severe to the behavior of the Dinamo's supporters since they caused additional damages to the stadium, started a violent clash with the gendarmerie and threw a large number of flares into the pitch. Therefore, in view of the legal frameworks applicable and considering that the Appellant is a repeat offender pursuant to article 44 of the FRF Disciplinary Regulations, the type of sanctions imposed by FRF on the Appellant are proportionate.

V. JURISDICTION

59. Article R47 of the CAS Code provides as follows:

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

60. The Sole Arbitrator notes that the Appealed Decision qualifies as a “decision of a federation” in the meaning of Article R47. In addition, the jurisdiction of the CAS derives from articles 75 par. 3 of the FRF Statutes and 120 par. 4 of the FRF Disciplinary Regulations. Finally, the Appealed Decision sets out the competence of the CAS as competent court for any appeal.
61. Finally, neither the Appellant nor the Respondents objected to the jurisdiction of the CAS, and all Parties confirmed the CAS jurisdiction when signing the Order of Procedure.
62. It follows that the CAS has jurisdiction to decide on the appeal of the Appealed Decision.

VI. ADMISSIBILITY

63. Article R49 of the CAS 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 of a previous agreement, the time limit for appeal shall be twenty-one days from the receipt of the decision appealed against. The Division President shall not initiate a procedure if the statement of appeal is, on its face, late and shall so notify the person who filed the document. When a procedure is initiated, a party may request the Division President or the President of the Panel, if a Panel has been already constituted, to terminate it if the statement of appeal is late. The Division President or the President of the Panel renders her/his decision after considering any submission made by the other parties.”

64. It follows from articles 75 par. 4 of the FRF Statutes and 120 par. 4 of the FRF Disciplinary Regulations that the appeal must be submitted to CAS within twenty-one (21) days from the communication of the decision.

65. The operative part of the Appealed Decision was notified to the Appellant on 6 October 2022, and the Appellant filed its Statement of Appeal with a request for provisional measures on 10 October 2022, i.e. within the statutory time limit of twenty-one (21) days set forth in Article R49 of the CAS Code and in article 120 par. 4 of the FRF Disciplinary Regulations, which is not disputed.

66. On 27 October 2022, the Appellant lodged again the same Statement of Appeal, still within the statutory time limit of twenty-one (21) days as set forth in Article R49 of the CAS Code and in Article 120 par. 4 of the FRF Disciplinary Regulations. On the same day, the Sole Arbitrator notices that the CAS Court Office requested the Appellant to complete its Statement of Appeal by providing a translated copy of the Appealed Decision and by referring to the provisions providing an appeal to CAS within three (3) days.

67. On 1 November 2022, the CAS Court Office acknowledged receipt of the Statement of Appellant and informed the Appellant that pursuant to Article R51 of the CAS Code, the Appeal Brief had to be filed within ten (10) days following the expiry of the time limit for the appeal. On 22 November 2022, the Appellant shared a translated copy of the grounds of the Appealed Decision that was notified to the Appellant on 1 November 2022.

68. On 5 December 2022, the Appellant filed its Appeal Brief within the limit set out in Article R51 of the CAS Code.

69. No objection in that respect has been raised by the Respondents.

70. Consequently, the Statement of Appeal and the Appeal Brief complied with all the requirements of Articles R48 and R51 of the CAS Code.

71. It follows that the appeal is admissible.

VII. APPLICABLE LAW

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

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

73. The Sole Arbitrator notes that the present dispute is a purely domestic matter that involves two (2) Romanian clubs and the FRF that is the football governing body in Romania where it is officially registered.

74. In addition, all Parties refer in their submissions to the FRF Regulations and subsidiarily, to Romanian law, as law applicable to the merits of the dispute.

75. Based on the above, and in particular of the Parties’ concurring positions as to applicable law, the Sole Arbitrator is of the view that the law applicable to the present appeal shall be primarily the FRF Regulations, and subsidiarily, Romanian law to the extent its contents are ascertainable by the Sole Arbitrator.

VIII. MERITS

76. The main issues to be resolved by the Sole Arbitrator in the present dispute are:

- A. Has the Second Respondent Standing to be sued?
- B. Does the Appealed Decision violate any rules and regulations in relation to the determination of the sanction?

A. Has the Second Respondent Standing to be sued?

77. As a preliminary matter on the merits, the Sole Arbitrator must decide whether the Second Respondent has standing to be sued in these proceedings.

78. In this context, the Second Respondent submits that it does not have standing to be sued in the present proceedings. According to the Second Respondent, the Appealed Decision concerns both the Appellant and the Second Respondent but the Appellant only challenges the parts of the Appealed Decision concerning the disciplinary measures taken against it. In other terms, the Appellant could not and did not seek to challenge the disciplinary measures taken against the Second Respondent as it would have no interest in doing so. Hence, in the Second Respondent’s view, the Sole Arbitrator is not in a position to decide on something that goes beyond to what was requested by the Appellant in these proceedings, i.e. the reduction or the annulment of the disciplinary

sanctions imposed by the FRF on the Appellant. In doing so, the Sole Arbitrator would violate the principle of *non ultra petita*.

79. On the other hand, the Appellant submits that the Second Respondent is well-suited to represent and defend the will expressed by the organ of the FRF. The Appellant further refers to the CAS jurisprudence that discussed the principle of standing to be sued in CAS proceedings and which allegedly supports its position.
80. In this regard, the Sole Arbitrator first notes that the FRF Regulations contain no specific rules on the question of standing to sue or to be sued or any definition thereof. Furthermore, the Appellant did not refer either to any specific rules contained in Romanian law on the question of standing to be sued that would support the Appellant's position.
81. The Sole Arbitrator also notes that the CAS Code offers no guidance in that respect. CAS Panels dealing with similar standing issues have thus resorted to the applicable provisions of Swiss law. In this respect, the Sole Arbitrator refers to the well-established CAS jurisprudence regarding the question as to which effect a party has standing to be sued (*“légitimation passive”*). In this respect, the Panel in CAS 2007/A/1329 & 1330, para. 27, stated that *“the defending party has standing to be sued (légitimation passive) if it is personally obliged by the “disputed right” at stake (see CAS 2006/A/1206). In other words, a party has standing to be sued and may thus be summoned before the CAS only if it has some stake in the dispute because something is sought against it (cf. CAS 2006/A/1189; CAS 2006/A/1192)”*.
82. Similarly, the Panel in CAS 2012/A/3032 with further references to other CAS precedents explained that *“As a principle, and as it has already been established in CAS jurisprudence, a party has standing to be sued (“légitimation passive”) in CAS proceedings only if it has some stake in the dispute because something is sought against it in front of CAS (cf. CAS 2008/A/1620, para. 4.1.; CAS 2007/A/1367, para. 37).*
83. As such, the Sole Arbitrator notes that in its request for relief, the Appellant seeks the following relief:
 - “1. To annul and set aside the FRF Disciplinary Commission award no. 508/CD/16.09.2022 and the FRF Recourse Commission award issued on 6th of October 2022 and to pronounce a new award in which:
 - a) *In principal, to exonerate Clubul SPORTIV AL ARMATEI “Steaua” from any disciplinary sanctions*
 - b) *Subsidiary, to apply to CLUB SPORTIV AL ARMATEI “STEAUA” disciplinary sanctions as regulated in art. 82 of the FRF Disciplinary Regulation in a “similar way to the club host” (oriented, if possible, to sanctions regarding games played away or on neutral field) and in the hypothesis of concurrent misconducts to establish the most serious offence and*

to apply any sanctions in accordance with art. 45, par.1 of the FRF Disciplinary Regulation

2. *To order the Respondent to pay the Claimant all procedural costs incurred before the C.A.S., the FRF Recourse Commission and the FRF Disciplinary Commission”*

84. The Sole Arbitrator observes that the Appellant in its request for relief does not seek anything against the Second Respondent. It merely seeks, subsidiarily, that disciplinary sanctions similar to the ones imposed on the Second Respondent be imposed on it. The mere argument that similar disciplinary sanctions to the ones imposed on the Second Respondent should be imposed on the Appellant is not sufficient to claim that the Second Respondent has the standing to be sued. In other words, the Second Respondent has no interest in these proceedings since the Appellant failed to demonstrate that something is sought against it.
85. Furthermore, the Sole Arbitrator notes that in its second relief sought in respect to the procedural costs, the Appellant refers to “*Respondent*” in singular, “*Respondent*” who should bear all procedural costs incurred before the jurisdiction of the FRF and the CAS.
86. Finally, the Sole Arbitrator notes that in disciplinary proceedings, the appeal to amend a disciplinary decision by an organ of a federation is to be directed against said federation, i.e. the FRF in the present case, given that the dispute is of so-called “vertical” nature (CAS 2020/A/6694).
87. In the light of the above, the Sole Arbitrator considers the Second Respondent will not be affected in any way by the decision that the Sole Arbitrator will take in these proceedings.
88. Consequently, the Sole Arbitrator concludes that the Second Respondent has no standing to be sued in the present proceedings.

B. Does the Appealed Decision violate any rules and regulations in relation to the determination of the sanction?

a) The facts of the case

89. The Sole Arbitrator first notes that the Appealed Decision refers to the Referee’s Report, the Observer’s Report and the Additional Observer’s Report as evidence in support to its motivation. In this respect, the Sole Arbitrator refers to the content of such reports, as follows:

1. Referee’s Report

“8. Additional referee’s notes:

I mention that the match started 5 minutes late as torches and smoke canisters were thrown by both crowds onto the pitch. After each goal was scored, torches and smoke

canisters were thrown onto the pitch, being removed by the Inspectorate for Emergency Situations, without endangering the bodily integrity of players.” (emphasis in original)

2. Match Observers’ Report

“III. Spectators’ conduct

[...]

Away team

Excellent Satisfactory Unsatisfactory

[...]Before the start of the match, the Steaua South Stand supporters threw torches onto the pitch, over an area of 16 m, namely around 15-20 torches. At half-time, serious incidents took place between them and the law enforcement.

[...]

V. Incidents leading to game interruption YES NO

Description (if applicable):

Match started 6 minutes late as the supporters of both teams performed special choreography, but they also threw torches and smoke canisters onto the pitch.

[...]” (emphasis in original)

3. Additional Report:

Time of incident	Details of incident
	Around 09:00 PM, before the start of match, incidents occurred in the stands. CSA STEAUA supporters in STEAUA SOUTH Stand threw various objects at the home team supporters in Section 2 near the Stand. The law enforcement intervened, few supporters were evicted before the referee blew the whistle to start the match. Both teams' supporters performed special choreography, but they also threw torches and smoke canisters. The home team supporters in "Cătălin Hăldan" stand threw various objects behind the goalpost: cards (glasses), textiles (T-shirts, scarves), but also 2 torches: one behind the goalpost and the other one onto the pitch, over an area of 16 m (photo 1). Immediately after, the away team CSA STEAUA supporters in STEAUA SOUTH stand threw smoke canisters, firecrackers and torches, around 15-20 pieces, onto the pitch, over an area of 16 m (photo 2). For both cases, the match started 6 minutes late because the pyrotechnic materials on the pitch were removed by the representatives of the Inspectorate for Emergency Situations/PSI.
minute 5	"CH Stand" home team supporters threw various objects at the player no. 11 (Popa Adrian) from the opposing team who was trying to perform the corner kick. (Photo 3)
minute 44	After scoring the equaliser, the CSA STEAUA supporters threw firecrackers, torches and smoke canisters onto the pitch.
minute 45	The same supports chanted "Dinamo fuck Dinamo!"
minute 45+9	The supports of the home team SC DINAMO 1948 SA - "CH Stand" chanted "CSA fuck CSA!"

	At half-time, the supporters of CSA STEAUA from STEAUA SOUTH stand tried to move to the stadium sector intended for the opposing crowds. Many of them crossed the railings to reach the opponents' area and get into a fight with their rivals, the police and gendarmerie intervened to stop them, at which point the CSA STEAUA supporters started throwing chairs, fire extinguishers and metal fences at them. There were violent clashes, the gendarmes retaliated with tear gas, dispersing the
	ultras. The gendarmes tried to evacuate the CSA STEAUA supporters, but after the start of the second half, tempers calmed down, with the leaders of the crowds making desperate efforts to defuse tensions.
minute 51	Immediately after the second goal of CSA STEAUA team was scored, the STEAUA SOUTH supporters threw smoke canisters onto the pitch (page 4).
minute 81	Torches were thrown onto the pitch by the same supporters of CSA STEAUA, in both cases the match was resumed and the ISU/PSI representatives removed them as soon as possible. During the match, both crowds taunted each other by displaying messages in the stand. At the end of the match, CSA STEAUA players went to STEAUA SOUTH stand and celebrated by songs and chants – FAIR PLAY victory: No incidents.

"The evidence (pictures, videos) will be sent to the RFF together with the "Additional Report of the Match Delegate".

90. In support of the Additional report, the Sole Arbitrator notes that pictures and videos of the Incidents mentioned were submitted to the FRF by the match observer.

91. The Sole Arbitrators then refers to Article 98 paragraph 3 of the FRF Disciplinary Regulations, which states the following:

*"Article 98 Pieces of evidence. Means of proof
 [...]*

3. The means of evidence by which factual elements that can serve as evidence are established include: the referee's report, the assistant referees' report, the fourth official's report, the match observer's report, the referee observer's report, the supervisor's report, the minutes of the meeting accompanied by a list with the signatures of people present, the perpetrator's statements, the victim's statements, the witness statements, documents, audio or video recordings, photographs, material evidence, technical and scientific findings, forensic medicine findings, expertise, as well as any other means of evidence that can conduct to the truth being unveiled."

92. In the same context, the Sole Arbitrator notes that Article 103 of the FRF Disciplinary Regulations states the following:

"Article 103 Match officials' reports

- 1. The facts described in the match officials' reports are presumed to be accurate.*
- 2. Proving that the content of the match officials' reports is permitted and may only be made through video recordings or photographs.*
- 3. If there is an inconsistencies (sic) between the match officials' reports and there is no means of interpreting the different versions of the facts, the referee's report shall*

prevail in case of incidents occurred on the field of play; for incidents outside the field of play, the match observer's report shall prevail.”

93. The Sole Arbitrator notes that the Appellant i) does not dispute the content of the different reports submitted by the match officials and ii) does not contest the seriousness of the Incidents that occurred at the Match. Consequently, the Sole Arbitrator concludes that the facts of the case subject to the present proceedings are undisputed.
94. The Appellant however submits that it should not be held liable for the Incidents. In support of its position, the Appellant relies on the letter dated 6 September 2022 and notified to the Second Respondent prior to the Match, according to which the Appellant informed the Second Respondent that in case the Second Respondent would sell any tickets for the visitors' sector in the stadium, the responsibility for the supporters' behaviours in that sector would lie entirely on the Second Respondent. In addition, the Appellant submits that it did not have supporters belonging to its club that formally joined the club at the Match and that it did neither request nor reserve any tickets for any supporters for the Match. Since the Second Respondent ignored the letter dated 6 September 2022 and did sell tickets to supporters of the Appellant, the Second Respondent must bear the full responsibility for the Incidents that occurred at the Match. Furthermore, pursuant to the Romanian Law no. 4/2008, the organizer of a football match is responsible for ensuring the order and the safety inside the stadium, i.e. the Second Respondent in this instance. Finally, the Appellant contests the authenticity of the WhatsApp messages' extract submitted by the Second Respondent.
95. On the other hand, the First Respondent refers to the FRF Disciplinary Regulations, in particular to Articles 9 paragraph 2 and 82 paragraph 2 of the FRF Disciplinary Regulations which state that clubs are responsible of the behaviours of their own spectators and that the supporters who occupy the sector in the stadium allocated to the visiting team's supporters are considered to belong to the visiting team. In this respect, the First Respondent submits that the Appellant failed to prove that the supporters involved in the incidents that occurred at the Match were not the Appellant's supporters. Furthermore, the First Respondent refers to the photos and videos submitted as annexes to the Additional Report, and also published in the media, which attest without any doubt that the supporters of the Appellant were involved in the Incidents. Finally, the First Respondent refers to the Appellant's defence in front of the FRF Disciplinary Committee whereby the Appellant minimized the seriousness of its own supporters' chants during the Match, which occurred in response to the provoking chants of the Second Respondent.
96. In light of the above, the Sole Arbitrator is not ready to follow the Appellant's argumentation according to which none of the Appellant's supporters were present at the Match and that the Appellant should not be held responsible for the Incidents that occurred at the Match. Indeed, as mentioned above, the Appellant does not contest the content of the match officials' reports stating that the Appellant's supporters were involved in several incidents at the Match. Secondly, the videos and photos that were provided in support of the Additional Report demonstrate that the Appellant's supporters were present and were involved in the Incidents at the Match. In addition,

the Sole Arbitrator notes that a representative of the Appellant in the proceedings in front of the FRF Disciplinary Committee declared that the supporters of the Appellant were provoked by the supporters of the Second Respondent which resulted in the obscene chanting. Finally, the Sole Arbitrator refers to the WhatsApp messages exchanged between representatives of the two clubs prior to the Match: they demonstrate that the Appellant informed the Second Respondent that its group of supporters would set up a choreography in the south stand of the stadium. Consequently, based on the evidence produced by the Parties, the Sole Arbitrator is comfortably satisfied that the supporters of the Appellant were present at the Match and were involved in the Incidents at the Match.

b) Principle of strict liability

97. Regarding the liability of the Appellant's supporters, the Sole Arbitrator notes that the Appellant submits that it was not responsible for organising the Match and thus it should not be held liable for the incidents that occurred. To support its position, the Appellant refers to the Law no. 4/2008, in particular to articles 2 and 5 which read as follows:

Article 2

“The organizers of sports competitions and games and the engaged law enforcement have the obligation to ensure the protection and safety of spectators, athletes and officials as well as to take measures to prevent and eliminate any incidents that may occur on the entry/exit routes and inside the sports arenas, before, during and after the competition or the sport game.”

Article 5

“The organizer is responsible for ensuring order and safety measures inside the sports arenas.”

98. While the Sole Arbitrator notes that the abovementioned articles set out the general principles of organising sports competitions and the liability thereof in Romania, the Sole Arbitrator wishes to refer to Article R58 of the CAS Code and to his decision on the applicable law to the merits of the case at hand under paragraphs 71 et seq. Accordingly, as decided by the Sole Arbitrator, the FRF Regulations are primarily applicable to the case at hand, and subsidiarily, Romanian law, in particular the Law no. 4/2008, to the extent its contents are ascertainable by the Sole Arbitrator.
99. In this context, the Sole Arbitrator refers to the FRF Regulations, in particular to Article 9 paragraph 2 of the FRF Disciplinary Regulations, which reads as follows:

“Article 9 Liability of clubs and AJF/AMFB

2. *Clubs will be liable for the actions or behaviour of their supporters, regardless of whether they are home, away or on neutral territory.”*

100. In addition, the Sole Arbitrator refers to Article 82 paragraph 2 of the FRF Disciplinary Regulations which reads as follows:

“Article 82 Responsibility for irregular behaviour of spectators

2. The away club shall be responsible for the irregular behaviour of its own groups of supporters and, depending on the seriousness of the facts, maybe sanctioned in a similar way as the host club and/or with a ban on its own gallery or its own group of supporters from attending matches played away or on neutral ground for 1 to 10 matches. Supporters occupying the visitors stand in the stadium are supporters of the away team, unless proven otherwise.”

101. The Sole Arbitrator observes that both articles 9 and 82 reflect the principle of strict liability of clubs for their own supporters, principle which is mirrored in other football organisations’ regulations. As a general rule, the Sole Arbitrator notes that the supporters occupying the visitors stand in the stadium are considered to belong to the visiting club, unless proven otherwise. In this respect, as already noted by the Sole Arbitrator and set out in the official match’s reports which are supported by images and videos, the Appellant’s supporters were i) present at the stadium, ii) in the sector attributed to the visiting supporters, and iii) involved in the Incidents that occurred at the Match.
102. The Sole Arbitrator must also follow the well-established CAS jurisprudence confirming that a club is strictly liable for the misconduct of its supporters regardless of whether or not the club is negligent or at fault (see e.g. CAS 2007/A/1217). The Sole Arbitrator finds that whilst the Appellant may not have intended to commit any offences at the Match, the fact that it sent a letter prior to the Match to the Second Respondent is irrelevant and is not exculpatory of liability in any manner.
103. The Sole Arbitrator concludes that the Appellant’s supporters were present at the Match and were involved in the incidents that occurred. Consequently, the Appellant must be held liable for the conduct of its supporters.

c) Nature of the sanction

104. The Appellant contests the nature of the sanction imposed on Steaua in respect to the ban on spectators. Indeed, according to the Appellant and pursuant to Article 82 paragraph 2 of the FRF Disciplinary Regulations, the FRF Commissions should have imposed a spectators ban for the club’s away matches or for matches played on neutral ground, and not for matches played at home as the FRF Commissions have decided. In addition, the Appellant submits that it should have been sanctioned in a similar way as the Second Respondent, i.e. 2 matches without spectators, for the incidents that occurred at the Match.
105. The Sole Arbitrator however notes that the sanction imposed on the Appellant (and also on the Second Respondent) is a ban on organising football matches at its own stadium, and not the ban on having supporters at its home matches, which are sanctions of

different nature. This is confirmed by the Disciplinary Committee in its motivated decision (and confirmed by the Appealed Decision) regarding the ban on spectators for the Second Respondent and the Appellant in the following terms (emphasize added):

“21. Thus for the club *DINAMO 1948 SA*, as it was its first offence, but was the organizing club, a sports penalty of 5,000 lei will be applied and the measure of banning games in their stadium for 2 (two) matches, in accordance with the provisions of art. 54 para. 2 and para. 4 of the Disciplinary Regulation.

22. As for the club *CSA STEAUA*, the Commission notes that **it is not their first offence, having previously been sanctioned twice for the same disciplinary infringements**, and thus a sports penalty of 11,250 lei will be applied and **the ban on organising games on their home stadium for four games according to art. 54 para. 2 and para. 4 of the Disciplinary Regulation.**” (emphasis added)

106. In this context, the Sole Arbitrator notes that the wording of Article 54 paragraph 4 of the FRF Disciplinary Regulations provides a clear wording on the possible sanctions to be imposed on a club in breach of Article 54, as follows:

“Article 54 *Racism, Xenophobia, Discrimination, Denigration*

[...]

4. *Depending on the circumstances, the disciplinary body may also impose other sanctions to the defaulting club, such as: **ban on organizing matches on own stadium** for 2 to 10 matches, forfeit, deduction of 2-6 points or exclusion from the competition.*” (emphasis added)

107. Regarding the argument submitted by the Appellant on Article 82 paragraph 2 of the FRF Disciplinary Regulations, the Sole Arbitrator notes that the wording of said article refers to “*may be sanctioned in a similar way as the host club and/or with a ban on its own gallery or its own group of supporters from attending matches played away or on neutral ground, for 1 to 10 matches.*” In this instance, the Sole Arbitrator notes that Dinamo has been sanctioned with a two (2)-match ban on organising match in its own stadium for the involvement of its supporters in the incidents at the Match. As such, the Sole Arbitrator notes that the nature of such sanction, i.e. a ban on organising matches imposed on a club at its own stadium, is similar in nature to the sanction imposed on the Appellant, i.e. four (4)-match ban on organising matches in its stadium.

108. Furthermore, the Sole Arbitrator notes that Article 54 paragraph 4 is clear and provides, as a legal basis for the FRF Commissions, a possible sanction of a ban for a club in organising matches in its own stadium. Such sanction was imposed by the FRF Disciplinary Committee on the Appellant and confirmed by the FRF Recourse Commission in the Appealed Decision.

109. Moreover, the Sole Arbitrator notes that the nature of such sanction has been confirmed by the partial execution of the ban since the Appellant has already served a three-match

ban by playing its home matches on neutral ground, i.e. on 27 September 2022 in the Romanian Cup Playoff against the club Chindia Targoviste, on 8 October 2022 in the Liga II match against the club Politethnica Timisoara, and on 12 October 2022 in the Liga II match against the club Unirea Constanta.

110. Accordingly, the Sole Arbitrator rejects the argument of the Appellant in this regard.
- d) Proportionality of the sanction
111. The Sole Arbitrator is mindful that in accordance with the constant CAS jurisprudence (CAS 2012/A/2762 applied inter alia in CAS 2009/A/1870; CAS 2015/A/3875), he must show restraint when reviewing the level of sanctions imposed by a disciplinary body and that the sanction imposed by such body in the exercise of its discretion can only be reviewed “*where the sanction is evidently and grossly disproportionate to the offence*”.
112. The Sole Arbitrator accepts that pursuant to the well-established CAS jurisprudence that the principle of proportionality requires that there must be a reasonable balance between the nature of the misconduct and the sanction. Each situation must be evaluated on a case-by-case basis and the interest at stake have to be balanced. “*Account must be taken of the seriousness of the facts and other related circumstances as well as of the damage that the penalised conduct entails for the parties involved for the federation in question and for its sport. In the same way, the disciplinary bodies may evaluate any aggravating and/or extenuating circumstances that might be related to the infringement*” (CAS 2013/A/3358).
113. The Appellant submits that the fines of RON 22’500 for throwing prohibited objects into the field of play (recidivism), RON 50’000 for entering into conflict with the law enforcement and for destructing goods in the stadium, and RON 11,250 for chanting with obscene content imposed are of an unprecedented harshness. In respect to the obscene chanting, the Appellant submits that such chant is unfortunately present at most of the Romanian league matches without the First Respondent taking any whatsoever action. In addition, the Appellant submits that FRF Commissions wrongfully applied Article 45 paragraph 3 of the FRF Disciplinary Regulations instead of Article 45 paragraph 1 of the FRF Disciplinary Regulations. In the Appellant’s view, the most serious offence that has been applied to it is the ban on organising matches in its own stadium both from a financial and sport perspectives. Therefore, the First Respondent wrongfully applied 45 paragraph 3 by cumulating the sanctions (arithmetic cumulation).
114. On the other hand, the First Respondent submits that the sanctions were imposed in accordance with the applicable regulations. In particular, based on the circumstances of the case, the First Respondent submits the reasoning of the imposed sanctions as follows:
- i) *The sports penalty in the amount of 22,500 lei, applied for the violation of art. 82 para. 2 and 3 lit. a) and c) related to art. 83 para. 2 lit. d, is justified because for the same act the club was sanctioned with a sporting penalty of 10,000 lei, for the second offense the penalty was increased by 50%, respectively by 5,000 lei,*

reaching 15,000 lei, and for the third deviation, the amount was increased again by 50%, respectively by 7,500 lei, reaching the total amount applied for this deviation, of 22,500 lei.

- ii) The sports penalty of 11,250 lei applied for the violation of art. 82 para. 2 and 3 lit. b) related to article 83 para. 2 lit. c) with the application of art. 54 paragraph 2 of the RD, is justified due to same act the club was sanctioned twice in less than a month with 10,000 lei (two sports penalties of 5,000 lei) although the regulation provides for sanctioning with a penalty from 5,000 - 70,000 of lei), respectively with 2 sports penalties applied in the minimum amount.*
- iii) The ban on the organization of games in one's own stadium for 4 (four) games is fully justified because, as we stated before, this was the 3rd offense of this kind, a fact for which the commission considered that it is imposed at one level moderately, although the regulatory limits of the sanction are between 1 and 10 games. I mentioned that at the same time the commission could have applied a much more drastic measure, namely the reduction of 2 to 6 points or even the exclusion of the club from competitions, but it did not do this.*
- iv) A sports penalty of 50,000 lei is the minimum sanction applied for the acts provided for in paragraph 82. 2 and 3 lit. f) referred to article 83 para. 2 lit. g) from the DR, an aspect that cannot be disputed.*

115. In view of the above positions, the Sole Arbitrator first notes the seriousness of the Incidents that occurred at the Match and which were committed by the Appellant's supporters, as follows:

- Introduction into the stadium of explosive, incendiary and fumigant objects, and throwing of pyrotechnic objects into the field of play which had the consequence of delaying the start of the Match, interrupting it and endangered the integrity of the players and spectators;
- Chants with obscene, insulting, vulgar or xenophobic content;
- Entering into conflict with the law enforcement and destructing goods in the stadium, goods that were thrown at the law enforcement.

116. Secondly, the Sole Arbitrator notes that the Appellant was already sanctioned for the behaviour of its supporters in similar incidents in the past as follows:

- A fine of RON 10'000 for throwing 2 pyrotechnic materials into the field of play and a firecracker close to the billboard between 2 players and a fine of RON 5'000 for obscene chanting addressed to the management of CSA Steaua, the Romanian media and of a racist nature against the player Ovidiu Herea during the match against Metaloglobus Bucharest on 9 August 2022; and
- A fine of RON 15,000 for throwing smoke bombs, firecrackers and other pyrotechnic materials and a fine of RON 5'000 for obscene chanting in the match against the club CSM Slatina on 15 August 2022;

117. As such, the Sole Arbitrator first refers to Article 54 of the FRF Disciplinary Regulations referred to by the FRF Commissions in support of their decision regarding the obscene chanting as follows:

“Article 54 Racism. Xenophobia. Discrimination. Denigration

[...]

2. *If the spectators display inscriptions containing discriminatory/derogatory/racist/xenophobic slogans or are guilty of other such behaviour at a match, the jurisdictional body will apply a sanction from 5,000 to 70,000 lei to the club that the respective spectators supported, for each new violation of the same type, the penalty will be increased by 1/2 compared to the previously applied one. Upon reaching the maximum threshold, the club will be sanctioned with the measure of scheduling a match without spectators cumulated with a sports penalty of 70,000 lei. If the spectators cannot be identified as supporters of one of the clubs, the host club will be sanctioned accordingly.*

[...]

4. *Depending on the circumstances, the disciplinary body may also impose other sanctions to the defaulting club, such as: ban on organizing matches on own stadium for 2 to 10 matches, forfeit, deduction of 2-6 points or exclusion from the competition.”*

118. The Sole Arbitrator then refers to the Articles applied for the spectators’ misconduct, as follows:

“Article 82 Responsibility for irregular behaviour of spectators

[...]

2. *The away club shall be responsible for the irregular behaviour of its own groups of supporters and, depending on the seriousness of the facts, may be sanctioned in a similar way as the host club and/or with a ban on its own gallery or its own group of supporters from attending matches played away or on neutral ground, for 1 to 10 matches. Supporters occupying the visitors stand in the stadium are supporters of the away team, unless proven otherwise. [...]*

Article 83 Non-compliance with the duty to organise matches

[...]

2. *Non-fulfilment or improper fulfilment of the obligations regarding the assurance of order and safety measures in the stadium which resulted in:*
[...]

- b. *bringing in and igniting on the stadium the objects and materials laid down in Article 82, para. 3(a), will be sanctioned with a fine ranging from RON 5,000 to RON 30,000. If a new offence of the same type is committed, the club shall be punished with a fine increased by half compared to the previous fine, until the threshold of RON 60,000 is reached. Subsequently, for each new offence of this type, the club will be progressively sanctioned with the scheduling of matches without spectators, together with a maximum fine of RON 60,000.*
- c. *displaying racist, xenophobic and offensive signs in any form, chanting offensive and obscene words/expressions or uttering sounds for offensive purposes, will be sanctioned in accordance with the provisions of article 54 herein;*
[...]
- g. *preventing by any means the activity or action of law enforcement and getting into conflict with them, will be sanctioned with a fine of RON 50,000 at least, and in case of recurrence, with one of the measures provided by Article 82 paragraphs 1 and 2, for 2 to 4 matches; [...]"*

119. In respect of the ban on organising matches, the Sole Arbitrator finds that there is a certain logic to impose a ban on organising matches at its own stadium. The Appellant has been sanctioned with fines already in two (2) previous matches which did not prevent said supporters from continuing the obscene chanting. The Sole Arbitrator also notes that the fines were not effective in that they did not help to bring about a change of the supporters' behaviour. Since the incidents on the occasion of the Match are a sad culmination of a string of wrongdoings, the Sole Arbitrator accepts that the FRF Disciplinary Commission resorted to other types of sanctions in order to provoke behavioural change within Appellant's supporters. Consequently, the Sole Arbitrator finds that it is proportionate to sanction the Appellant with a ban on organising football matches in its own stadium for four (4) matches which is within the range of minimum and maximum matches bans, 2 to 10 matches, as set out in article 54 paragraph 4 of the FRF Disciplinary Regulations. In addition, the Sole Arbitrator notes that a similar ban in nature was imposed by the FRF Commissions on Dinamo, i.e. two (2)-match ban, in view of the obscene chanting of Dinamo's supporters.
120. In respect of the argument submitted by the Appellant that the fines imposed for the Incidents are of an unprecedented harshness, the Sole Arbitrator notes that the different fines imposed for each breach of the FRF Disciplinary Regulations are, in view of the gravity of each breach and in view of the previous similar incidents involving the Appellant's supporters, within the limits set out in Articles 82, 83 and 54 of the FRF Disciplinary Regulations.
121. This is all truer considering that the Incidents were somewhat graver than in the past, leading to an interruption of the Match and menacing the well-being and security of match officials and players.
122. Finally, the Appellant submits that the FRF Commissions failed to apply Article 45 paragraph 1 of the FRF Disciplinary Regulations regarding the method of applying concurrent sanctions. Indeed, the Appellant submits that the most serious offence is the

ban on organising matches in its own stadium and thus, the FRF Commissions wrongfully applied Article 45 paragraph 3 by imposing cumulative sanctions instead of the most serious sanction, i.e. the ban on organising matches.

123. On the other hand, the First Respondent submits that the FRF Commissions relied on Article 45 paragraph 3 of the FRF Disciplinary Regulations when deciding on cumulating the sanctions since the FRF Commissions could not determine which sanction was the most serious one in view of the different nature of the sanctions applied.
124. The Sole Arbitrator refers to the wording of Article 45 of the FRF Disciplinary Regulations as follows:

“Article 45 Concurrent offences

- 1. If someone incurs several fines as the result of one or several deeds, the body imposes the fine envisaged for the most serious offence and may increase it by half of the maximum envisaged for this offence, without exceeding the general higher limit provided for in the disciplinary regulation for the concerned penalty.*
- 2. In such cases, the body making the decision can impose a fine that exceeds the general higher limit of RON 1,000,000, specified herein.*
- 3. If, due to the different nature of the applicable disciplinary measures, it is not possible to determine which is the more serious violation, the sanctions provided for each of the offences will be carried over by using the arithmetic cumulation method.”*

125. Considering the above, the Sole Arbitrator notes that the FRF Commissions imposed on the Appellant pecuniary sanctions and a ban on organising matches in its own stadium. In other terms, these sanctions are different in nature. In addition, the Sole Arbitrator notes that the wording of Article 45 paragraph 1 of the FRF Disciplinary Regulations refers to the concurrent imposition of fines for concurrent offences. There is no mention of sanctions of another nature, such as in the case at hand: it is not possible to determine which sanction is the more serious one. Therefore, in view of the fact that the FRF Commissions imposed sanctions of different nature, the Sole Arbitrator is comfortably satisfied that Article 45 paragraph 3 is applicable and that the FRF rightfully cumulated the sanctions to be imposed on the Appellant.
126. In light of the above, the Appealed Decision shall be confirmed in its entirety. All other and further motions or prayers for relief are dismissed.

IX. COSTS

(...).

ON THESE GROUNDS

The Court of Arbitration for Sport rules that:

1. The appeal filed on 28 September 2020 by CS AL Armatei Steaua against the decision rendered by the FRF Recourse Committee on 6 October 2022 is dismissed.
2. The decision rendered by the FRF Recourse Committee on 6 October 2022 is confirmed.
3. (...).
4. (...).
5. All other and further motions or prayers for relief are dismissed.

Seat of arbitration: Lausanne, Switzerland

Date: 7 August 2023

THE COURT OF ARBITRATION FOR SPORT

Mr Benoît Pasquier
Sole Arbitrator