



Arbitration CAS 2011/A/2668 Union of Football Players and Coaches of Russia v. Russian Football Association (FUR), award of 28 August 2012

Panel: Mr Manfred Nan (The Netherlands), President; Mr Mika Palmgren (Finland); Prof. Luigi Fumagalli (Italy)

Football

Investigation concerning the possible violation of the FIFA Ethics Regulations

Time limit for appeal against a decision issued by the Ethics Committee of the RFU

Article 35 of the FUR Ethics Regulations provides that any decision of the FUR Ethics Committee may be appealed by a party interested in the case at the FUR's Committee of Appeal within three business days after issue thereof. The time limit "*within three business days after issue thereof*" means that an appeal can be filed within three business days after handing over the decision to the requesting party.

I. THE PARTIES

1. The Union of Football Players and Coaches of Russia (hereinafter referred to as the "Union") is an entity, located in Moscow, Russia, with the aim of representing and protecting the rights and interests of professional football players and coaches in Russia.
2. The Russian Football Association (hereinafter referred to as the "FUR" or "RFA") is the governing body for the sport of football in Russia, which in turn is a member of FIFA.

II. BACKGROUND FACTS

3. The circumstances set out below are a summary of the main relevant facts, as established by the Panel on the basis of the parties' written submissions, the exhibits filed, as well as the oral pleadings and comments made during the hearing. Additional facts may be set out, where relevant, in the legal consideration of the present award.
4. The present dispute finds its origin in a publication dated 18 April 2011 of the Russian newspaper "Novaya Gazeta" alleging that Mr Sergei Pryadkin in his capacity as a member of FUR Committees, vice-president of the FUR and president of the Russian Football Premier League had a conflict of interest and was involved in – illegal – activities with his brother Mr Andrei Pryadkin (former players' agent), Mr Konstantin Sarsanuya (former sport director of FC Zenit Saint Petersburg and FC Dinamo Moscow), Mr Thomas Zorn and Girus GmbH.

5. Based on this article, the Russian Novosibirsk regional branch of the Russian Union of Supporters (hereinafter referred to as the “Novosibirsk Entity”) filed a claim with the FUR Ethics Committee on 27 May 2011, requesting the FUR Ethics Committee to investigate the allegations made by the newspaper “Novaya Gazeta”.
6. On 4 July 2011, the FUR Ethics Committee decided to close the investigation on the claim of the Novosibirsk Entity regarding Sergei Pryadkin’s possible violations of the requirements provided by the FUR Charter and/or FUR and FIFA Ethics Regulations.
7. The decision rendered by the FUR Ethics Committee was communicated to the Union on 20 October 2011.
8. On 24 October 2011, the Union filed an appeal at the FUR Appeal Committee against the decision of the FUR Ethics Committee dated 4 July 2011.
9. On 15 November 2011, the FUR Appeal Committee decided *“on the basis of points 4 and 6 of part 1 art. 80 of the RFA Disciplinary Regulations, as well as the appropriate norms of the RFA Ethics Regulations, to return the appeal claim, filed by the Union of football players and Coaches of Russia against the RFA Ethics Committee decision No 14, dated 4th July 2011, to the plaintiff”*.
10. The relevant paragraphs of the decision of the FUR Appeal Committee read as follows:

*“**Firstly**– On the 27th May 2011 the RFA Ethics Committee received a claim from the Novosibirsk Regional office of the Russian Union of Supporters (hereinafter NRO RUS) with a request to carry out an investigation regarding the activities of Sergei Pryadkin, Alexandr Pryadkin, Tomas Zorn, Konstantin Sarsania and GIRRus GmbH.*

On 5th March 2011, in accordance with par. 2 art. 21 of the RFA Ethics Regulations, The RFA Ethics Committee decided to accept the “Novosibirsk regional office of the Russian Union of Supporter”’s claim for consideration.

Having examined the provided documents and heard the interested parties, on 4th July 2011, the RFA Ethics committee decided to stop investigation the claim filed by the “Novosibirsk regional office of the Russian Union of Supporter” regarding Sergei Pryadkin’s possible violations of the RFA Charter, RFA Ethics Regulations and FIFA Ethics Regulations.

“Novosibirsk regional office of the Russian Union of Supporters”’s interest in the filed claim were represented by Vladimir Leonchenko and Nikolay Grammatikov (who are also the heads of the Union) by the power of attorney. The said fact is reflected in the RFA Ethics Committee’s decision no. 14, dated 14th July 2011. The RFA Appeal Committee is also confident of the fact that all the procedural documents regarding the current case were immediately received by Vladimir Leonchenko and Nikolay Grammatikov as “Novosibirsk regional office of the Russian Union of Supporter”’s representatives.

Having disagreed with the said decision of the RFA Ethics Committee, on the 7th July 2011, the “Novosibirsk regional office of the Russian Union of Supporter” filed an appeal claim in the RFA Appeal Committee, signed by Nikolay Grammatikov, together with a copy of the RFA Ethics Committee decision no. 14, dated 4th July 2011.

On 18th July, having considered the “Novosibirsk regional office of the Russian Union of Supporter”’s appeal claim against the RFA Ethics Committee decision, dated 04.07.2011, the RFA Appeal Committee decided to return the appeal, dated 7th July 2011, to the appellant on the grounds of sub.par.1 and 4 of par. 1 of par. 80 of the RFA Disciplinary Regulations, as well as the relevant norms of the RFA Ethics Regulations. On 15th August 2011, the RFA Appeal Committee’s decision, dated 18th July 2011, was appealed by the “Novosibirsk regional office of the Russian Union of Supporter” in the Court of Arbitration for Sport (hereafter CAS) in Lausanne. At the time of making this decision, CAS has not sent the parties to the case its final decision on appeal claim filed by the “Novosibirsk regional office of the Russian Union of Supporter” against the decision of the RFA Appeal Committee, dated 18th July 2011. Thereby, at the time of making this decision, an appeal claim filed by the “Novosibirsk regional office of the Russian Union of Supporter” is being considered in CAS (in Lausanne), on the terms similar to the Union’s demands in the RFA Appeal Committee.

Secondly— in its appeal claim, the Union refers to art. 37-39 of the 2010 edition of RFA Ethics Regulations and art. 35-37 of the 2011 edition of the RFA Ethics Regulations, which indicates that the Union is a party with an interest to the case filed by the “Novosibirsk regional office of the Russian Union of Supporter” in the RFA Ethics Committee. Due to this, the Union has the right to file an appeal, against the decision No. 14, dated 14th July 2011, in the RFA Appeal Committee.

In accordance with par. 2 art. 35 of the RFA Regulations, 2011 edition, in force on 15th July, the RFA Appeal Committee considers the claim under the guidance of the RFA Charter, the current regulations, as well as the RFA Disciplinary Regulations, in part, the procedural norms of the RFA Appeal Committee, if such norms do not contradict with the current regulations. The procedural norms of appealing the decisions of the RFA jurisdictional bodies are set in chapter 6 of the RFA Disciplinary Regulations.

In accordance with par. 76 of the RFA Disciplinary Regulations, the decisions of the jurisdictional bodies can be appealed by a party who has a sanction imposed against it, as well as other parties who are directly affected by the decision of the jurisdictional bodies.

In accordance with par. 1 art. 35 of the 2011 edition of the RFA Ethics Regulations, any ruling of the RFA Ethics Committee may be appealed by a party with an interest in the RFA Appeal Committee within three working days from the moment of receiving the decision.

As is evident from the indicated norms and the documents provided to the RFA Appeal Committee, the Union is not a party to the “Novosibirsk regional office of the Russian Union of Supporter”’s case against Sergei Pryadkin, the appealed decision does not affect the Union’s interests, as well as, sporting sanctions, set by the RFA Disciplinary Regulations, have not been imposed on the Union. Due to this, the RFA Appeal Committee does not consider the claimant’s arguments, of a possible right to file an appeal claim in the RFA Appeal Committee by a physical or a legal entity who is not a party to the case, as viable. Furthermore, the RFA Appeal Committee considered that the claimant’s arguments, that a party who is not a party to the case has the right to file an appeal claim in the RFA Appeal Committee, are an attempt distort the acting norms of the RFA Ethics Regulations and to arbitrarily and unreasonably interpret them for to its advantage. The RFA Appeal Committee also believes that even if it was assumed that the Union has the right to file an appeal claim in the RFA Appeal Committee, then in accordance with the RFA Regulatory documents, the Union missed the deadline to appeal the RFA Ethics Committee decision No. 14, dated 4th July 2011, and the Union’s arguments that the RFA Ethics Committee’s decision was received on 20th October 2011 are unfounded as the RFA Appeal Committee established that the Union’s secretary general, Nikolay Grammatikov, who, by the power of attorney, is representing the interests of the “Novosibirsk regional office of the Russian Union of Supporter” received the RFA Ethics Committee decision No. 14, dated 4th July 2011, and attached it to the appeal claim, which he himself signed, that was files in the RFA Appeal Committee on the 7th July 2011.

Thirdly – in accordance with par. 2 of the Federal Law “About Unions, their rights and guarantees” No. 10 – F3 (hereafter the Law) in force from 12th January 1996, a Union is a voluntary public association of individuals who are bound by common industrial and professional interests due to the nature of their activities, created for the purposes of representation and protection of their social and labor rights and interests.

In accordance with par. 1 art. 11 of the abovementioned law, the unions, their associations, primary trade union organizations and their bodies represent and protect the rights and interests of the union’s members in labor and labor related disputes. In accordance with par. 2 of the same article, unions protect the rights of their members to freely manage their abilities to work, to choose the type of activity and profession, as well as the right to remuneration for their labor, without any discrimination and not below the minimum wage set by the federal government.

Art. 12 of the law provides that the unions are entitled to participate in the settlement of collective labor disputes, have the right to organize and carry out, in accordance with the federal law, strikes, meetings, rallies, marches, demonstrations, pickets and other collective actions, using them as means of protection of social and labor rights and interests of workers.

Thereby, the Russian legislation considers the Union’s main activity as protection of rights and interests of its members, employees of professional football clubs, before the employers, professional football clubs.

In connection to this, the RFA Appeal Committee believes that in accordance with the RFA Charter and the RFA regulatory documents, the Union can not appeal to the RFA jurisdictional bodies with the request to prohibit Sergie Pryadkin from being involved in any football related activity as Sergei Pryadkin is not an employer of any professional footballers.

Moreover, according to the Charter, the “Union of football players and Coaches” is an independent public organization, voluntarily uniting professional footballers and coaches with the aim of representing and protecting their social and labor rights and interests.

The Union carries out its activities in accordance with the Constitution of the Russian Federation, the civil code of the Russian Federation, F3 “About associations”, F3 “About professional unions, their rights and guarantees” and other norms of the Russian Federation. In its Charter, the Union does not recognize the RFA, FIFA and UEFA charters and does not conduct its activities, among other things, under the guidance of the RFA regulatory documents.

In accordance with chapter 2 of the Union’s Charter, the Union’s activities are based on the study and protection of rights and, by all means, improving the collective labor conditions of its members.

In accordance with chapter 3 of the Union’s Charter, the Union’s aims and objectives include representation and protection of social and labor rights and professional interests of its members, involvement in the development of regulations and involvement in establishing a remuneration payment plan, bonus schemes, salary, etc., with the members’ employers.

Thereby, the Union’s appeal to the RFA Appeal Committee with the appeal claim against the RFA Ethics Committee’s decision No 14, dated 14th July 2011, was filed in violation of the statutory aims and objectives of the Union, as Sergei Pryadkin is not related to the field that is clearly defined by the Union’s Charter. Sergei Pryadkin did not and could not have violated the rights of professional footballers and coaches, as they are not his employees or employees of organizations managed by him.

Fourthly – the RFA Appeal Committee agrees with the RFA Ethics Committee’s reasoned opinion, indicated in the RFA Ethics Committee’s decision No. 14, dated 14th July 2011, that of all the parties who appealed to the RFA Ethics Committee in regards to the current case, only the “Novosibirsk regional office of the Russian Union of Supporters” is a subject of football, as it is a structural unit of the “All-Russian public movement of

the “Russian Union of Supporters”, who, in its charter, recognizes the RFA’s norms and supremacy as a national football governing organization.

Analysis of the Union’s actual activities and Charter showed that the said legal entity does not participate in any competitions under the auspices of the RFA and does not recognize, for example, in its charter, the norms of the RFA and the TFA as a football governing organization on the territory of the Russian Federation.

In accordance with art. 2 of the RFA Ethics Regulations “the regulations apply to the RFA, federations and all other subjects of football participating in competitions under the auspices of the RFA and (or) those who recognize the RFA as a football governing organization on the territory of the Russian Federation (hereafter – subjects of football)”.

Russian legislation and the Union’s charter considers the Union’s main activity as protection of rights and interests of its members, employees of professional football clubs, before the employers, professional football clubs. In accordance with chapter 3 of the Union’s Charter, the Union’s aims and objectives include representation and protection of social and labor rights and professional interests of its members, involvement in the development of regulations and involvement in establishing a remuneration payment plan, bonus schemes, salary, etc., with the Union’s members’ employers.

According, the Union can not be a party/claimant in the current case because the interests of the Union itself, or its members, can not be directly or indirectly affected by the ruling concerning the imposition of a ban on Sergei Pryadkin from taking part in any football related activities. Sergey Pryadkin is not a representative of any party, e.g. an employer who has social or labor relations with the Union’s members. Professional unions have a special capacity, as in accordance with art. 24 of the Civil code of the Russian Federation “About non-commercial organizations”, professional unions (as a kind of a non-commercial organization) may engage in activities which are not prohibited by the Russian Federation legislation and are in accordance with the aims and objectives of the activities that are provided in their charter. Control over the activities of any officials in any football organization not in connection with the protection of the Union’s members’ interests as well as subsequent pursuit and harassment of such individuals in the jurisdictional bodies of the RFA clearly can not be considered as the kind of activity that is in accordance with the Union’s statutory goals and objectives. The Union’s activities in this relation can be considered as destructive, carrying a populist character and inflicting damage to the business reputation of the RFA and national football as a whole”.

11. The decision of the FUR Appeal Committee was notified to the Union by fax dated 23 November 2011.

III. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT

12. On 14 December 2011, the Union filed a statement of appeal at the Court of Arbitration for Sport (hereinafter referred to as “CAS”) against the decision of the FUR Appeal Committee dated 15 November 2011 (hereinafter referred to as the “Appealed Decision”), pursuant to which the FUR Appeal Committee rejected its request to set aside the decision rendered by the FUR Ethics Committee on 4 July 2011 and to order the Ethics Committee to carry out an investigation into alleged conflicts of interest and corruption.
13. On 24 December 2011, the Union filed its appeal brief.

14. On 7 February 2012, a “*Notice of formation of the Panel*” was sent to the Parties. The following arbitrators were appointed, in application of Articles R33 and R52, R53 and R54 of the Code of Sports-related Arbitration (hereinafter referred to as the “CAS Code”):

President:	Mr Manfred Nan, attorney-at-law in Arnhem, Netherlands
Arbitrators:	Mr Mika Palmgren attorney-at-law in Turku, Finland
	Professor Luigi Fumagalli, attorney-at-law in Milan, Italy

15. On 24 February 2012, the FUR filed its answer.

16. In a letter dated 12 March 2012, the Panel issued some procedural directions.

17. On 2 April 2012, the Union filed additional submissions.

18. On 30 April 2012, the FUR filed additional submissions.

19. On 29 May 2012, the CAS Court Office informed the Parties that the Panel, pursuant to Article R57 of the CAS Code, had decided to hold a hearing on 14 June 2012, limited to the issues raised thus far in the parties’ submissions, and more specifically to the question of the admissibility of the appeal to the FUR Appeal Committee. On 30 May 2012, pursuant to Article R44.2.3 of the CAS Code, the Parties were invited to state whether they intended to call any witness and/or experts which they had specified in their written submissions.

20. In a letter dated 12 June 2012, the FUR objected to the witness statement.

21. On 14 June 2012, the hearing was held at the CAS in Lausanne, Switzerland. The Panel was assisted at the hearing by Ms. Louise Reilly, Counsel to the CAS. During the hearing, the Union was represented by Mr Nikolai V. Grammatikov. The Respondent was represented by Counsel Mr Philippe Fuchs.

22. Also in attendance for the FUR were:

- Mr Denis Rogachev, FUR Legal Advisor and Chairman of the FUR Appeal Committee for Agent’s Activity;
- Ms Daria Verstova, FUR International Department.

23. At the conclusion of the hearing, the Parties confirmed that they had no objections in respect to the manner in which the hearing had been conducted, in particular the principles of the right to be heard and to be treated equally in the arbitration proceedings.

IV. SUMMARY OF THE PARTIES' SUBMISSIONS

24. Below is a summary of the main relevant facts and allegations based on the parties' written submissions, pleadings and evidence adduced at the hearing. Additional facts and allegations may be set out, where relevant, in connection with the legal discussion that follows. Although the Panel has considered all the facts, allegations, legal arguments and evidence submitted by the parties in the present proceedings, it refers in its Award only to the submissions and evidence it considers necessary to explain its reasoning.

A. THE UNION

The Union's submissions, in essence, may be summarised as follows:

25. The Union submits that it was entitled to file an appeal with the FUR Appeal Committee against the decision of the FUR Ethics Committee, because the Union is a subject of football according to Article 1 of the FUR Ethics Regulations and an interested party as referred to in Article 35-37 (37-39 old version) of the FUR Ethics Regulations as well as in Article 76 of the FUR Disciplinary Rules.
26. The Union refers to Articles 24 and 35 of the FUR Ethics Regulations, as well as to Article 14 of the Russian Labour Code and Article 193 of the Russian Civil Code, and argues that the appeal against the decision of the FUR Ethics Committee dated 4 July 2011 was within the set deadline.
27. The Union argues that Mr Sergei Pryadkin in his capacity as a Chairman of the Player's Agents Committee (from April 2009 to April 2010), member of the FUR Executive Committee, vice-president of the FUR and president of the Russian Premier League (since 2007), is an official and also a subject of football. Therefore the Union submits that *"the activities of S.G. Pryadkin in his positions may directly and immediately affect professional footballers"*.
28. The Union alleges that Mr Pryadkin *"violated the rules of moral nature, which violation effects all subjects in football"*.
29. The Union argues that the Appealed Decision *"has been made without specifying the legal grounds"*.
30. In continuation, the Union submits that the FUR Appeal Committee *"did not make a proper assessment of the facts that were identified and established during the investigative proceedings of the case"*. The Union points out that Mr Pryadkin has violated the obligations as mentioned in Article 5.1, 5.2, 5.3 of the FIFA Ethics Regulations and Article 29.3 of the FUR Charter by not disclosing information and by not refraining from taking part in discussions and voting procedures with regard to a possible conflict of interest.
31. The Union states that the FUR Appeal Committee *"effectively deviated from collecting evidence and did not hold accountable the organizations who failed to fulfil the Committee's request to provide evidence"*.

32. Subsequently, the Union argues that the FUR Appeal Committee “*did not apply the compulsory norms which should have been applied when making the decision*”. The Union refers to Articles 3, 6, 7 and 26 of the FUR Ethic Regulations, as well as Article 5 of the FIFA Code of Ethics.
33. The Union alleges that “*during the period of 2006-2011, Sergei Pryadkin, his relatives and his business partner (...) had an interest while carrying out agency work and conflict of interest in accordance with his occupied official position. Sergei Pryadkin, directly influenced and participated in the creation and approval of the said regulatory framework, as well as appointment of members of the RFA jurisdictional bodies, authorized to make binding decisions and impose sanctions on those involved in agency activities*”.
34. In the light of the above, the Union submits the following prayers for relief in his written submissions:
“As the claim was not fully and accordingly investigated by the RFA Appeal Committee the Union is therefore asking the Court of Arbitration for Sports:
- *to overturn the ruling of the RFA Appeal Committee*
 - *to carry out a detailed and a comprehensive judgement concerning the conflict of interests and the alleged corruption related to the activities of Sergei Pryadkin, Andrey Pryadkin, Tomas Zorn, Konstantin Sarsania and Girus GmbH*
 - *to overturn the ruling of the RFA Ethics Committee*
 - *... and hold accountable the violators of the ethical norms.*
- in part, due to the violation of the norms and regulations of FIFA and RFA Ethics Regulations and the RFA Charter, we ask to take sanctions against Sergei Pryadkin and other officials involved”.*

B. THE FUR

The FUR’s submissions, in essence, may be summarised as follows:

35. The FUR submits that the appeal to CAS is unsubstantiated and shall therefore not be admitted.
36. The FUR argues that the FUR Appeal Committee was correct in not admitting the appeal of the Union against the decision of the FUR Ethics Committee for the following reasons:
- the Union had no standing to appeal because the filing of the appeal was in violation of the statutory and legal aim of the Union;
 - the Union is not a Football Subject in the meaning of Article 1 (9) of the FUR Ethics Regulations;
 - the Union is not an interested party for the purposes of Article 35 of the current FUR Ethics Regulations, because “*to be considered as “interested party” it is either necessary to participate in the proceedings before the FUR Ethics Committee or to be affected by a sporting sanction rendered in a decision of the FUR Ethics Committee*”. The FUR emphasizes that the Union was neither a party to the proceedings of the FUR Ethics Committee, nor was it affected by any sporting sanction rendered in the decision of the FUR Ethics Committee since the decision was not directed against the Union;
 - the Union did not file the appeal within the three-day deadline as prescribed in Article 35 para. 1 of the FUR Ethics Regulations.

37. In the event that the CAS Panel should come to the conclusion that the FUR Appeal Committee should have accepted the appeal, the FUR adopts the position that “CAS should refer the case back to the FUR Appeal Committee, so that the FUR Appeal Committee can decide in the substance (i.e. whether the FUR Ethics Committee has performed an adequate investigation)”. In addition, the FUR states that “if the CAS decides in the substance, the parties would lose an instance and their right to be heard would be violated”. In fact, according to the FUR:
- “the question whether the FUR Ethics Committee has performed an adequate investigation is not and cannot be part of this appeal proceedings since the lower court (i.e. the FUR Appeal Committee) did not decide in this respect”. The FUR argues that the power of the CAS Panel is limited to the analysis of the Appealed Decision: “as foreseen in art. R57 of the CAS Code, the Panel shall review the Appealed decision, which is (..) the decision of the FUR Appeal Committee of 15 November 2011 to dismiss the appeal (...) The decision of the FUR Ethics Committee rendered on 4 July 2011 is not the subject of the present appeal”. The FUR refers to Article R47 of the CAS Code;
 - the investigation by a special Investigation Committee has been executed in an adequate way;
 - the decision of the FUR Ethics Committee is in compliance with the FUR Disciplinary Regulations, especially with article 27 and 30 of the FUR Ethics Regulations.
38. In the light of the above, the FUR submits the following prayers for relief in its written submissions:
- “The Football Union of Russia respectfully requests the honourable Panel to issue an award:*
1. *Ruling that the Appeal is not admissible;*
- or, in the alternative -
 2. *Rejecting the Appeal;*
- or, if the Appeal is not rejected -
 3. *Annuling the Appealed Decision and referring the case back to the previous instance*
- and, in any event -
 4. *Ordering the Appellant to (i) pay any arbitration costs in full and (ii) pay in full, or pay a contribution towards the legal fees and other expenses incurred by the Football Union of Russia in connection with these proceedings”.*

V. JURISDICTION OF THE CAS

39. 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”.
40. The jurisdiction of CAS, which is not disputed, derives from Article 81 par. 4 of the FUR Disciplinary Regulations in connection with Article 47 par. 1 of the FUR Statutes and Article R47 of the CAS Code.
41. It follows that the CAS has jurisdiction to decide the present dispute.

42. Pursuant to Article R57 of the CAS Code, the Panel has full power to review the facts and the law. Therefore, the Panel has the power and the duty to examine the whole case and to decide whether the Appealed Decision is just and appropriate. As the parties were advised, at this stage of the procedure the Panel will decide only the question of the admissibility of the appeal to the FUR Appeal Committee.

VI. APPLICABLE LAW

43. Article R58 of the CAS Code reads 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”.
44. A likewise approach can be found in Article 187 of the Swiss Private International Law Act of 1989 (PIL), which – *inter alia* – provides that *“the arbitral tribunal shall rule according to the law chosen by the parties or, in the absence of such a choice, according to the law with which the action is most closely connected”.*
45. In the present matter, the parties have not agreed, before CAS, on the application of any particular law.
46. The rules applicable to adjudicate this case are therefore the various regulations of FUR. Russian law shall apply subsidiary.

VII. ADMISSIBILITY

47. The appeal was filed within the deadline provided by Article R49 of the CAS Code in conjunction with Article 81.4 of the FUR Disciplinary Regulations. It complied with all other requirements of Article R48 of the CAS Code, including the payment of the CAS Court office fee.
48. The FUR challenged the admissibility of the appeal to CAS alleging that the appeal is unsubstantiated.
49. This defence fails because the appeal to CAS complies with the requirements set out in Articles R48 and R51 of the CAS Code. Accordingly, the appeal to CAS is admissible.

VIII. DISCUSSION

a. Admissibility of the appeal before the FUR Appeal Committee

50. The Panel first has to deal with the preliminary issue raised by the FUR with regard to the question whether the appeal before the FUR Appeal Committee was admissible. The FUR, in fact, submits that the FUR Appeal Committee rightly dismissed, as inadmissible, the appeal filed by the Union, because the Union had no standing to appeal, is not a “football subject”, was not an “interested party”, and did not file the appeal within the applicable deadline.
51. In the Panel’s opinion, there is no need to address the questions whether the Union had a standing to file the appeal with the FUR Appeal Committee, being a “football subject” and an “interested party”. The Panel, in fact, finds that in any case the appeal was not filed within the applicable deadline and was, for that sufficient reason, dismissed.
52. Article 35 of the FUR Ethics Regulations - as well as Article 37 of the old version - reads as follows:

“Any decision of the Ethics Committee of the RFU may be appealed by a party interested in the case at the RFU’s Committee of Appeal within three business days after issue thereof”.
53. It is obvious that the Union did not file the appeal within three business days after notification of the decision on 4 July 2011 to the parties involved in the proceedings at the FUR Ethics Committee.
54. The Panel notes indeed that the Union argues that the decision was not published and that the Union has taken notice of the decision at a meeting of the Board on 17 October 2011.
55. Article 16.5 of the FUR Ethics Regulations provides that *“The responsible secretary shall be responsible for publication of decisions (extracts) taken by the Ethics Committee of the RFU on the official web site of the RFU (www.rfs.ru). In exceptional cases the Ethics Committee of the RFU may take the decision not to publish certain decisions”.*
56. In this regard, the Panel is most surprised to learn that the outcome of the investigations carried out by the Ethics Committee involving allegations of the violation of regulations meant to protect the world of football in Russia in a broad sense, which allegations are based on a publication in a Russian newspaper, apparently only are communicated to the parties at stake. Although at the hearing the FUR argued that the operative part was published on its website on 10th July 2011, the FUR did not put it forward in evidence in its written submissions or at the hearing. Moreover, it is undisputed by the parties that the full text of the decision of the Ethics Committee dated 4 July 2011 was not published.
57. As a consequence, the Panel is of the opinion that *“within three business days after issue thereof”* means that an appeal can be filed (by an interested party) within three business days after handing over the decision to the requesting party.

58. The Panel observes that it is undisputed that the Union asked for and received the decision by fax on Thursday 20 October 2011 and that the Union filed its appeal on Monday 24 October 2011, as such within three business days after receiving the decision.
59. However, the Panel notes that the Union filed its appeal through Mr Grammatikov in his capacity of Secretary General of the Union, who was eventually examined as a natural person at the hearing of the Ethics Committee on 4 July 2011, and subsequently filed an appeal on 7 July 2011 against the decision of the Ethics Committee dated 4 July 2011, acting as a representative of the Novosibirsk Entity.
60. At the hearing at CAS, Mr Grammatikov confirmed that he used the decision received by him on 4 July 2011 to inform the Board of the Union at its meeting on 17 October 2011. Also Mr Grammatikov confirmed at the hearing that he did not need approval of the Board of the Union in urgent cases and for instance to file an appeal against the decision of the Ethics Committee dated 4 July 2011, but preferred to first inform and discuss the issue with the Board of the Union because of the delicate subject of the matter. The Union argues that the first meeting of the Board after the decision of the FUR Ethics Committee dated 4 July 2011 was on 17 October 2011 and that it could not file an appeal earlier because it *“was necessary to convene the Board of the Union of football players, because the Union of football players in its activities is governed not by its own interest but first and foremost by the interest of the players. Out of five members of the Board of the Union of football players three are acting players”*.
61. Although the Panel understands the preference of the Union to discuss the issue with its Board members, the Panel considers that the decision to request the FUR to provide the full text of the decision by the Union was unnecessarily late. The Panel observes that Mr Grammatikov as Secretary General of the Union – who was empowered to act on his own initiative in urgent cases and as such to file an appeal against the decision of the Ethics Committee - could have informed the five Board members at short notice after 4 July 2011 because between 4 and 7 July 2011 he was in possession of the full text of the decision and had the opportunity to commence legal proceedings within the deadline of three days after 4 July 2011 and thus to intervene as a party into the proceedings, originally started on request of the Novosibirsk Entity.
62. Under the circumstances as described above, the Panel is of the opinion that the knowledge of Mr Grammatikov on 4 July 2011 regarding the full text of the decision of the FUR Ethics Committee must be attributed to the Union. As a consequence, the Panel considers that the Union did not have an excusable reason for exceeding the – original – term.
63. Therefore, the Panel concludes that the appeal of the Union before the FUR Appeal Committee was not in time.

b. Conclusion

64. In view of the foregoing facts and considering evidence and arguments adduced, the appeal is dismissed.

ON THESE GROUNDS

The Court of Arbitration for Sport rules:

1. The Appeal filed by the Union of Football Players and Coaches of Russia against the decision of the FUR Appeal Committee dated 15 November 2011, is dismissed.
2. (...).
3. (...).
4. Any further claims for relief are dismissed.