

## Key sports law cases of 2017

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Luca Ferrari

PARTNER | IT

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Global head of sports Luca Ferrari and Federico Venturi Ferriolo discuss the ins and outs of some of the biggest sports law cases from 2017.

Like most sports lawyers in Europe, we were quite interested in UEFA's decision on the controversial new case of common ownership involving the German club RasenBallSport Leipzig ("RBL") and the Austrian club FC Red Bull Salzburg ("FCS"), as both clubs had qualified on sporting merits for the 2017/2018 edition of the UEFA Champions League.

In short, the Chief Investigator of the UEFA Club Financial Control Body referred the case to the Adjudicatory Chamber having concluded that RBL and FCS could not participate in the same competition based on the 'test of decisive influence' under article 5 of the Regulations of the UEFA Champions League (UCLR) and suggesting that RBL should be denied admission. Article 5© of the UCLR states that *'no individual or legal entity may have control or influence over more than one club participating in a UEFA club competition...'* The stated purpose of such prohibition is to ensure integrity of the UEFA club competitions. Applying the "decisive influence" test, Red Bull was initially found to be able to exert control or influence over FCS as well as RBL, through Red Bull's sponsorship, finance and governance links to the clubs.

However, from the latest compliance report carried out by UEFA, it has been proved that FCS had taken measures to attempt to reduce the possibility of Red Bull's *'decisive influence'*. Taking all such actions into consideration, UEFA eventually concluded that there was no *'decisive influence'* from Red Bull towards FCS, and in turn, RBL. Both clubs were permitted to take part in the Champions League.

The following points made by the Adjudicatory Chamber may be of guidance in similar future cases: (i) nothing short of a legal power to control decision making is required under these provisions; (ii) the benchmark for establishing decisive influence is a high one, requiring the ability to direct the decision making of both clubs; (iii) the burden is on the CFCB Investigatory Chamber to prove that Red Bull has decisive influence on both Clubs.

# Authors

Luca Ferrari

PARTNER | MILAN

Corporate

 +39 02 8821 4208

 [luca.ferrari@withersworldwide.com](mailto:luca.ferrari@withersworldwide.com)