



Tribunal Arbitral du Sport  
Court of Arbitration for Sport

**URGENT**

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Lausanne, 17 July 2013/WS/cm

Re: **CAS 2013/A/3256 Fenerbahçe Spor Kulübü v. UEFA, Besiktas Jimnastik Kulübü & Bursaspor Kulübü Derneği**

Dear Sirs,

I acknowledge receipt of UEFA's letter of today, a copy of which is enclosed for the other parties' attention.

I note that UEFA objects to Besiktas Jimnastik Kulübü and Bursaspor Kulübü Derneği being Respondents in the present matter. The Appellant is granted a deadline until **18 July 2013 midday** to

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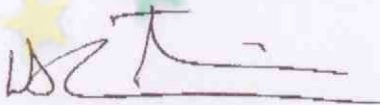
state whether it agrees to exclude Besiktas Jimnastik Kulübü and Bursaspor Kulübü Dernegi as Respondents from the present procedure.

Furthermore, I note that UEFA does not object to the grant of a stay of execution of the decision appealed against provided that one of the suggested expedited procedural calendars is agreed upon by the CAS. In this respect and in accordance with Article R52 of the Code of Sports-related Arbitration, the Appellant, should it agree to exclude Besiktas Jimnastik Kulübü and Bursaspor Kulübü Dernegi as Respondents from the present procedure, is granted a deadline until 18 July 2013 midday to state whether it agrees with one of the expedited procedural calendar suggested by UEFA.

Further instructions with respect to the procedure shall follow once received the Appellant's position on the above points.

Please be advised that I remain at the parties' disposal for any further information.

Yours faithfully,



William STERNHEIMER  
Managing Counsel & Head of Arbitration

Enc.



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**Mr William STERNHEIMER**

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Your reference  
**CAS 2013/A/3256**

Your correspondence of

Our reference  
LDIS/ega

Date  
17 July 2013

Dear Mr Sternheimer,

UEFA acknowledges receipt of a copy of the Statement of Appeal submitted by the Appellant together with a request for a Stay of the decision of the UEFA Appeals Body dated 10 July 2013.

UEFA also notes that, according to your letter, the President of the CAS Appeals Arbitration Division, or his Deputy, will issue an Order on the Application for a Stay on 18 July 2013.

UEFA would comment as follows:

Based on the evidence available, the sanctions issued by the independent disciplinary bodies of UEFA (Control and Disciplinary Body at first instance and Appeals Body at second instance) are just, fair and appropriate and the appealed decision should be fully confirmed in due course.

According to art. 2.04 f) of the UEFA Champions League Regulations 2013/2014, procedures such as the present one must be dealt with by CAS following an **accelerated procedure** (please find enclosed a copy of the relevant Regulations). We note that the Appellant also accepts this, by reference to the Admission Criteria Form signed by the Club (see Statement of Appeal at paragraph 11).

The final draw of the Group stage of the UEFA Champions League 2013/2014 shall take place on **29 August 2013**.

Therefore, whilst it has no obligation to do so and without acknowledging in any way an alleged entitlement of the Appellant to enjoy a stay, UEFA does not object to the grant of a stay of execution of the decision issued by the UEFA Appeals Body, provided and assuming that: (1) CAS will issue one of the calendar options for the present procedure as set out below, and (2) CAS will render a final decision on the merits **at the very latest by 25 August 2013**.

Whilst it would be desirable for the procedure to be completed by **30 July 2013** (this being the date when the Appellant would be due to play its first match in the competition) UEFA would also be prepared to accept to receive a final decision on the merits by **25 August 2013**. This would obviously allow CAS additional time to consider the case.

Another possible option for UEFA would be to receive a decision on the merits by **8 August 2013**. This is the day before the date of the draw for the play-off stage of the competition. By this time, the Appellant would have completed Q3 of the competition and might be in the draw for the play-off stage.

Consequently and in summary, so far as UEFA is concerned, there are **three possible options** for a decision on the merits of the case (i.e. **30 July 2013**, **8 August 2013**, or **25 August 2013**). It goes without saying that, whatever option is deemed most appropriate by CAS, the case must be decided on the merits applying **all** the relevant provisions of the CAS Code (including, for the avoidance of doubt, R57).

If the CAS selects **30 July 2013** as the most appropriate date for a decision on the merits, then we would suggest the following calendar:

Statement of Appeal: filed 16 July 2013  
Appeal Brief: to be filed by 22 July 2013  
Reply of Respondent: to be filed by 26 July 2013  
Hearing on 29 July 2013  
Decision on the merits: preferably 29 July 2013 (i.e. before the date of the match)

If the CAS selects **8 August 2013** as the most appropriate date for a decision on the merits, then we would suggest the following calendar:

Statement of Appeal: filed 16 July 2013  
Appeal Brief: to be filed by 25 July 2013  
Reply of Respondent: to be filed by 2 August 2013  
Hearing on 7 August 2013  
Decision on the merits: 8 August 2013

If the CAS selects **25 August 2013** as the most appropriate date for a decision on the merits, then we would suggest the following calendar:

Statement of Appeal: filed 16 July 2013  
Appeal Brief: to be filed by 26 July 2013  
Reply of Respondent: to be filed by 9 August 2013  
Hearing between 21 and 23 August 2013  
Decision on the merits: 25 August 2013.

UEFA further observes that, according to your letter, two Turkish clubs (Besiktas and Bursaspor) are named as "Respondents" in this case. In this respect, UEFA objects to these clubs being named as Respondents, together with UEFA. This is a sports disciplinary case in which the Appellant has contested a decision of the disciplinary bodies of UEFA. As such, it is UEFA (and UEFA alone) who is the Respondent here. There is, in fact, no dispute between the Appellant and the two other Turkish clubs which is susceptible to CAS arbitration. There is, on the other hand, a clear basis for CAS jurisdiction in relation to the contested decision of the UEFA Appeals Body.

Furthermore, as CAS is aware, the UEFA Appeals Body has, on 11 July 2013, also taken a decision to exclude Besiktas from the UEFA Europa League this year. As such, it is entirely possible that this club may also file an appeal against that decision, and may also apply for a stay of execution. This makes it even more inappropriate for this club to be joined as a "Respondent" in the present appeal.

Should these two clubs wish to join the proceedings, they may do so as intervening parties, pursuant to Article 41.3 of the CAS Code. This provision allows third parties ample opportunity to participate in arbitration proceedings and to present their position. For the rest, the respective consequences of the present appeal for the two other Turkish clubs will be decided by the applicable provisions of the Regulations of the competition.

For the avoidance of doubt, this case may also be distinguished from CAS 2011/A/2551, where CAS refused to grant an application for provisional measures in favour of the Appellant because it had failed to bring another club (Trabzonspor) into the proceedings. In that case, Trabzonspor would have been excluded from the group stage of the UEFA Champions League if the application for provisional measures had been granted. In the present case, however, neither Besiktas nor Bursaspor are excluded from anything, even if they consider that they might have an interest in this case (like any other club potentially participating in the UEFA competition). Consequently, this cannot possibly justify their inclusion as "Respondents" in the present case.

For the above reasons, UEFA considers that there is no need to nominate a "common arbitrator" in the present case; that R41.1 of the CAS Code should not apply; and that UEFA must, in accordance with both established practice and the rights of the defence, be entitled to nominate an arbitrator by itself, pursuant to Article R53 of the CAS Code.

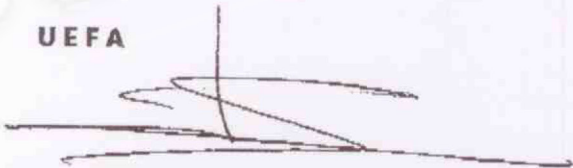
Please note that the above position of UEFA is entirely without prejudice, and solely for the aim of preserving the efficient organization of the UEFA Champions League competition.

Finally, on behalf of both UEFA and all clubs participating in UEFA's competition, we take the liberty to reiterate the fundamental importance of a final decision being rendered on the merits no later than **25 August 2013** and that **CAS issues, as a matter of urgency, one of the calendars as suggested above for an accelerated procedure to be followed in this case.**

Finally, UEFA nominates Mr. Efraim Barak as Arbitrator for the case.

Yours sincerely,

UEFA



**Emilio Garcia**  
**Head of Disciplinary and Integrity**