



Arbitration CAS 2001/O/341 Glasgow Rangers FC plc / Union des Associations Européennes de Football (UEFA), order of 11 September 2001

CAS jurisdiction

Football

Refusal of a club to play a match in a troubled area

In view of the request for arbitration filed by the Glasgow Rangers Football Club plc on 11 September 2001, against the decision pronounced by the Union des Associations Européennes de Football (UEFA) on 11 September 2001;

In view of the application for provisional measures also dated 11 September 2001;

In view of the answer to this application for provisional measures filed by the UEFA on 11 September 2001;

In view of art. R37, R48 and R52 of the Code of Sports-related Arbitration;

In view of the urgency of the case;

LAW

The Deputy President of the CAS Ordinary Arbitration Division, ruling in camera, hereby considers

Whereas it is for the Deputy President of the CAS Ordinary Arbitration Division to decide on the application for provisional measures, considering that the Panel has not been formed yet (art. R37 of the Code of Sports-related Arbitration);

The jurisdiction of the Court of Arbitration for Sport (CAS) is based on Art. 59 of the Statutes of UEFA which reads as follows:

Jurisdiction in civil law disputes

1. *CAS shall have exclusive jurisdiction to deal with all civil law disputes (of a pecuniary nature) relating to UEFA matters which arise between UEFA and Member associations, clubs, players or officials, and between themselves.*

...

3. *Proceeding before the CAS shall take place in accordance with the Code of Sports-related Arbitration of CAS.*

The Claimant has stated that the request has clear pecuniary implications (e.g. avoidance of damages, insurance and travel costs), disqualification from the UEFA Cup which would also lead to economic loss.

UEFA hasn't replied on this matter. However, in the Xavier-Everton case, UEFA had clearly stated that the jurisdiction of CAS could be founded on a purely sportive decision likely to affect another party's financial interests, even if they stated that this competence had to be appreciated case by case. "... *En l'espèce, on peut très sérieusement se demander si le litige ne porte pas sur une décision purement sportive. Compte tenu cependant de l'appel formé par Everton FC Company Ltd, qui invoque une atteinte à ses droits patrimoniaux, on peut admettre qu'il y a là un litige arbitral par le TAS...*".

It is obvious as stated by the Claimant that its non appearance at the match and its disqualification will result in economic loss and punitive damages. Therefore, the condition required by art. 59 al. 1 is met and the competence of CAS must be clearly declared.

Whereas, as a general rule, when deciding whether to stay the execution of the decision appealed from, it is necessary to consider whether the measure is useful to protect the Appellant from irreparable harm, the likelihood of success on the merits of the appeal and whether the interests of the appellant outweigh those of the opposite party;

Whereas the Appellant must give the impression that the facts have a certain probability, and must also make summarily plausible that the rights cited exist and that the material conditions for a legal action are fulfilled;

The reticence of the Claimant to play the match in Daghestan is mainly based on security concerns. The Claimant has produced number of documents originating from the UK Foreign and Common Wealth Office advising them strongly not to fly to Daghestan for security reasons. The same advices issued by the Dutch Ministry of Foreign Affairs have been also produced as well as some press releases mentioning a bomb attack against a rail line in the city of Makhachkala where the match is to be played.

Finally, the Claimant has focussed on the impossibility for their plane to operate according to the order notified by the Civil Aviation Authority of Russia and on its concerns about the high costs for the insurance coverage of this high risk.

UEFA has not denied that some bomb incidents were reported in recent weeks in Makhachkala. However, they have produced documents from the Russian and Daghestan authorities stating that the Daghestan authorities and the airport of Makhachkala had received the permission for the Claimant charter to land and that all the relevant measures – 2'500 policemen – will be taken to ensure the safety of the visitors.

The Deputy President of the Ordinary Arbitration Division is aware of the security concerns underlined by the Claimant. However, he cannot minimize the insurance of safety given by both UEFA and the Russian and Daghestan authorities and the need for UEFA to ensure the proper running of the competitions which it organises.

The Deputy President of the CAS Ordinary Arbitration Division, ruling in camera:

1. Dismisses the application for provisional and conservatory measures filed by the Glasgow Rangers Football Club plc on 11 September 2001.
2. States that the present order is pronounced without costs.