



Tribunal Arbitral du Sport
Court of Arbitration for Sport

CAS 2019/A/6083 AC Milan S.p.A v. UEFA
CAS 2019/A/6261 AC Milan S.p.A v. UEFA

CONSENT AWARD

delivered by the

COURT OF ARBITRATION FOR SPORT

sitting in the following composition:

Sole Arbitrator: The Hon. Michael J Beloff M.A. Q.C., Attorney-at-Law in London, UK

in the arbitration between

AC Milan S.p.A., Milan, Italy

Represented by Prof. Antonio Rigozzi, Levy Kaufmann-Kohler, Geneva, Switzerland, and Mr. Ian Lynam, Northridge Law, London, United Kingdom

-Appellant-

and

Union des Associations Européennes de Football (UEFA), Nyon, Switzerland

Represented by Dr Jan Kleiner, Bär & Karrer, Zurich, Switzerland

-Respondent-

I. The Parties

1. AC Milan S.p.A (the “Appellant” or “AC Milan”) is an Italian football club competing in Serie A, the premier football league in Italy whose headquarters are in Milan, Italy.
2. Union des Associations Européennes de Football (The “Respondent” or “UEFA”) is the governing body for European football, whose headquarters are at Nyon in Switzerland.

II. Facts

3. In June 2018, in a prequel to the first decision, the Adjudicatory Chamber of the UEFA Club Financial Control Body (the “CFCB AC”) found that AC Milan had not complied with its Financial Fair Play break-even obligations during the 2015/2016/2017 monitoring period and imposed a sanction that would exclude it from participating in the next UEFA club competition for which it would qualify for in the sporting seasons 2018/19 and 2019/20 (“the June decision”).
4. In July 2018, a Panel of the Court of Arbitration of Sport (“CAS”), when assessing the June decision determined that *“the scale of AC Milan’s breach of the break-even requirement is uncontested and amounts to EUR 121 million in excess of the maximum acceptable deviation.”* (CAS 2018/A/5808, AC Milan vs UEFA). However, the Panel considered that due to the specific circumstances of that case and some new factors adduced by AC Milan, the case should be remitted to UEFA to consider the imposition of a more proportionate sanction.
5. Since then, the competent UEFA bodies have in accordance with that CAS Award, reassessed the status of AC Milan, both in connection with the breach of the Financial Fair Play break-even obligations during the 2015/2016/2017, and in connection with to the breach during the 2016/2017/2018 monitoring periods (i.e. by additionally evaluating the financial year 2018).
6. On 20 November 2018, the CFCB CA decided, *inter alia*, to exclude AC Milan from participating in the next UEFA Club competition for which it would otherwise qualify in the two seasons 2022/23 and 2023/24 unless it was break even compliant at 30 June 2021. (“the first decision”)
7. On 10 April 2019, while AC Milan’s appeal to CAS against the first decision was still pending (see below), the CFCB Investigatory Chamber (IC) decided to refer the case of AC Milan to the CFCBAC and thus not to enter into a settlement agreement with AC Milan (“the second decision”).

III. Proceedings before CAS

8. On 24 December 2018, AC Milan filed its statement of appeal in CAS 2019/A/6083 against the first decision pursuant to Articles R47 and R48 of the Code of Sports-related Arbitration (the “CAS Code”).

9. On 23 April 2019, AC Milan filed its statement of appeal against the second decision pursuant to Articles R47 and R48 of the CAS Code.
10. On 5 May 2019, AC Milan filed its appeal brief in *CAS 2019/A/6083* against the first decision pursuant to Article R51 of the CAS Code.
11. On 3 June 2019, AC Milan filed its statement of appeal in *CAS 2019/A/6261* against the second decision pursuant to Article R51 of the CAS Code.
12. On 24 June 2019, notwithstanding suspension of the deadlines to do so UEFA nonetheless voluntarily filed its Answer in both proceedings.
13. On 24 and 25 June 2019, the parties agreed (i) to the appointment of the Sole Arbitrator in both proceedings, (ii) that no hearing was needed in either proceeding, (iii) that both proceedings could be terminated by a single Consent Award the terms of which have been themselves agreed (iv) that such award be issued no later than 28 June 2019 in order that there be certainty about the identity of the participating clubs in the European Club competitions 2019/2020.
14. Considering that the parties have agreed to a single Consent Award settling both procedures CAS 2019/A/6083 and CAS 2019/A/6261, both cases are *de facto* consolidated.

IV. Jurisdiction

15. The jurisdiction of the CAS arises from Article 62 of the UEFA Statutes and is not disputed by the Parties. Therefore, the Sole Arbitrator has jurisdiction to render this Consent Award.

V. Admissibility

16. In accordance with Article 62 of the UEFA Statutes and Article R49 of the CAS Code, AC Milan's appeals were timeously filed. Their admissibility is not disputed by the Respondent.

VI. The Parties' Agreement

17. On 24 June 2019, the Parties agreed that a Consent Award should be issued by the CAS, ratifying and confirming the prayers for relief submitted by UEFA in its Answer, which are as follows:
 - i. *The Decision rendered by the Adjudicatory Chamber of the UEFA Club Financial Control Body in the case AC-05/2018 on 20 November 2018 (i.e. decision under appeal in the CAS 2018/A/6083 matter) is set aside.*
 - ii. *The Decision rendered by the Investigatory Chamber of the UEFA Club Financial Control Body on 10 April 2019 (i.e. decision under appeal in the CAS 2018/A/6261 matter) is set aside.*

iii. *The decisions referred to under item i) and ii) above are replaced by the following order:*

"AC Milan is excluded from participating in the UEFA Club Competitions of the sporting season 2019/2020 as a consequence of the breach of its FFP break-even obligations during the 2015/2016/2017 and the 2016/2017/2018 monitoring periods".

iv. *The Adjudicatory Chamber of the UEFA Club Financial Control Body is invited to issue a Procedural Order, acknowledging the outcome of the present arbitration(s) and terminating the AC-01/2019 proceedings relating to the 2016/2017/2018 monitoring period, which have become moot.*

v. *The costs of the proceedings CAS 2018/A/6083 and CAS 2019/A/6261 shall be borne by AC Milan.*

vi. *Each Party shall bear its own costs.*

vii. *The CAS Award shall be made public.*

VII. Ratification of the Parties' Agreement by the CAS

18. Article R56 of the Code determines the following:

"[...] Any settlement may be embodied in an arbitral award rendered by consent of the parties."

19. Under Swiss law, an arbitration tribunal sitting in Switzerland has authority to issue an award embodying the terms of the parties' settlement, if the consenting parties agree to such a termination of their dispute. The Panel's ratification of the Parties' agreement and its incorporation into this Consent Award serves the purpose of vesting the agreement with a *res judicata* effect and of enabling the enforcement of their said agreement.

20. It is the task of the Sole Arbitrator to verify the *bona fide* nature of the agreement to ensure that the will of the Parties has not been manipulated to commit fraud and to confirm that the terms of the agreement are not contrary to public policy principles or to mandatory rules of the law applicable to the dispute.

21. After reviewing the terms of the Settlement Agreement and the evidence on file, the Sole Arbitrator is satisfied that the Parties' agreement constitutes a *bona fide* settlement of the dispute.

22. The Sole Arbitrator directs the Parties to fully comply with the terms of the Settlement Agreement.

23. The above conclusion, makes it unnecessary for the Sole Arbitrator to consider any other requests submitted by any of the Parties.

24. Accordingly, all other and further motions or prayers for relief in both sets of proceedings are dismissed.

VIII. Costs

25. Article R64.4 of the Code provides as follows:

“At the end of the proceedings, the CAS Court Office shall determine the final amount of the costs of the arbitration, which shall include the CAS Court Office fee, the administrative costs of the CAS calculated in accordance with the CAS scale, the costs and fees of the arbitrators, the fees of the ad hoc clerk, if any, calculated in accordance with the CAS fee scale, a contribution towards the expenses of the CAS, and the costs of witnesses, experts and interpreters.

The final account of the arbitration costs may either be included in the award or communicated separately to the parties.”

26. Article R64.5 of the CAS Code provides as follows:

“In the arbitral award, the Panel shall determine which party shall bear the arbitration costs or in which proportion the parties shall share them. As a general rule, the Panel has discretion to grant the prevailing party a contribution towards its legal fees and other expenses incurred in connection with the proceedings and, in particular, the costs of witnesses and interpreters. When granting such contribution, the Panel shall take into account the complexity and outcome of the proceedings, as well as the conduct and the financial re-sources of the parties.”

27. Having taking into account that AC Milan agreed to bear the arbitration costs of the proceedings CAS 2018/A/6083 and CAS 2019/A/6261, the Sole Arbitrator rules that AC Milan shall bear the arbitration costs of such proceedings. Furthermore, in accordance with the Parties' agreement, each party shall bear its own legal costs and other expenses incurred in connection with these proceedings.

IX. Publicity of the Consent Award

28. The Parties agreed that this Consent Award shall be public.

CONSENT AWARD

The Court of Arbitration for Sport rules that:

1. The Agreement submitted to the CAS during the arbitral procedures *CAS 2019/A/6083 AC Milan S.p.A. v. UEFA* and *CAS 2019/A/6261 AC Milan S.p.A. v. UEFA* on 24 June 2019 is hereby ratified by the Sole Arbitrator with the consent of the Parties, and its terms are incorporated into this Arbitral Award.
2. The arbitral procedures *CAS 2019/A/6083 AC Milan S.p.A. v. UEFA* and *CAS 2019/A/6261 AC Milan S.p.A. v. UEFA* are terminated and deleted from the CAS roll.
3. The arbitration costs of the arbitral procedures *CAS 2019/A/6083 AC Milan S.p.A. v. UEFA* and *CAS 2019/A/6261 AC Milan S.p.A. v. UEFA* shall be borne entirely by AC Milan S.p.A.
4. Each Party shall bear its own costs and expenses incurred in connection with the arbitral procedures *CAS 2019/A/6083 AC Milan S.p.A. v. UEFA* and *CAS 2019/A/6261 AC Milan S.p.A. v. UEFA*.
5. Each Party is hereby ordered to perform the obligations and duties as per the Agreement reached on 24 June 2019.
6. This Consent Award shall be public.
7. All other motions or prayers for relief are dismissed.

Seat of arbitration: Lausanne, Switzerland
Date: 28 June 2019

THE COURT OF ARBITRATION FOR SPORT



Michael J. Beloff Q.C.
Sole Arbitrator