

**Arbitration CAS 2014/A/3486 MFK Dubnica v. FC Parma, award of 2 February 2015**

Panel: Mr Manfred Nan (The Netherlands), President; Mr Alasdair Bell (United Kingdom); Mr Efraim Barak (Israel)

*Football*

*Transfer of a player*

*Panel's discretion to exclude evidence under Article R57.3 CAS Code*

*Training compensation related to a transfer within the UE/EEA*

*Completion of the training period by a player*

*Calculation of the training compensation*

1. A CAS panel's inherent discretion to exclude certain evidence under Article R57.3 of the Code is just that the panel is free to accept or reject evidence presented by the parties if it was available to them or could reasonably have been discovered by them before the challenged decision was rendered. Article R57.3 of the Code should therefore be construed in accordance with the fundamental principle of the *de novo* power of review which is, in essence, the foundation of the CAS appeals system. The standard of review should not be undermined by an overly restrictive interpretation of Article R57.3 of the Code. As such, the discretion to exclude evidence should be exercised with caution, for example, in situations where a party may have engaged in abusive procedural behaviour, or in any other circumstances where the panel might, in its discretion, consider it either unfair or inappropriate to admit new evidence.
2. With regard training compensation, article 6(3) of Annex 4 to the FIFA Regulations on the Status and Transfer of Players (RSTP) sets out an exception which applies specifically to players moving from one football association to another inside the territory of the EU/EEA. In this regard, article 6(3) is a *lex specialis*. The second and third sentence of article 6(3) of Annex 4 RSTP apply to situations where a professional contract is already in existence. The article sets out requirements which the training club must meet in order to retain a right to compensation if a player moves to another club.
3. According to article 6(2) of Annex 4 RSTP, the amount of training compensation payable shall be based on the years between 12 and 21, unless it is evident that a player has already terminated his training period before the age of 21. Pursuant to FIFA circular letter no. 801, the burden of proof to demonstrate that the training of the player actually ended before the player's 21<sup>st</sup> birthday lies with the club that is claiming this fact. In this regard, according to CAS jurisprudence, the mere fact that a player regularly plays in the "A" team of his club, albeit an important factor, is not decisive. Where relevant, other factors might be considered, such as the player's value at a club, reflected in the salary a player is paid, in the loan fee that is achieved for his services or in the

value of the player's transfer, the player's public notoriety at national and international level, his position at the club if established as a regular or even holding the captaincy, the level of games or relevant league, his regular inclusion in the national team and so forth.

4. In case of the transfer of a professional player, training compensation is calculated on a *pro rata* basis for the time the player was effectively trained by his previous club. When a player is transferred from a lower to a higher category club within the EU, the calculation shall be based on the average of the training costs of the two clubs. The general rule is to consider the costs that would have been incurred by the "new" club if it had trained the player itself. The assessment of the category to which the training club and the new club belonged during the timeframe is also to be taken into account.

## I. PARTIES

1. MFK Dubnica (hereinafter: "Dubnica" or the "Appellant") is a football club with its registered office in Dubnica, Slovak Republic. The "A" team of Dubnica currently plays in the second highest football competition in the Slovak Republic. Dubnica is registered with the Slovak Football Association (hereinafter: the "SFA"), which in turn is affiliated to the Fédération Internationale de Football Association (hereinafter: the "FIFA").
2. FC Parma (hereinafter: "Parma" or the "Respondent") is a football club with its registered office in Parma, Italy. The "A" team of Parma currently plays in the highest football competition in Italy. Parma is registered with the Italian Football Federation (*Federazione Italiana Giuoco Calcio* – hereinafter: the "FIGC") which in turn is also affiliated to FIFA.

## II. FACTUAL BACKGROUND

### A. Background Facts

3. Below is a summary of the main relevant facts, as established on the basis of the parties' written and oral submissions and the evidence examined in the course of the present appeals arbitration proceeding. This background is made for the sole purpose of providing a synopsis of the matter in dispute. Additional facts may be set out, where relevant, in connection with the legal discussion.
4. According to the international player passport issued by the Slovak Football Association, Mr Pavol Bajza, born on 4 September 1991 (hereinafter: the "Player") was registered as a "*non-amateur*" with Dubnica on 6 August 2007 (at the age of 15).
5. At the beginning of 2009, the Player appeared for the first time in Dubnica's "A" team in a friendly match.

6. On 11 July and 30 August 2009, the Player played two official games in Dubnica's "A" team.
7. On 1 February 2010, the Player and Dubnica signed a professional employment contract for a period of two and a half seasons, *i.e.* valid until 30 June 2012, which provides *inter alia* as follows:  
  
*"For the term of this Contract (...) the FC undertakes to pay the monthly financial reward to the player in the amount of EUR 600.00 (...)"*.
8. From 27 February 2010 (during the 2009/2010 season) until the 18<sup>th</sup> round of the subsequent 2010/2011 season, the Player was fielded in 32 successive matches as the starting goalkeeper of the "A" team of Dubnica in the highest football competition in Slovak Republic. During the second half of the season 2010/2011, the Player became a substitute goalkeeper. At the end of this season Dubnica relegated to the second highest football competition in Slovak Republic.
9. In the 2011/2012 football season, the Player started again as the first goalkeeper of Dubnica and played all 33 games.
10. On 30 June 2012, the Player's employment contract with Dubnica expired.
11. On 20 August 2012, the Player was officially registered with Parma.
12. On 31 August 2012, Dubnica requested Parma to pay training compensation in respect of the Player, which letter remained unanswered by Parma.

## **B. Proceedings before the Dispute Resolution Chamber of FIFA**

13. On 26 September 2012, Dubnica lodged a claim against Parma with the Dispute Resolution Chamber of FIFA (hereinafter: the "FIFA DRC"). Dubnica maintained that it was entitled to receive training compensation in the amount of EUR 300'000 from Parma on the ground that the Player was transferred as a professional player from Dubnica to Parma before the end of the season of his 23<sup>rd</sup> birthday, while it had offered the Player a renewed employment contract until 30 June 2014.
14. Parma rejected Dubnica's claim, maintaining that the Player had already finished his training period before he was transferred to Parma and that it was insufficiently proven on which date the contractual offer was sent to the Player and if such offer had actually been received by the Player.
15. On 31 July 2013, the FIFA DRC rendered its decision (hereinafter: the "Appealed Decision") with, *inter alia*, the following operative part:  
  
*"1. The claim of [Dubnica] is rejected"*.
16. On 20 January 2014, the grounds of the Appealed Decision were communicated to the parties, determining the following:

*“[R]eferring to the rules applicable to training compensation, the Chamber stated that, as established in art. 1 par. 1 of Annexe 4 in combination with art. 2 par. 1 lit. ii of Annexe 4 of the Regulations, training compensation is payable, as a general rule, for training incurred between the ages of 12 and 21 when a professional is transferred between clubs of two different associations before the end of the season of his 23<sup>rd</sup> birthday. Therefore, the Chamber concurred that indeed, in principle, training compensation is due whenever a professional is transferred internationally before the end of the season of his 23<sup>rd</sup> birthday.*

*In continuation, the Chamber took note that [Dubnica] stated that the player’s employment contract would expire on 30 June 2012 and that it had offered the player a new employment contract by mail on 13 March 2012, starting on 1 July 2012 and ending on 30 June 2014. In this respect, the Chamber noted that [Dubnica] provided a “confirmation from Slovak Post dated on 13 March 2012”, which, in [Dubnica’s] view, confirmed that the offer was sent to the player.*

*However, the Chamber noted that [Parma] rebutted the claim of [Dubnica], alleging that [Dubnica] had not sufficiently proven on which date the contract offer was sent to the player and if the player had actually received such offer. The Chamber particularly noted that [Parma] argued that the “postal documentation” submitted by [Dubnica] does not bear the date of registration of the mailed letter and that no evidence was submitted by [Dubnica] that the document sent to the player was the contract offer.*

*After having carefully considered the parties’ positions, taking into consideration all the aforementioned arguments, the Chamber observed that the parties, in particular, disputed whether [Dubnica] had complied with art. 6 par. 3 of Annexe 4 of the Regulations.*

*In this regard, the DRC referred to art. 6 of Annexe 4 of the Regulations, which contains special provisions regarding players moving from one association to another association inside the territory of the European Union (EU)/European Economic Area (EEA). In this regard, the Chamber indicated that, since the player moved from Slovakia to Italy, i.e. from one association to another association inside the territory of the EU, said article is applicable. Hence, the DRC concluded that art. 6 par. 3 of Annexe 4 of the Regulations applies in the case at hand as *lex specialis*.*

*In continuation, the DRC pointed out that the obligation to offer the player a contract in compliance with art. 6 par. 3 of Annexe 4 of the Regulations would in principle lie with the former club of the player, i.e. [Dubnica]. Furthermore, in relation to the subsequent transfer of a professional, art. 6 par. 3 sent. 2 and sent. 3 of Annexe 4 of the Regulations stipulate that the former club must offer the player a contract in writing via registered post at least 60 days before the expiry of his current contract as well as that the offer shall be at least of an equivalent value to the player’s current contract.*

*Subsequently, and as a general remark, the DRC emphasised that the requirement that a contract offer shall be made “in writing via registered post”, as stipulated in the second sentence of art. 6 par. 3 of Annexe 4 of the Regulations, was established with the aim of facilitating the burden of proof of a club to demonstrate that it had, indeed, made a contract offer to a player and that it was, therefore, entitled to training compensation. E contrario, the DRC concluded that a club, which does not meet said prerequisite, is not automatically prevented from receiving training compensation, insofar as it can demonstrate beyond doubt that an offer was indeed made to the player.*

*As a result, the DRC had to determine if [Dubnica] had complied with said provision in order to be entitled to receive training compensation from [Parma].*

*In this respect, the DRC recalled that [Dubnica] had only provided a “confirmation from Slovak Post dated on 13 March 2012” in support of its statement that it had offered the player a new employment contract in writing on that date.*

*After having carefully analysed the aforementioned document, the DRC held that such document does not prove that the player had actually acknowledged and received the contract offer from [Dubnica].*

*Consequently, the DRC concluded that [Dubnica] failed to prove that it had complied with art. 6 par. 3 of Annexe 4 of the Regulations.*

*In light of all the foregoing, the Chamber rejected [Dubnica’s] claim”.*

### **III. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT**

17. On 6 February 2014, Dubnica lodged a Statement of Appeal, pursuant to Article R48 of the CAS Code of Sports-related Arbitration (hereinafter: the “CAS Code”).

18. On 18 February 2014, Dubnica filed its Appeal Brief, pursuant to Article R51 of the CAS Code. This document contained a statement of the facts and legal arguments giving rise to the appeal. Dubnica challenged the Appealed Decision, submitting the following requests for relief:

*“1 - To accept the appeal filed by the Appellant and to annul appealed decision rendered by FIFA DRC on 31 July 2013.*

*2 - Consider that all conditions arising out of the Regulations on the Status and Transfer of Players were fulfilled and therefore to condemn the Respondent to compensate the Appellant in the amount of EUR 298.333,00 (two hundred ninety-eight thousand three hundred thirty three) as a Training Compensation and/or any other amount Panel deems appropriate in accordance with the FIFA Regulations and/ or in the alternative;*

*3 - To determine the imposition of an interest rate at 5% p.a. over the total amount due from the day on which the Training Compensation payment should have been effectively due and/ or in the alternative;*

*4 - Determine that the Respondent shall bear all procedural costs including advance of costs and total costs of proceedings and/ or in the alternative;*

*5 - To condemn the Respondent to the payment of legal expenses in favor of the Appellant incurred amounting to EUR 17,000 and/ or in the alternative;*

*6 - To rule that Parma shall reimburse the administrative cost paid by MFK Dubnica in front of FIFA DRC with an interest rate of 5% p.a. since the day of such payment”.*

19. On 24 February 2014, FIFA renounced its right to request its possible intervention in the present appeals arbitration proceedings.

20. On 28 April 2014, Parma filed its Answer, pursuant to Article R55 of the CAS Code, whereby it requested CAS to decide the following:

*“1) Reject the appeal of MFK Dubnica.*

2) *Decide that no training compensation is due*

*Alternatively*

3) *Decide that the player completed his training before his 21<sup>st</sup> birthday*

4) *Decide that the player completed his training at the latest on 11 September 2009*

5) *Calculate the training compensation in accordance with the FIFA Regulations on the Status and Transfer of Players and taking into account the date on which the Player completed his training*

*In any event*

6) *Decide that Appellant must bear all the costs of the present arbitration.*

7) *Decide that the Appellant must compensate the legal costs of Parma FC incurred in the present proceedings in their full amount”.*

21. On 3 June 2014, the CAS Court Office informed the parties that the Panel appointed to decide the present matter was constituted by:
- Mr Manfred Nan, attorney-at-law, Arnhem, the Netherlands, as President;
  - Mr Alasdair Bell, General Counsel/Director of Legal Affairs, UEFA, Nyon, Switzerland (nominated by the Appellant), and;
  - Mr Efraim Barak, attorney-at-law, Tel Aviv, Israel (nominated by the Respondent), as arbitrators
22. On 4 June 2014, upon the request of the President of the Panel, pursuant to Article R57 of the CAS Code, FIFA provided CAS with a copy of its file related to the present matter.
23. On 8 and 10 June 2014 respectively, Dubnica and Parma informed the CAS Court Office of their preference for a hearing to be held.
24. On 29 July 2014, Dubnica returned a duly signed copy of the Order of Procedure to the CAS Court Office.
25. On 30 July 2014, Dubnica filed a witness statement of the Player’s Agent. Dubnica argued that it could not have submitted this witness statement together with its Appeal Brief because the Player’s Agent refused to testify, however in light of the allegations of Parma in its Answer, the Player’s Agent agreed to present a witness statement.
26. On 4 August 2014, Parma returned a duly signed copy of the Order of Procedure to the CAS Court Office.
27. On 8 August 2014, Parma objected to the admissibility of the witness statement filed by Dubnica on 30 July 2014.
28. On 18 August 2014, and in accordance with Article R57 in connection with Article R44.3 of the CAS Code, Parma was ordered to bring the Player to the hearing. Furthermore, the parties

were informed that the Panel had decided to admit the witness statement of the Player's Agent to the file based on exceptional circumstances and Parma was allowed an opportunity to comment on the content of the witness statement.

29. On 25 August 2014, further to the Panel's invitation, Parma filed a statement of its operative director, Mr Corrado Di Taranto, to rebut the statements of the Player's Agent.
30. On 26 August, Dubnica objected to the admissibility of the witness statement filed by Parma on 25 August 2014.
31. On 1 September 2014, the parties were informed that the Panel had decided to admit the witness statement of Mr Di Taranto based on exceptional circumstances.
32. On 4 September 2014, a hearing was held in Lausanne, Switzerland. At the outset of the hearing both parties confirmed not to have any objection as to the constitution and composition of the Panel.
33. In addition to the Panel and Mr Antonio de Quesada, Counsel to the CAS, the following persons attended the hearing:
  - a) For Dubnica:
    - 1) Mr Svetozár Pavlovič, Counsel;
    - 2) Mr Michel Danko, Interpreter
  - b) For Parma:
    - 1) Mr Vittorio Rigo, Counsel;
    - 2) Mr Pekka Albert Aho, Counsel;
    - 3) Ms Silvia Serena, In-house lawyer of Parma
34. The Panel heard evidence by tele-conference from Mr Peter Gergely, head coach of Dubnica in season 2013/2014 and majority shareholder and member of the board of directors of Dubnica, Mr Corrado di Taranto, operative director of Parma, and the Player, who were invited by the President of the Panel to tell the truth subject to the sanctions of perjury. Each party and the Panel had the opportunity to examine and cross-examine the witnesses. The parties were then afforded ample opportunity to present their case, submit their arguments and answer the questions posed by the Panel.
35. Before the hearing was concluded, both parties expressly stated that they did not have any objection with the procedure and that their right to be heard had been fully respected.
36. The Panel confirms that it carefully heard and took into account in its discussion and subsequent deliberations all of the submissions, evidence, and arguments presented by the parties, even if they have not been specifically summarized or referred to in the present award.

#### IV. SUBMISSIONS OF THE PARTIES

37. Dubnica's submissions, in essence, may be summarized as follows:

Based on the FIFA Regulations on the Status and Transfer of Players (hereinafter: the "FIFA Regulations") and CAS jurisprudence, Dubnica maintains that it should be compensated for the Player's sporting education and should be awarded training compensation.

- Dubnica understands article 6 of Annex 4 to the FIFA Regulations to be a *lex specialis* to the generally applicable principle enshrined in article 20(2) of the FIFA Regulations and article 1(1) of Annex 4 to the FIFA Regulations and that it complied with all prerequisites contemplated therein.
- Dubnica submits that it had offered a professional contract to the Player on different occasions since autumn 2011 and that a meeting took place between the Player on one side and the Sporting Director and the majority shareholder of Dubnica on the other side, but that the Player indicated that he was not interested in signing a new employment contract with Dubnica. On 13 March 2012, Dubnica then sent a letter to the Player by registered post with a "*new professional contract proposal*", the delivery of which was accepted by the Player. As such, Dubnica maintains that it complied with the prerequisites of article 6(3) of Annex 4 to the FIFA Regulations and went even further by submitting proof of receipt of the envelope and witness statements. Since Dubnica complied with the requirements, Dubnica maintains that the burden of proof shifts to Parma to prove that the envelope was empty.
- In respect of Parma's argument that the Player terminated his training long before he moved to Parma and that the amount of training compensation shall therefore be reduced, Dubnica argues that Parma did not provide any evidence from which it could be derived that the Player already concluded his training and, with reference to jurisprudence of the FIFA DRC and CAS, that the requirements to consider a Player's training terminated are very high. As such, Dubnica finds that the amount of training compensation shall not be reduced.
- Finally, as to the calculation of training compensation allegedly due, Dubnica maintains that it is entitled to EUR 298'333.

38. Parma's submissions, in essence, may be summarised as follows:

- Parma maintains that the jurisprudence of CAS is inconsistent in respect of the application of article 6(3) of Annex 4 to the FIFA Regulations and that it is nearly impossible for a club interested in retaining the services of a player to examine whether the requirements of this provision are complied with if the provision is not applied as written.
- Parma submits that Dubnica relies on new evidence in the present procedure that was not part of the proceedings before FIFA. Parma requests such new evidence to be dismissed on the basis of Article R57 of the CAS Code and argues that CAS cannot go beyond the scope of the previous litigation. Since Dubnica did not establish that the FIFA



DRC erred in evaluating the evidence presented, Parma finds that the appeal must be rejected.

- In case the newly submitted evidence would be admitted, Parma finds that it is still not demonstrated that a contractual offer was made to the Player in conformity with article 6(3) of Annex 4 to the FIFA Regulations. Dubnica did not provide any paper trail of the contractual offer, there is no exchange of emails, text messages or any other written correspondence related to the negotiations.
- In addition, Parma maintains that Dubnica failed to provide a confirmation of delivery. Parma considers that a legal act that does not come to the attention of the addressee cannot be considered a contractual offer in the first place, let alone satisfy the other requirements of article 6(3) of Annex 4 to the FIFA Regulations.
- In respect of Dubnica's argument that even if no contractual offer was made it would be still be entitled to training compensation, Parma argues that this position of Dubnica is not substantiated by any arguments and that such exception is not applicable in the present case.
- As to the completion of the Player's training before his 21<sup>st</sup> birthday, Parma refers to CAS jurisprudence according to which a player that regularly plays in the "A" team of a club is to be deemed as having completed his training. Since the Player was a substitute goalkeeper of the "A" team of Dubnica since 11 July 2009, it must be considered that the Player completed his training on 11 July 2009, alternatively on 27 February 2010, when the Player took over the role as first goalkeeper. With reference to CAS jurisprudence, Parma argues that a distinction must be made between the training of a player and the development of a player.
- Subsidiary, as to the calculation of training compensation allegedly due, Parma maintains that Dubnica would be only entitled to EUR 96'438, alternatively to EUR 128'082 and more alternatively to EUR 239'451.

## V. ADMISSIBILITY

39. The appeal was filed within the 21 days set by article 67(1) of the FIFA Statutes (2013 edition). The appeal complied with all other requirements of Article R48 of the CAS Code, including the payment of the CAS Court Office fees.
40. It follows that the appeal is admissible.

## VI. JURISDICTION

41. The jurisdiction of CAS, which is not disputed, derives from article 67(1) of the FIFA Statutes (2013 edition) as it determines that "[a]ppeals against final decisions passed by FIFA's legal bodies and against decisions passed by Confederations, Members or Leagues shall be lodged with CAS within 21 days of notification of the decision in question" and Article R47 of the CAS Code.

42. The jurisdiction of CAS is further confirmed by the Order of Procedure duly signed by the parties.
43. It follows that CAS has jurisdiction to decide on the present dispute.

## VII. APPLICABLE LAW

44. Article R58 of the CAS Code provides the following:

*“The Panel shall decide the dispute according to the applicable regulations and, subsidiarily, to 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”.*

45. The Panel notes that article 66(2) of the FIFA Statutes stipulates the following:

*“The provisions of the CAS Code of Sports-Related Arbitration shall apply to the proceedings. CAS shall primarily apply the various regulations of FIFA and, additionally, Swiss law”.*

46. The parties agreed to the application of the various regulations of FIFA and subsidiary to the application of Swiss law. The Panel is therefore satisfied to accept the subsidiary application of Swiss law should the need arise to fill a possible gap in the various regulations of FIFA.

## VIII. PRELIMINARY ISSUE

47. Parma argues that Dubnica relies on new evidence in the present procedure that was not part of the proceedings before FIFA. Parma requests such new evidence to be dismissed on the basis of article R57 of the CAS Code and argues that CAS cannot go beyond the scope of the previous litigation.

48. Article R57 of the CAS Code provides as follows - as relevant:

*“The Panel has full power to review the facts and the law. (...)*

*The Panel has the discretion to exclude evidence presented by the parties if it was available to them or could reasonably have been discovered by them before the challenged decision was rendered (...).”*

49. Before the amendment of Article R57 of the CAS Code, CAS jurisprudence was clear regarding the interpretation of article R57 of the CAS Code:

*“(...) [T]here is a long line of CAS awards, even going back many years, which have relied on article R57 of the CAS Code to firmly establish that the CAS appeals arbitration allows a full de novo hearing of a case, with all due process guarantees, which can cure any procedural defects or violations of the right to be heard occurred during a federation’s (or other sports body’s) internal procedure. Indeed, CAS appeals arbitration proceedings*

*allow the parties ample latitude not only to present written submissions with new evidence, but also to have an oral hearing during which witnesses are examined and cross-examined, evidence is provided and comprehensive pleadings can be made” (CAS 2009/A/1880 & 1881, §18).*

50. Question is whether the amendment of Article R57.3 of the CAS Code has any influence on this long line of CAS jurisprudence.
51. A Panel’s power to review an appeal on a *de novo* basis is well established in a long line of CAS jurisprudence. Indeed, this basis of review is, in essence, the foundation of the CAS appeals system and the standard of review should not be undermined by an overly restrictive interpretation of Article R57.3 of the Code.
52. The Panel’s inherent discretion to exclude certain evidence under this provision of the Code is just that, i.e. a discretionary power to exclude (or admit) certain evidence based on the Panel’s own assessment of the case at hand. Thus, the Panel is free to accept or reject any such evidence and doing such should not disrupt the fundamental principle of *de novo* review.
53. The Panel is of the opinion that Article R57.3 of the Code should be construed in accordance with the fundamental principle of the *de novo* power of review. As such, the Panel also considers that the discretion to exclude evidence should be exercised with caution, for example, in situations where a party may have engaged in abusive procedural behaviour, or in any other circumstances where the Panel might, in its discretion, consider it either unfair or inappropriate to admit new evidence.
54. In this regard, the Panel concurs with certain legal scholars who argue the following:

*“[T]his new provision should be applied with caution, so as not to impinge upon the fundamental principle of de novo review by the CAS. The amendment may make sense in those cases where the CAS acts as a second instance arbitral tribunal, reviewing an award rendered by another arbitral panel at the end of genuine arbitral proceedings. But in appeals proceedings against decisions rendered by the hearing bodies of the sports-governing organizations, where the curing effect of a full, de novo review by the CAS assumes all its importance, we believe Panels should use the discretion now granted to them by Article R57 only in those cases where the adducing of pre-existing evidence amounts to abusive or otherwise unacceptable procedural conduct by a party”.*

As an example of such abusive conduct, the authors mention the following example:

*“A club that files a totally unsubstantiated claim against another club before the FIFA Dispute Resolution Chamber with the obvious intent to put forward its case only once the FIFA decision should be appealed in CAS. In that case, the dispute resolution process provided for by FIFA would be de facto circumvented as the FIFA instance would be put in the difficult situation of having to make a decision based on a poorly substantiated case, with the risk that such decision would then be overturned by CAS simply because all the relevant arguments and evidence have been put forward (only) at that stage” (RIGOZZI, HASLER, QUINN, The 2011, 2012 and 2013 revisions to the Code of Sports-related Arbitration, Jusletter, 3 June 2013, p. 14).*

55. The Panel observes that although the Appealed Decision states that the FIFA DRC was only provided by Dubnica with a “*confirmation from Slovak Post dated 13 March 2012*” in support of its statement that it had offered the Player a new employment contract, the Panel identifies that

the FIFA file contains all documents referred to in §71 below, except for the letter dated 24 September 2013 from the Director of Regional Headquarters of “*Slovenska Posta*”, which letter was provided to Dubnica on 24 September 2013 following a request dated 12 September 2013.

56. It is the Panel’s understanding that Dubnica – after having received the Appealed Decision on 31 July 2013 – attempted to collect additional evidence to support its position, which additional evidence is completely in line with the arguments and evidence already presented during the proceedings before the FIFA DRC. As such, the Panel finds that Dubnica neither engaged in abusive procedural behaviour, nor does the Panel consider it unfair or inappropriate to admit the “new” evidence adduced by Dubnica.
57. The Panel finds that – by admitting this new evidence to the file – it does not go beyond the claims submitted to it within the meaning of Article 190(2)(c) of Switzerland’s Private International Law Act (hereinafter: the “PILS”) or beyond the scope of the previous litigation as argued by Parma.
58. As such, the Panel sees no reason not to admit the newly submitted evidence to the case file.

## **IX. MERITS**

### **A. The Main Issues**

59. As a result of the above, the main issues to be resolved by the Panel are:
  - a. Is Dubnica entitled to receive training compensation from Parma in respect of the Player?
  - b. Did the Player complete his training prior to his registration with Parma?
  - c. To what amount of training compensation is Dubnica entitled, if any?
  - d. Is any interest payable?
- a) *Is Dubnica entitled to receive training compensation from Parma in respect of the Player?*
60. The relevant provisions regarding training compensation are set out in the FIFA Regulations and determine, *inter alia*, the following:

#### *Article 20 FIFA Regulations (“Training compensation”)*

*“Training compensation shall be paid to a player’s training club(s): (1) when a player signs his first contract as a professional and (2) each time a professional is transferred until the end of the season of his 23rd birthday. The obligation to pay training compensation arises whether the transfer takes place during or at the end of the player’s contract. The provisions concerning training compensation are set out in Annexe 4 of these regulations”.*

*Annex 4 to the FIFA Regulations (“Training compensation”)*

**Article 1** “Objective”

1. *“A player’s training and education takes place between the ages of 12 and 23. Training compensation shall be payable, as a general rule, up to the age of 23 for training incurred up to the age of 21, unless it is evident that a player has already terminated his training period before the age of 21. In the latter case, training compensation shall be payable until the end of the season in which the player reaches the age of 23, but the calculation of the amount payable shall be based on the years between the age of 12 and the age when it is established that the player actually completed his training.*
2. *The obligation to pay training compensation is without prejudice to any obligation to pay compensation for breach of contract”.*

**Article 2** “Payment of training compensation”

1. *“Training compensation is due when:*
  - i. *a player is registered for the first time as a professional; or*
  - ii. *a professional is transferred between clubs of two different associations (whether during or at the end of his contract) before the end of the season of his 23rd birthday.*
2. *Training compensation is not due if:*
  - i. *the former club terminates the player’s contract without just cause (without prejudice to the rights of the previous clubs); or*
  - ii. *the player is transferred to a category 4 club; or*
  - iii. *a professional reacquires amateur status on being transferred”.*

**Article 6** “Special provisions for the EU/EEA”

1. *“For players moving from one association to another inside the territory of the EU/EEA, the amount of training compensation payable shall be established based on the following:*
    - a) *If the player moves from a lower to a higher category club, the calculation shall be based on the average training costs of the two clubs.*
    - b) *If the player moves from a higher to a lower category, the calculation shall be based on the training costs of the lower-category club.*
  2. *Inside the EU/EEA, the final season of training may occur before the season of the player’s 21st birthday if it is established that the player completed his training before that time.*
  3. *If the former club does not offer the player a contract, no training compensation is payable unless the former club can justify that it is entitled to such compensation. The former club must offer the player a contract in writing via registered post at least 60 days before the expiry of his current contract. Such an offer shall furthermore be at least of an equivalent value to the current contract. This provision is without prejudice to the right to training compensation of the player’s previous club(s)”.*
61. It is undisputed that the Player was under a professional contract with Dubnica before his employment contract with Dubnica expired and he joined Parma.
62. In the present case, the Player was first registered as a “non-amateur” with Dubnica in the summer of 2007 at the age of 15. The Panel understands the reference to “non-amateur” to imply that

the Player was in fact registered as a “professional” football player and not as an amateur. In total, he played with Dubnica for five seasons before his employment contract expired. At the moment of the registration with Parma in 2012, he was under the age of 23. As such, in accordance with article 20 of the FIFA Regulations, Dubnica would in principle be entitled to the payment of training compensation. However, the FIFA Regulations set out certain exceptions to such general principle in article 6(3) of Annex 4 to the FIFA Regulations.

63. Article 6(3) of Annex 4 to the FIFA Regulations sets out an exception which applies specifically to players moving from one football association to another inside the territory of the EU/EEA. For transfers occurring within the EU/EEA – such as that of the Player, moving from the Slovak Republic to Italy – article 6(3) is a *lex specialis*.
64. It is undisputed that the Player was a professional when he left Dubnica and signed an employment contract with Parma. The Panel accepts that article 6(3) of Annex 4 to the FIFA Regulations is applicable and no further development is required in this respect as it is undisputed by the parties.
65. The second and third sentence of article 6(3) of Annex 4 to the FIFA Regulations apply to situations where a professional contract is already in existence, setting out the following requirements which the training club must meet in order to retain a right to compensation if a player moves to another club:
  - (i) an offer in writing for a new contract 60 days before the expiry of the current contract;
  - (ii) a notice of the offer sent by registered mail;
  - (iii) financial terms of the offer at least as favourable as those in the current contract.
66. Dubnica submits that it complied with all prerequisites, whereas Parma maintains that Dubnica did not. More specifically, Parma maintains that Dubnica failed to provide a confirmation of delivery of the offer to the Player. Parma considers that a legal act that does not come to the attention of the addressee cannot be considered a contractual offer in the first place, let alone satisfy the other requirements of article 6(3) of Annex 4 to the FIFA Regulations.
67. The Panel observes that the positions of the parties particularly divert in respect of whether Dubnica had indeed made a new contractual offer to the Player. It remained uncontested by Parma that Dubnica’s offer – if indeed filed – was filed within the deadline of 60 days before expiry of the Player’s employment contract with Dubnica.
68. Although during the hearing Parma disputed that the financial terms of the contractual offer were at least as favourable as those in the initial employment contract, it did not become clear to the Panel on which facts such allegation was based.
69. The Panel observes that the initial employment contract between Dubnica and the Player set out that Dubnica had to pay a “*monthly financial reward to the player in the amount of EUR 600.00*”, whereas the contractual offer determines that Dubnica had to pay a “*monthly financial reward to the player in the amount of EUR 1,300.00 a year 2012-2013 [...] and in 2013-2014 the wage of EUR 1,500.00*”. The Panel understands that these amounts refer to the monthly remuneration of the

Player and, as such, in the absence of any proof to the contrary, the Panel finds that the financial terms of the contractual offer – if indeed filed – were at least as favourable as those foreseen in the initial employment contract.

70. As such, the Panel shall analyse whether Dubnica complied with the regulatory requirements for making a new contractual offer to the Player in the sense of article 6(3) of Annex 4 to the FIFA Regulations.
71. The Panel observes that Dubnica – who bears the burden of proof – filed the following documents to corroborate its position:
- A letter dated 13 March 2012 addressed to the Player, stamped by Dubnica and signed by Mr Andrej Porazik, Chairman of the Board of Directors of Dubnica, which letter provides as follows – as relevant:  
*“Subject Sending the Professional Player Contract  
Please find attached to this letter the proposal of the new Professional Player Contract since your valid Professional Player Contract expires on 30 June 2012”.*
  - A professional player contract dated 13 March 2012, stamped by Dubnica and signed by the aforementioned Mr Andrej Porazik and Mr Ing. Ivan Nemeckay, Member of the Board of Directors of Dubnica for the seasons 2012/2013 and 2013/2014, which contract provides as follows – as relevant:  
*“For the term of this Contract (..) the FC undertakes to pay the monthly financial reward to the player in the amount of EUR 1,300.00 a year 2012-2013 (..) and in 2013-2014 the wage of EUR 1,500.00”.*
  - An undated “Postal Receipt” bearing the name of Dubnica as sender and the name and the address of the Player for delivery with filing number 135.
  - An undated “Bulk Posting Form” bearing the name of Dubnica as sender, the name and the address of the Player, the place of delivery, the “Certificate of posting” number (68 78 62) 135 with date “13/3”.
  - A letter dated 24 September 2013, from the Director of Regional Headquarters of “Slovenska Posta”, which letter provides as follows – as relevant:  
*“Following your application of 12 September 2013 for the provision of information concerning the delivery of the registered mail, certificate of posting no. RR 68 786 213 5 SK, posted on 13 March 2012, place of posting: Nova Dubnica, to the addressee: Pavol Bajza, Predmier 186, 013 51 Predmier, we hereby inform you that the mail in question was delivered on 15 March 2012. The mail was accepted by the authorized recipient”.*
72. Article 6(3) of Annex 4 to the FIFA Regulations requires that “[t]he former club must offer the player a contract in writing via registered post at least 60 days before the expiry of his current contract”.
73. Regarding this issue, the Panel observes that Dubnica – in addition to the above-mentioned documents – submitted witness statements of Mr Peter Gergely (head coach of Dubnica in

season 2013/2014 and majority shareholder and member of the board of directors of Dubnica), Mr Andrej Porazik (former sporting director of Dubnica), and Mr Juraj Venglos (the Player's Agent). Parma submitted a witness statement of Mr Corrado Di Taranto (operative director of Parma).

74. The Panel notes that the probative value of the written statements of Mr Porazik and Mr Venglos is limited, since their content was not confirmed at the hearing and Parma was not able to cross-examine these witnesses.
75. The Panel heard evidence by tele-conference from Mr Gergely, Mr Di Taranto and the Player.
76. Mr Gergely explained to the Panel that he had spoken by phone with the Player's Agent about an extension of the Player's employment contract and that, in the beginning of March, he – in the presence of Mr Porazik – presented the Player an offer for an extension of his employment contract in the meeting room of the stadium. Mr Gergely declared that the Player only responded verbally that he did not want to sign the contract. Mr Gergely explained that it was clear to him that the Player – at that time also playing in the U21 national team of Slovak Republic – did not want to stay in the Second Slovakian League and therefore did not want to sign a new employment contract with Dubnica. As a result, Dubnica sent the offer to the Player by registered mail in accordance with the FIFA Regulations to safeguard the entitlement for training compensation. Mr Gergely admitted that in the summer of 2012, Dubnica had financial problems and delayed payments to players and companies.
77. Mr Di Taranto confirmed his written statement and stressed that both the Player and the Player's Agent informed Parma that no training compensation had to be paid because Dubnica had not made a written offer of a new contract to the Player in the manner required in the FIFA Regulations. Mr Di Taranto added that in his experience players' agents usually downplay the possibility of training compensation being payable and admitted that Parma did not check the information given by the Player and the Player's Agent with Dubnica.
78. The Player confirmed that the alleged correspondence of Dubnica of 13 March 2012 was addressed to his home address and permanent residence. He explained that Dubnica owed him EUR 5'000 for outstanding remuneration and that Dubnica never offered him an extension of his contract at the premises of the club. The Player stressed that he also never received such an offer by registered mail, but that his mother – living in the same house – had received something by regular mail. His mother told him about a received envelope only on 20 July 2012. The Player explained that his Agent, Mr Venglos, told him that Dubnica made a mistake by not sending him an offer. When asked about the written statement of Mr Venglos in which Mr Venglos declared that during the negotiations he reminded Parma of its obligation to pay training compensation to Dubnica, the Player declared that Mr Venglos told him otherwise.
79. Based on all the above, the Panel has no hesitation to conclude that the content of the letter dated 24 September 2013 of the Director of Regional Headquarters of "*Slovenska Posta*" in conjunction with the "*Postal Receipt*", the "*Bulk Posting Form*", the letter dated 13 March 2012 and the professional player contract, all regarding the same registration number of the registered mail and the same date of dispatch, is sufficient evidence to prove that Dubnica sent the Player



a contractual offer via registered mail on 13 March 2012, which offer was delivered at the home address of the Player on 15 March 2012, which is 107 days before the expiry of the employment contract.

80. As such, the Panel considers that Dubnica has discharged its burden of proof and has complied with the prerequisites set out in Article 6(3) of Annex 4 of the FIFA Regulations.
81. The Panel finds that even if the Player had no knowledge of the content of the delivery made on 15 March 2012, the fact that a delivery was made at his home address results in a shift of the burden of proof to the Player to establish that this letter did not contain a contractual offer from Dubnica.
82. The Panel finds that it is the responsibility of the Player to take note of the content of registered mail delivered at his address. The Panel finds it particularly odd that the Player allegedly did not take note of the correspondence from Dubnica addressed to him while he alleged to be entitled to an amount of outstanding salaries of EUR 5'000 from Dubnica.
83. The Panel finds that it has not been made plausible by the Player that the envelope was empty or did not contain a contractual offer.
84. The Panel deems it important that the Player did not explicitly state that the envelope was empty, but that the Player argued that he did not take note of the content of the envelope. Whereas the former argument might – under certain circumstances – lead to the conclusion that the Player discharged his burden of proof, the Panel finds that the latter argument – even if it were true – is in itself not sufficient because it does not mean that Dubnica did not comply with the regulatory requirements in order to be entitled to training compensation, *i.e.* sending a new contractual offer to the Player by registered mail.
85. As to Parma's argument that it is not demonstrated that a contractual offer was made to the Player in conformity with article 6(3) of Annex 4 to the FIFA Regulations, because Dubnica did not provide any paper trail of the contractual offer (there is no exchange of emails, there are no text messages or any other written correspondence related to the negotiations), the Panel deems it very likely that no real negotiations took place since it was clear from the beginning that the Player was not interested in signing a new employment contract with Dubnica.
86. The Panel however finds that this is not relevant for the matter at stake; the relevant question being whether a contractual offer was made despite the fact that the Player was not interested in concluding such new contract.
87. In view of the fact that the Player was regarded as a very talented player in the Slovak Republic – which can be substantiated by the fact that he was a regular player in the U-21 national team of the Slovak Republic – and because Dubnica was playing in the Second Division, the Panel finds Dubnica's contention that, although it was willing to retain the Player, it was aware that the Player would not sign a new contract with it very credible. Furthermore, the Player was entitled to certain months of salary and would be a free agent in the next transfer window. As

a consequence, the Panel is satisfied to accept that there is no paper trail of the contractual negotiations besides the letter dated 13 March 2012.

88. Additionally, the Panel finds that Parma's allegation that Dubnica was in difficult financial circumstances and was therefore not able to offer an improved employment contract to the Player, is not established. Although Dubnica had financial problems and delayed payments to players and companies, no evidence was submitted to the Panel that Dubnica was in administration or otherwise would not be in a position to fulfil the binding obligations in the offer.
  89. Finally, the Panel finds that Parma should have inquired whether Dubnica indeed did not offer a new employment contract to the Player, instead of solely relying on statements allegedly made by the Player's Agent, particularly because Mr Di Taranto stated that in his experience players' agents usually downplay the possibility of training compensation being payable.
  90. Consequently, the Panel finds that Dubnica complied with article 6(3) of Annex 4 to the FIFA Regulations and that Dubnica is therefore entitled to receive training compensation from Parma in respect of the Player.
- b) Did the Player complete his training prior to his registration with Parma?*
91. According to article 6(2) of Annex 4 to the FIFA Regulations, the amount of training compensation payable shall be based on the years between 12 and 21, unless it is evident that a player has already terminated his training period before the age of 21.
  92. Parma maintains that the Player completed his training before reaching the age of 21. Dubnica refers to FIFA DRC case law and argues that the Player did not complete his training at Dubnica, as he was not a world class player with exceptional status.
  93. Parma supports its assertion by claiming that the Player was a substitute goalkeeper of the "A" team of Dubnica since 11 July 2009, that he became the first goalkeeper of the Respondent's "A" team on 27 February 2010 and played every game (14) until the end of the season 2009/2010 as well as the first 18 games of the 2010/2011 season in the First League, which is the highest Slovakian league. Furthermore, Parma maintains that the Player was substitute goalkeeper for the second part of the 2010/2011 season, but played all the games (33) in the Second League during the 2011/2012 season. In addition, Parma argues that the Player *"has been regularly called up to the youth national teams of Slovakia in all age groups since the U-18"*.
  94. The Panel notes that Dubnica did not dispute these figures. However, Dubnica argues that the Player had not completed his training before his move to Parma, because Dubnica – as a result of the Player's *"unstable performances"* and in its *"fight against relegation"* – had to acquire a more experienced goalkeeper for the second part of the season 2010/2011. Furthermore, Dubnica points out that because of *"big changes in its organization and squad"* due to the relegation, the *"Club was fully aware of Player's qualities and gave the Player again possibility to be a first choice goalkeeper"*. Dubnica also argues that the Player only made his debut for Parma 9 months after he signed for Parma and is still to be considered a substitute goalkeeper at Parma.

95. The Panel finds that the burden of proof to demonstrate that the training of the Player actually ended before the Player's 21<sup>st</sup> birthday lies with Parma. The Panel deems FIFA circular letter no. 801 important in this respect. This circular letter determines, *inter alia*, as follows:

*"The Committee was asked to determine what triggers the end of a player's training and/or education. It maintained that it is a question of proof, which is at the burden of the club that is claiming this fact. A player who regularly performs for the club's "A" team could be considered as having accomplished his training period. This may certainly signal that the formation of a player has been completed but there may be other indications hereto. The decision on this will have to be taken on a case-by-case basis. This principle will also apply to apprentice professionals or players under a scholarship agreement".*

96. Firstly, the Panel notes that the fact that the Player was regularly called up to take part in matches with the youth national teams in the period from 2008 up until 2012 does not mean that the Player had terminated his training. It only shows that the Player was among the best players of his age in Slovakia.

97. The Panel also finds that the mere circumstance that the Player is not a world class player with an exceptional status does not mean that the Player could not have ended his training prior to his 21<sup>st</sup> birthday.

98. According to certain CAS jurisprudence a player that regularly plays in the "A" team of a club is to be deemed as having completed his training (CAS 2003/O/527, CAS 2006/A/1029). In CAS 2003/O/527, it was stated that:

*"L. signed his first non-amateur contract with the Respondent on 1 October 1996. During season 1996-1997, he played five times with the Respondent's "A" team. During season 1997-1998, he was engaged more regularly and played 15 times with the "A" team. At that time, he already spent many years with the Respondent's club and was noticed for his good technical skills and speed. L. can therefore be considered as having completed his training period before the beginning of season 1997-1998, in view of the scale, the characteristics and the level of games the Respondent's club at that time".*

99. However, according to other CAS jurisprudence, even though regular performance for a club's "A" team can trigger the end of a player's training, this does not necessarily constitute the only and decisive factor for the completion of a player's training. There are further factors that are generally taken into consideration such as the player's value at a club, reflected in the salary a player is paid, in the loan fee that is achieved for his services or in the value of the player's transfer, the player's public notoriety at national and international level, his position at the club if established as a regular or even holding the captaincy, the level of games, his regular inclusion in the national team and so forth (CAS 2006/A/1029, p. 20 *et seq.*; CAS 2008/A/1705, §9.4).

100. The Panel adheres to the latter view. The mere fact that a player regularly plays in the "A" team of his club is not decisive, since following such an approach would be inconsistent with the case-by-case analysis contemplated in FIFA circular letter no. 801. In this respect, the number of games played in the "A" team of a club is only one factor (albeit an important one) to be taken into account when assessing whether a player has completed his training period. The Panel finds that, in any event, the level of the relevant league is one of the factors that should

also be taken into account, since it is much harder for a player to reach the “A” team of a club in a top league in comparison to reaching the “A” team of a club in a less developed league.

101. The Panel observes that in the season 2009/2010, more specifically on 11 July 2009, the Player made his first appearance in the “A” team of Dubnica in the First League in the Slovak Republic, but only as a substitute goalkeeper. On 27 February 2010, he played his first match in the “A” team and was fielded in all 14 games of the second (spring) part of the 2009/2010 season.
102. The Panel is of the opinion that, in view of these figures and also taking into account that the Slovak league is not one of the top leagues in Europe, it does not necessarily follow that the Player, then still only aged 18, had at that time already completed his training period.
103. At the start of season 2010/2011, the Player remained the first choice goalkeeper, establishing his position as a regular player of the “A” team, and played all games during the first (autumn) part of the season, which counts up to 18 games. However, the Panel remains cognizant of the fact that the Slovak league is not one of the top leagues in Europe and further observes that the Player was subsequently replaced by a more experienced goalkeeper halfway during the season. The Panel also finds it relevant that the Player was not included in the national representative team of the Slovak Football Association but remained a national team representative only at youth level.
104. The Panel considers however that the start of the 2011/2012 season may be regarded as a turning point in the Player’s career. At the start of this season, the Player again became the first choice goalkeeper of the Club and played all 33 matches throughout this season. Even though the Club played only on the second highest level in the Slovak Republic this season, in view of all the circumstances, the Panel considers it significant that the Player then completed a full season as first choice for the “A” team and also deems it relevant that the Player apparently attracted the attention of a club like Parma, playing in one of the top European leagues.
105. The Panel is aware of the opinion of the CAS Panels in CAS 2006/A/1029 and CAS 2011/A/2682 suggesting that there is a difference between the “training” and the “development” of a player. In this regard, the panel in CAS 2006/A/1029 stated that: *“The training period is ruled and limited by FIFA with specific regulations and Circular Letters while the development of a player is not. The aim and the spirit of FIFA Regulations is to regulate the training and not the development of the Player. Therefore what needs to be established is the point of termination of the training period and not the extent of the subsequent development of Y. as a professional football player”*.
106. Although the Panel is satisfied to accept that as a matter of fact a distinction can be made between the “training” of a player in the sense of the FIFA Regulations and the “development” of a player in the sense that a football player does not stop learning and might still improve as a football player after the end of his training period, the Panel notes that the definitions section of the FIFA Regulations defines “training compensation” as *“the payments made in accordance with Annexe 4 to cover the **development** of young players”* (emphasis added) which may indicate that in the relevant and justified circumstances, to be determined indeed on a case-by-case basis, the training compensation may also refer to the period in which the young player’s skills are still in the process of development .

107. The Panel considers the fact that the Player was only fielded in Parma's "A" team 9 months after signing with the club and that he currently still is a substitute goalkeeper at Parma, is not necessarily because he was not fully trained at Dubnica, but more likely because the Player is now subjected to a higher level of football in a more competitive environment.
108. As a result, the Panel concludes that the Player had completed his training period at the beginning of the 2011/2012 season.

c) *To what amount of training compensation is Dubnica entitled, if any?*

109. The relevant provisions and guidelines for the calculation of the training compensation are set out in Annex 4 to the FIFA Regulations:

**Article 4** "Training costs"

1. *"In order to calculate the compensation due for training and education costs, associations are instructed to divide their clubs into a maximum of four categories in accordance with the clubs' financial investment in training players. The training costs are set for each category and correspond to the amount needed to train one player for one year multiplied by an average "player factor", which is the ratio of players who need to be trained to produce one professional player.*
2. *The training costs, which are established on a confederation basis for each category of club, as well as the categorisation of clubs for each association, are published on the FIFA website ([www.FIFA.com](http://www.FIFA.com)). They are updated at the end of every calendar year".*

**Article 5** "Calculation of training compensation"

1. *"As a general rule, to calculate the training compensation due to a player's former club(s), it is necessary to take the costs that would have been incurred by the new club if it had trained the player itself.*
2. *Accordingly, the first time a player registers as a professional, the training compensation payable is calculated by taking the training costs of the new club multiplied by the number of years of training, in principle from the season of the player's 12th birthday to the season of his 21st birthday. In the case of subsequent transfers, training compensation is calculated based on the training costs of the new club multiplied by the number of years of training with the former club.*
3. *To ensure that training compensation for very young players is not set at unreasonably high levels, the training costs for players for the seasons between their 12th and 15th birthdays (i.e. four seasons) shall be based on the training and education costs of category 4 clubs. This exception shall, however, not be applicable where the event giving rise to the right to training compensation (cf. Annexe 4 article 2 paragraph 1) occurs before the end of the season of the player's 18th birthday.*
4. *The Dispute Resolution Chamber may review disputes concerning the amount of training compensation payable and shall have discretion to adjust this amount if it is clearly disproportionate to the case under review".*

**Article 6** "Special provisions for the EU/EEA"

1. *For players moving from one association to another inside the territory of the EU/EEA, the amount of training compensation payable shall be established based on the following:*

- a) *If the player moves from a lower to a higher category club, the calculation shall be based on the average training costs of the two clubs.*
  - b) *If the player moves from a higher to a lower category, the calculation shall be based on the training costs of the lower-category club.*
2. *Inside the EU/EEA, the final season of training may occur before the season of the player's 21st birthday if it is established that the player completed his training before that time.*
  3. *If the former club does not offer the player a contract, no training compensation is payable unless the former club can justify that it is entitled to such compensation. The former club must offer the player a contract in writing via registered post at least 60 days before the expiry of his current contract. Such an offer shall furthermore be at least of an equivalent value to the current contract. This provision is without prejudice to the right to training compensation of the player's previous club(s)".*
110. The Panel observes that, every year, FIFA provides its members with a circular letter regarding the categorisation of clubs. The attachments to the relevant FIFA Circular letters no. 1085, dated 11 April 2007; no. 1142, dated 15 April 2008; and no. 1185, dated 22 April 2009, all contain a table showing the training costs for each category. For UEFA club members, the figures are the following:
- |               |            |
|---------------|------------|
| Category I:   | EUR 90'000 |
| Category II:  | EUR 60'000 |
| Category III: | EUR 30'000 |
| Category IV:  | EUR 10'000 |
111. The Panel notes that the Player was registered with Dubnica on 6 August 2007, which is at the early stages of the season 2007/2008.
112. According to a confirmation of the SFA, Dubnica belonged to category III during the seasons 2007/2008, 2008/2009, 2009/2010 and 2010/2011.
113. According to a confirmation of the FIGC, Parma belonged to category I during the season 2007/2008, to category II during the season 2008/2009 and again to category I during the seasons 2009/2010 and 2010/2011.
114. The Panel recalls that in case of the transfer of a professional player, training compensation is calculated on a *pro rata* basis for the time the player was effectively trained by his previous club (article 3(1) of Annex 4 to the FIFA Regulations) and when a player is transferred from a lower to a higher category club within the EU, the calculation shall be based on the average of the training costs of the two clubs.
115. The Panel observes that regarding the calculation of training compensation to be paid the general rule is to consider the costs that would have been incurred by the "new" club if it had trained the player itself. As such, the Panel finds the fact that Parma belonged to category II in the 2008/2009 season is of relevance to the calculation of the amount of training compensation.

116. In order to determine the amount of training compensation to be paid, the Panel has to assess to which category the training club and the new club belonged during the timeframe to be taken into account (season 2007/2008, season 2008/2009, season 2009/2010 and season 2010/2011).
117. The Panel also deems it relevant that the Slovak Football Association confirmed that the 2007/2008 football season ran from 8 July 2007 until 14 June 2008 (*i.e.* 341 days). Since the Player transferred to Dubnica only on 6 August 2007, he was not trained by Dubnica during the first 29 days of the season. As such, following a *pro rata* calculation, Dubnica is only entitled to 312/341 of the yearly amount of training compensation over the 2007/2008 season.

118. In view of the foregoing, the calculation of the training compensation is the following:

Season 2007/2008 – average between category I and III (312/341)	EUR 54'897
Season 2008/2009 – average between category II and III	EUR 45'000
Season 2009/2010 – average between category I and III	EUR 60'000
Season 2010/2011 – average between category I and III	EUR 60'000
<b>Total amount of training compensation</b>	<b>EUR 219'897</b>

119. Consequently, the Panel finds that Dubnica is entitled to receive training compensation from Parma for the training of the Player in a total amount of EUR 219'897.

*d) Is any interest payable?*

120. Dubnica furthermore claims payment of interest on the amount of training compensation it is entitled to, at a rate of 5% *per annum*.
121. Parma argues that such amount should not be made subject to interest for late payments.
122. The Panel observes that, pursuant to article 3(2) of Annex 4 to the FIFA Regulations, the deadline for payment of training compensation is 30 days following the registration of the player with the new association.
123. Furthermore, the Panel observes that, pursuant to article 104(1) of the Swiss Code of Obligations, interest for late payment is due in the amount of 5% *per annum*.
124. The Panel observes that the FIGC registered the Player on 20 August 2012 and that the training compensation therefore fell due on 19 September 2012, which is 30 days after the Player was registered by the FIGC.
125. As to Dubnica's request "*that Parma shall reimburse the administrative cost paid by MFK Dubnica in front of FIFA DRC*", the Panel finds that this request shall be dismissed since no costs are awarded in the proceedings before the FIFA DRC.

126. Consequently, the Panel finds that Dubnica is entitled to interest at 5% *per annum* over the amount of EUR 219'897 as from 19 September 2012 until the date of effective payment.

## **B. Conclusion**

127. Based on the foregoing, and after taking into due consideration all the evidence produced and all arguments made, the Panel finds that:

- a. Dubnica is entitled to receive training compensation from Parma in respect of the Player.
- b. The Player completed his training period at the beginning of the 2011/2012 season.
- c. Dubnica is entitled to receive training compensation from Parma for the training of the Player in a total amount of EUR 219'897.
- d. Dubnica is entitled to interest of 5% *per annum* over the amount of EUR 219'897 as from 19 September 2012 until the date of effective payment.

128. Any further claims or requests for relief are dismissed.

## **ON THESE GROUNDS**

### **The Court of Arbitration for Sport rules that:**

1. The appeal filed on 6 February 2014 by MFK Dubnica against the Decision issued on 31 July 2013 by the Dispute Resolution Chamber of the Fédération Internationale de Football Association is partially upheld.
2. The decision of the Dispute Resolution Chamber of the Fédération Internationale de Football Association issued on 31 July 2013 is set aside.
3. FC Parma is ordered to pay to MFK Dubnica the amount of EUR 219'897 (two hundred nineteen thousand eight hundred and ninety-seven Euro) plus 5% interest *per annum* as from 19 September 2012.
4. (...).
5. (...).
6. All other motions or prayers for relief are dismissed.