

**TRANSLATION**

**COMMERCIAL COURT NUMBER 17 OF MADRID**

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NIG: 28.079.00.2-2021/0091553

**Proceeding: Preliminary Injunction 150/2021 - 0001 (Preliminary Injunction LEC 727)**

Subject matter: Other general matters

**Claimant:** EUROPEAN SUPERLEAGUE COMPANY S.L.

COURT AGENT MR./MRS. MANUEL SÁNCHEZ PUELLES GONZÁLEZ CARVAJAL

**Respondent:** FIFA

UEFA

**DECISION NUMBER 14/2021**

**HE/HER JUDGE/MAGISTRATE-JUDGE WHO ISSUES IT:** MR. MANUEL RUIZ DE LARA

**Place:** Madrid

**Date:** 20 April 2021

**FACTS**

**Only.-** By the Court Agent Mr Manuel Sanchez Puelles Carvajal, acting in the name and on behalf of European Superleague Company S.L., a writ of claim and application for injunctive relief *inaudita parte* was filed against UEFA and FIFA.

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It can be inferred from the transcribed facts that FIFA and UEFA have abused their dominant position on the relevant market (organisation of professional football competitions) by means of their power to regulate international football competitions and the possibility of adopting disciplinary measures. That abuse takes the form of the application of the FIFA and UEFA statutes, which make the creation of alternative sports competitions to the organisation of those private bodies subject to authorisation, with the power to adopt punitive measures against football clubs which do not submit to such authorisation and which infringe the abovementioned provisions of the statutes. The prior authorisation is not subject to any kind of limit or fee or objective and transparent procedure, but to the discretionary power of the private bodies concerned, which, by reason of their monopoly on the organisation of competitions and exclusive management of the economic revenue derived from those sporting competitions, have a clear interest in refusing or authorising the organisation of those competitions.

Such actions amount de facto to the imposition of unjustified and disproportionate restrictions which have the effect of restricting competition in the internal market. FIFA's and UEFA's statutes do not contain provisions to ensure general interest objectives in the granting of prior authorisation for the organisation of football competitions. Nor do they contain objective and transparent criteria to avoid the existence of discriminatory effects or conflicts of interest with FIFA and UEFA in the refusal of authorisation for the organisation of alternative sports competitions by clubs belonging to federations affiliated to those private bodies.

Article 67 of the FIFA statutes stipulates that FIFA, its member associations, its members and the confederations are the original owners of the rights to the competitions, including the economic, audiovisual, multimedia, promotional, marketing and merchandising rights, as well as the intangible rights to trademarks and copyrights. Furthermore, article 68 of the FIFA statutes confers on FIFA, federations and confederations the exclusive responsibility for the authorisation of the distribution of these broadcasting rights.

The existence of an abuse of a dominant position can be inferred from these articles, in such a way that FIFA obliges the clubs to transfer the commercial rights of the sporting competitions in which they participate.

There is therefore an appearance of a prima facie case in respect of the actions brought by the applicant under Article 101 TFEU for infringement of free competition as a result of the actions brought by UEFA and FIFA and under Article 102 TFEU for abuse of a dominant position exercised by FIFA and UEFA in the internal market for the organisation of football competitions.

Likewise, there is a danger of procedural delay, given that during the pendency of the proceedings, through the application of the aforementioned statutory articles, FIFA and UEFA could adopt the disciplinary measures announced in the FIFA and UEFA Declaration, which would prevent the European Football Super League from starting up, causing irreparable damage to the clubs and players called upon to participate in the Super League and frustrating the protection that could be granted in an eventual favourable judgement. The imposition of some of the disciplinary sanctions announced by FIFA and UEFA would seriously jeopardise the financing of the Super League, also in view of the

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conditions laid down in the Shareholders and Investment Agreement of the founding clubs of the European Football Super League.

The requested interim measures are proportionate and suitable to guarantee the protection sought in the main proceedings, avoiding the actions of FIFA and UEFA that would prevent the protection that could be granted in an eventual favourable judgment. The requested measures lead to the protection of free competition in the relevant market, avoiding the adoption of actions by FIFA and UEFA, such as those already announced, which would definitively prevent the implementation of the European Football Super League project.

The precautionary measures requested must be adopted *inaudita parte*, in view of the fact that there are reasons of urgency, given that the defendants have publicly announced the imminent adoption of punitive measures restricting free competition. The fact that FIFA and UEFA have their domiciles abroad and the need to resort to international judicial assistance to notify the present proceedings, with the consequent further delay in summoning the parties to a hearing within a short period of time, makes even more evident the need to adopt the interim measures *inaudita parte*.

In addition to the imminence of the sanctions and measures restricting free competition announced by FIFA and UEFA, there is the prospect of the forthcoming semi-finals of the competition organised by UEFA, the 'UEFA Champions League'. It is well known that up to three of the founding clubs of the European Super League are taking part in these semi-finals. The adoption of the punitive measures announced by FIFA and UEFA could jeopardise the participation of those football clubs (Real Madrid Club de Fútbol, Manchester City and Chelsea) in that competition, thereby having the deterrent effect on free competition articulated through the provisions of the FIFA and UEFA statutes transcribed above and causing irreparable economic and sporting damage to the clubs and players concerned.

Finally, the provision of a bank guarantee in the amount of 1,000,000 euros is considered sufficient as a sufficient guarantee under article 728.3 section two of the LEC to cover the damages that could be caused.

Pursuant to the above:

### SUBSTANTIVE PART

The application for interim relief *inaudita parte* brought by Manuel Sanchez Puelles Carvajal, acting for and on behalf of European Superleague Company S.L. is granted:

1. Ordering FIFA and UEFA to refrain, during the main proceedings, from taking any measures or actions; and issuing any statements, that directly or indirectly prevent or hinder the preparation of the European Football Super League;
2. Order FIFA and UEFA, during the main proceedings, to take, where necessary, any measure or action, and to adopt, where necessary, any measure or action, and to issue,

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where necessary, any statement or communication, which, directly or indirectly, does not prevent or hinder the preparation of the European Football Super League.

3. Ordering FIFA and UEFA to refrain, during the main proceedings, from taking any measures or actions; and issuing any statements, that directly or indirectly prevent or hinder the start-up and running of the Super League and, in particular, the participation of clubs and players in the European Football Super League;
4. Order FIFA and UEFA, in the course of the main proceedings, to take, where necessary, any measure or action, and to issue, where necessary, any statement or communication, which, directly or indirectly, does not prevent or hinder the implementation and development of the European Football Super League.
5. Prohibiting FIFA and UEFA from, directly or indirectly (through their associated members, confederations, licensed clubs or Domestic Leagues), during the main proceedings, threatening, preparing, initiating and/or adopting any type of disciplinary or sanctioning measures (or from directly or indirectly seeking to encourage or incite any third party to bring any claims or proceedings) with respect to the clubs, clubs officials or players that participate in the preparation of the European Football Super League.
6. Prohibiting FIFA and UEFA from, directly or indirectly (through their associated members, confederations, licensed clubs or Domestic Leagues) excluding the clubs and/or players that participate in the preparation of the European Football Super League from any international or domestic club competitions in which they have regularly participated or meet the ordinary requirements to do so;
7. Ordering FIFA and UEFA to instruct, through their own regulatory instruments, guidelines, decisions and directives their associated members (including the national federations), confederations, licensed clubs and Domestic Leagues to comply, and enforce such guidelines, decisions and directives in case of non-compliance, during the main proceedings, with the orders and prohibitions contained in the foregoing points and, in particular, to instruct them that no breach of the rules or statutes of FIFA's or UEFA's, the associated members' or the Domestic Leagues', arising from the preparation of the European Football Super League may be alleged by FIFA's or UEFA's associated members, confederations, licensed clubs or Domestic Leagues as grounds for sanctions, exclusion, claims or any other similar measure, vis-à-vis clubs, clubs officials or players at the level of international or domestic competitions; and

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8. Ordering FIFA and UEFA to, in case that any of the actions described in (a) to (e) have already been performed before the granting of this injunction application, carry out any actions required to remove and leave without effects such actions.

The applicant is required to provide security in the form of a bank guarantee of 1,000,000 euros.

The parties are to be notified of this decision.

No appeal shall lie from this decision.

Manuel Ruiz de Lara, Magistrate of the Commercial Court No. 17 of Madrid, hereby rules, orders and signs. I bear witness.

The Magistrate