

BY COURIER

UEFA

Attn Mr Theodore Theodoridis, General Secretary

Route de Genève 46

CH-1260 Nyon 2

Switzerland

Amsterdam, 9 June 2020

Subject: Request to refuse the selected clubs (in the season 2019/2020) proposed by the Royal Netherlands Football Association ("KNVB") with respect to the UEFA Champions League Regulations and the UEFA Guidelines regarding the COVID-19 pandemic as an unforeseen circumstance

Dear Mr Theodoridis,

I have been authorised by my client AZ Alkmaar, a professional football club in the Dutch premier league (*Eredivisie*), to submit this application to you on its behalf in my capacity of legal advisor (see **Appendix A**).

REQUEST

I hereby request you, on behalf of AZ Alkmaar, to refuse the clubs proposed by the KNVB to UEFA Champions League, as the selection procedure, as applied by the KNVB, is not objective and transparent according to the Guidelines which you communicated to the national football associations in your letter of 24 April 2020 (reference: "*Guidelines on eligibility principles for 2020/21 UEFA Club Competitions – COVID 19*"). These Guidelines were adopted by UEFA's Executive Committee pursuant to Article 83 of the UEFA Champions League Regulations, as UEFA qualified the COVID-19 pandemic as an unforeseen circumstance. With regard to this request, I refer to section B, point 5b of your aforesaid letter of 24 April 2020, whereby AZ Alkmaar is also invoking UEFA's guarantee concerning the integrity of, among other things, the Champions League.

This request applies from the moment when the KNVB has formally presented UEFA with its decision of 24 April 2020 in respect of the clubs selected, i.e. from the moment when the KNVB submits the Entry Forms to UEFA regarding the selected clubs proposed by the KNVB.

OVERVIEW OF CORRESPONDENCE WITH UEFA

With reference to my letter to UEFA of 15 May 2020, the letter from UEFA to me of 22 May 2020, my letter to the KNVB of 23 May 2020, the letter from the KNVB to me of 25 May 2020, my letter to UEFA of 28 May 2020, the letter from UEFA to me of 5 June 2020 and my e-mail to UEFA of 8 June 2020 (see **Appendix B**), I request your urgent attention for the following.

As regards the letters dated 22 May 2020 and 5 June 2020 which I received from UEFA, I have the following comments. First of all, I observe that UEFA's letters do not have a reference number, so that it cannot be ruled out that these letters were not processed in UEFA's administrative system. In her letter of 22 May 2020, Ms Michaela Clicque of UEFA's Legal Department indicated that the national football association would have to confirm the tickets allocated. However, Ms Clique forgot to mention in this context that the selection procedure of the national football association in question must be objective, in conformity with the Guidelines set out in your letter of 24 April 2020, which Guidelines are adopted by the UEFA Executive Committee pursuant to Article 83 of the UEFA Champions League Regulations. If this selection procedure is not objective or transparent, UEFA reserves the right to refuse the admission of the selected clubs. In my letter of 28 May 2020 to the President of UEFA, Mr Aleksander Ceferin, I requested the latter to refuse the KNVB's decision of 24 April 2020, because the selection procedure applied by the KNVB has not been objective nor transparent. Further to my letter to Mr Ceferin, I received a letter from Ms Clicque (I presume on behalf of Mr Ceferin) dated 5 June 2020, in which she stated that UEFA was not competent to evaluate the legality or correctness of the KNVB's decision. However, in my letter to Mr Ceferin of 28 May 2020 I had not at all requested UEFA to evaluate the correctness or legality of the KNVB's decision. In that letter, I have only requested UEFA to refuse the clubs selected for the Champions League, because this selection procedure has not been objective and also not transparent. In fact the KNVB has so far ignored our substantive concerns, which concerns are therefore still not refuted by the KNVB from a substance point of view. However, I proceeded from the statement in your letter of 24 April 2020, i.e. that UEFA has a duty to guarantee the integrity of the UEFA club competitions (such as the Champions League); in this sense, my client AZ Alkmaar is invoking this guarantee. I quote this guarantee from your letter of 24 April 2020:

*"Whereas the circumstances and restricting measures are different in every country, **UEFA has a duty to guarantee the integrity of UEFA club competitions** and as such the application of the abovementioned core principle that clubs shall qualify to the UEFA club competitions on sporting merit."*

Furthermore, I note that UEFA is responsible for deciding issues involving more than one Member Association concerning its own territory; in this respect I refer to Article 51bis of the 2018 UEFA Statutes. Last but not least, we were shocked that your colleague Mr. Michael van Praag (a member of UEFA's Executive Committee) has intimidated the CEO of my client AZ Alkmaar (see **Appendix C**). By the action of Mr. Michael van Praag, UEFA has already involved itself in this matter. As you probably know, this action is objectionable! I quote from the website of UEFA:

"A UEFA Executive Committee member or the UEFA President does not take part in the deliberation of any matter or point of issue involving the member association and/or a club and/or a league affiliated to the member association with which he/she is associated, or in any case in which a conflict of interest exists."

Please find below also background information underlying AZ Alkmaar's request to you, in conformity with AZ Alkmaar's invocation of the above-quoted guarantee of integrity from your letter of 24 April 2020 to the national football associations, which letter contains the adopted Guidelines by UEFA's Executive Committee.

PREMATURE TERMINATION OF DOMESTIC COMPETITIONS 2019/2020

The Dutch football competition of the 2019-2020 season will not be completed because of the COVID-19 pandemic. This is because the Dutch prime minister, Mr Mark Rutte, announced on 21 April 2020 that the Dutch government had decided that, due to the COVID-19 pandemic, all professional football matches were cancelled until 1 September 2020. The current Dutch premier league table (2019-2020 season) shows that AZ Alkmaar and Ajax are level on points and share the top spot, as follows:

AZ Alkmaar: 56 points with a goal difference of +37

Ajax: 56 points with a goal difference of +45

In terms of head-to-head result, AZ Alkmaar beat Ajax twice this season, as follows:

AZ Alkmaar - Ajax: 1-0 (date: 15 December 2019)

Ajax - **AZ Alkmaar**: 0-2 (date: 1 March 2020)

Based on the UEFA coefficient ranking table at the beginning of this season (in which the Netherlands is ranked 11th), the Netherlands is entitled to two UEFA Champions League tickets, i.e. in the Play-Off Round and in the second qualification round. On 24 April 2020, the KNVB decided:

- (1) not to designate a champion and runner-up this season;
- (2) to award Ajax the ticket in the UEFA Champions League Play-Off Round and AZ Alkmaar the ticket in the UEFA Champions League second qualification round.

PROCEDURE OF SELECTING CLUBS FOR THE UEFA CLUB COMPETITIONS 2020/2021

On 24 April 2020, you, pursuant to Article 83 of the UEFA Champions League Regulations, sent a letter to all national football associations in connection with an unforeseen circumstance, the COVID-19 pandemic. Because of this unforeseen circumstance, UEFA provided the national Football Associations with its Guidelines, requesting them to base their procedures for selecting clubs on 2019/2020 sporting merit on the base of these Guidelines, being: objectivity, transparency and non-discrimination; see **Appendix B**.

Because the KNVB and its Chairman have decided on 24 April 2020 that the Dutch Regulations Matches Professional Football do not provide for the unforeseen COVID-19 situation at hand, it therefore stands to reason that the KNVB cannot base its decision on article 17 of the Dutch Regulations Matches Professional Football, which Article the KNVB usually apply on tie-breakers (i.e. the goal difference above the head-to-head result). Therefore, the KNVB must apply the Guidelines which you prescribed to the national Football Associations (rather than apply Article 17 of the regulations) in order to guarantee the integrity of UEFA club competitions and as such the application of the core principle that clubs shall qualify to the UEFA club competitions on sporting merit in the 2019/2020 season.

By applying your Guidelines, the head-to-head result (as a definitive objective given) should resolve this tie-breaker, since this selecting procedure would be objective (which is not the case if the goal difference is used). This means that the head-to-head result leaves no room for subjectivity, as opposed to the goal difference which, as a variable factor, does leave room for subjectivity. After all, the goal difference is only a weighting of the matches played until now, while both AZ Alkmaar and Ajax still had to play another nine competition matches. On the other hand, the head-to-head result is an objective given, since AZ Alkmaar and Ajax have already played each other and AZ Alkmaar beat Ajax twice this football season. In this analysis, it is certainly possible to designate a champion and a runner-up based on the objective sporting merit referred to in Article 4.01 of the Regulations of the UEFA Champions League. According to the head-to-head result, as an objective given, AZ Alkmaar are the champion and Ajax are the runner-up in the Dutch premier league of the 2019-2020 season in conformity with the UEFA Champions League Regulations and the Guidelines adopted by the UEFA Executive Committee pursuant Article 83 of the UEFA Champions League Regulations.

Mr Gudde is trying to put UEFA on the wrong track by mentioning that Article 17 of the Dutch Regulations applies, but that is simply not true since those Dutch Regulations do not provide for an unforeseen circumstance as COVID-19. By doing so the KNVB and Mr Gudde have tried to mislead UEFA, in order to avoid applying your Guidelines which were adopted by UEFA's

Executive Committee, and the KNVB and Mr Gudde have therefore not acted in a transparent manner.

As Chairman of the KNVB, Mr Gudde may be expected to act with integrity, particularly in these difficult times of the COVID-19 pandemic. That Mr Gudde failed to act with integrity in this context is objectionable and not in conformity with the 2018 UEFA Statutes. In view of this mode of action on the part of the KNVB, AZ Alkmaar does not rule out that there was political interference or involvement at KNVB and/or UEFA level, considering the manner in which events took their course. Perhaps superfluously, I observe that AZ Alkmaar experiences the action of UEFA's member of Executive Committee, Mr Michael van Praag (the former Chairman of Ajax during the period 1989-2003), as improper pressure and intimidation. AZ Alkmaar greatly regrets this, since what matters in the end is the sport, nothing more and nothing less. In this respect, I refer to the e-mail from Mr Van Praag of 26 May 2020 to Mr Robert Eenhoorn, the CEO of AZ Alkmaar (see **Appendix C**); in this respect I note that only once before (years ago) did Mr Eenhoorn receive an email communication from Mr Van Praag.

Anyhow, you will agree with me that, due to COVID-19, the selecting procedure must be based on the UEFA's Guidelines and therefore on the basis of objective sporting merits in the 2019/2020 season. May I be so bold and suggest that you seek the view on this matter from the FFF, whose exemplary application of UEFA's objective sporting merit principle deserves following. In this respect I refer to my letter of 28 May 2020 to Mr Ceferin, in which I wrote the following regarding the FFF:

“The immediate reason for mentioning France is the following. The French premier league was also ended prematurely due to the COVID-19 pandemic. In the French premier league, two clubs were level on points as well: OGC Nice (41 points with a goal difference of +3) and Stade Reims (41 points with a goal difference of +5). In the French premier league, as in the Dutch premier league, the goal difference is normally decisive if clubs are level on points at the end of the season. However, the French football association FFF has decided under these unforeseen circumstances that the objective head-to-head result of OGC Nice and Stade Reims must be decisive for the ranking rather than the goal difference, in conformity with UEFA's 'sporting merit' rule and its guidelines. In this case the head-to-head result is to the advantage of OGC Nice, and consequently the FFF has allocated the fifth place to OGC Nice and the sixth place to Stade Reims. This makes sense in sporting terms, considering that OGC Nice beat Stade Reims in one match while the other match ended in a draw.”

I find it hard to understand that Mr Gudde does not understand why he should follow the example of the FFF, because the FFF has based its decisions on objective sporting merit in the season 2019-2020, as prescribes in UEFA's guidelines of 24 April 2020. On the basis of the relevant facts, as referred to in this letter, one would have to conclude that Mr Gudde does not know the difference between *subjective sporting merit* and *objective sporting merit*.

As Mr Gudde strikes me as somebody of intelligence, I have difficulty drawing that conclusion, because the matter at hand is not very difficult to understand. And yet, in this respect Mr Gudde writes in his 25 May 2020 letter to me the following, I quote: "(...), we are convinced that our procedure to select clubs for the UEFA club competition 2020/21 is based on objective, transparent and non-discriminatory principles." (underline by KA)

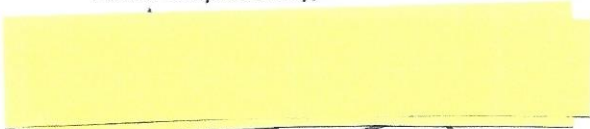
Since Mr Gudde, on behalf of the KNVB, tried to put UEFA on the wrong track and the UEFA Champions League Regulations (in particular Articles 3.01 and 3.02) prescribe that the champion of a national premier league takes part in this competition, it would be justified if UEFA were to designate a premier league champion for the second time in its history, in this case AZ Alkmaar, since the KNVB failed to do so in its decision of 24 April 2020, whereas it should have done so on the basis of objective sporting merit in the season 2019-2020, in conformity with UEFA's sporting merit rule and UEFA's Guidelines concerning the COVID-19 pandemic. Furthermore, if each Football Association could decide what they want (even if it is not with integrity), as Ms Clicque of UEFA's Legal Department writes in her letter of 5 June 2020, why did you communicate the Guidelines to the Football Associations, and why did you write in your letter of 24 April 2020 that UEFA has a duty to guarantee the integrity of the UEFA club competitions? In other words, how could UEFA guarantee this integrity if we assume (i.e. following the reasoning of Ms. Clicque) that UEFA has not the power to intervene at the level of the KNVB?

LEGAL STEPS

If UEFA does not refuse the proposed selected clubs by the KNVB to UEFA Champions League (now that it has been established beyond doubt that the selection procedure, as applied by the KNVB, is not objective and transparent according to UEFA's Guidelines and UEFA's guarantee of integrity), my client AZ Alkmaar will be compelled to take all necessary legal steps to prevent this matter from being hushed up.

I look forward to receiving your decision.

Yours respectfully,



Karim Aachboun

Appendices (A, B & C):

(A) Power of attorney from professional football club AZ Alkmaar to its legal advisor Mr.

Karim Aachboun of TaXeCo Adviseurs BV;

- (B) My letter to UEFA of 15 May 2020, the letter from UEFA to me of 22 May 2020, my letter to the KNVB of 23 May 2020, the letter from the KNVB to me of 25 May 2020, my letter to UEFA of 28 May 2020, the letter from UEFA to me of 5 June 2020 and my e-mail to UEFA of 8 June 2020;
- (C) E-mail dated 26 May 2020 from UEFA's member of Executive Committee, Mr Michael van Praag (former Chairman of Ajax during the period 1989-2003) to Mr Robert Eenhoorn as the CEO of AZ Alkmaar.

CC

- Mr Aleksander Ceferin, President of UEFA