



Arbitration CAS 2015/A/4248 U.C. Albinoleffe s.r.l. v. SC Beira Mar Futebol SAD, US Sassuolo Calcio s.r.l. & Fédération Internationale de Football Association (FIFA), award of 29 November 2016

Panel: Mr Mark Hovell (United Kingdom), President; Prof. Petros Mavroidis (Greece); Prof. Ulrich Haas (Germany)

Football

Training compensation

Notion of decision

De novo power of review

Bridge transfers

1. The form of a communication has no relevance to determine whether there exists a decision or not. In principle, for a communication to be a decision, the communication must contain a ruling, whereby the body issuing the decision affects or intends to affect the legal situation of the addressee of the decision or other parties. A decision is a unilateral act, sent to one or more determined recipients and is intended to produce legal effects. An appealable decision of a sport association or federation is normally a communication of the association directed to a party and based on an “*animus decidendi*”, *i.e.* an intention of a body of the association to decide on the matter.
2. CAS is free to exercise its *de novo* power of review and to render a new decision when the federation below, even if it closed the matter on procedural grounds, considered the merits of the matter.
3. The claiming party has the burden to establish how a third club has been utilised as part of a “bridge transfer” or a vehicle through which the club that eventually utilises the player’s services moves the player in order to avoid some financial obligation to the training club(s). The key issues in this respect are: (i) how long the player remains with the middle club; (ii) does that club derive any benefit from his training with the training club(s), *i.e.* does he play and/or train with that club; (iii) does this appear an “unusual pattern of movement”; and (iv) does there appear to be an effort to manipulate the training compensation mechanism under the FIFA Regulations on the Status and Transfer of Players.

I. PARTIES

1. U.C. Albinoleffe s.r.l. (“Albinoleffe” or “the Appellant”) is a football club based in Leffe, Italy. It is currently competing in the Lega Pro Prima Divisione A. It is a member of the *Federazione Italiana Giuoco Calcio* (“FIGC”), which in turn is affiliated to Fédération Internationale de Football Association.
2. S.C. Beira Mar Futebol SAD (“Beira Mar” or “the First Respondent”) is a football club based in Averio, Portugal. It is currently competing in the Averio FA First Division. It is a member of the Federação Portuguesa de Futebol (“FPF”), which in turn is affiliated to Fédération Internationale de Football Association.
3. US Sassuolo Calcio s.r.l. (“Sassuolo” or “the Second Respondent”) is a football club based in Modena, Italy. It is currently competing in Serie A. It is a member of the FIGC, which in turn is affiliated to Fédération Internationale de Football Association.
4. Fédération Internationale de Football Association (“FIFA” or “the Third Respondent”) is the governing body of world football and has its registered office in Zurich, Switzerland.

II. FACTUAL BACKGROUND

A. Background Facts

5. Below is a summary of the main relevant facts and allegations based on the Parties’ written submissions, pleadings and evidence adduced during these proceedings. Additional facts and allegations may be set out, where relevant, in connection with the legal discussion that follows. Although the Panel has considered all the facts, allegations, legal arguments and evidence submitted by the Parties in the present proceedings, it refers in this Award only to the submissions and evidence it considers necessary to explain its reasoning.
6. On 23 August 2010, C. (“the Minor Player”) registered with Albinoleffe with the status of ‘Giovane di Serie’ (roughly translated as “serial youngster”) a specific binding registration of FIGC minors due to expire at the end of the season starting during the year of his 19th birthday (*i.e.* 30 June 2017).
7. The FIGC International Organisational Rules state:

“Article 33 – The “serial youngsters”

1. *The Minor players “young” from 14 years of age become registered as “serial youngsters” when they sign and it is upheld that the request of registration in favour of a club affiliated to one of the Professional Leagues.*
2. *The players qualified as “serial youngsters” accept a particular bond apt to permit to the club to train them and prepare them for the fielding in the championships participated by this latter, until the sporting season*

that begins in the year in which the player turns 19. In the last sporting season of the period of the bond, the football player “serial youngster”, within the term annually established by the Federal Council, has the right, as subject in a relationship of technical training and without that this involves the acquisition of the status of “professional”, to a compensation annually established by the league in which the Club participates. The club for which the serial youngster is registered has the right to conclude with him his first professional player contract for a maximum duration of three years. Such right to be exercised solely in the last month of registration as “serial youngster”, within the terms annually established by the Federal Council.

3. *Players registered as “serial youngsters” when they turn 16 and upon condition of non-temporary registration, can conclude a professional player contract. The football player “serial youngster” has however the right to obtain the status of professional and the conclusion of the related contract by the club for which it is registered, when:*
 - a) *he has participated in at least 10 league games or Italian Cup, in Serie A;*
 - b) *he has participated in at least 12 league games or Italian Cup, in Serie B;*
 - c) *he has participated in at least 13 league games or Italian Cup, in Serie C/1;*
 - d) *he has participated in at least 17 league games or Italian Cup, in Serie C/2*
4. *In the case mentioned to the aforesaid paragraph is admitted a duration of the contractual relationship not superior to five sporting seasons and to three sporting seasons included the one in which occurs the conclusion of the contract in respectively to adult players and minor players. Such duration, in every way, cannot overtake the one which would have occurred with the conclusion occurred under the terms of paragraph 2.*
5. *In the case of football player “serial youngster”, the right contained in the abovementioned paragraph 3, also in the circumstance of temporary registration is valid toward the club which have him on a temporary basis, remaining the right of the club for which the football player is registered on a permanent basis, to confirm him as “professional” with due consideration to the terms and condition set in the present article. The lack of confirmation by this later club will produce implies the loss of membership in favour of the same, regardless of the age of the footballer.*
6. *The footballer player “serial youngster” under a relationship of technical training can conclude a professional contract with the club which is holding temporary performances. In such circumstance shall be applied the rules of the preceding paragraph for what regards the right of the club for which the football player is registered on a permanent basis”.*
8. In or around early 2013, Albinoleffe were approached by Juventus, who showed an interest in the Minor Player. A deal was discussed, but not concluded, which would see Albinoleffe loan the Minor Player to Juventus for 2 seasons at EUR 60,000 per season, and to grant Juventus an option to acquire the Minor Player’s registration for EUR 700,000. The agent of Juventus was Mr. Giorgio Parretti (“the Agent”) and the head of its youth section was Mr. Stefano Braghin.

9. On 27 April 2013, an official offer of professional employment was sent from Albinoleffe to the Minor Player. A three-year contract was offered on the minimum salary allowed as part of the collective bargaining agreement with the FIGC. The Appellant submitted that this was for EUR 18,000 per season, net; the Second Respondent submitted this was EUR 14,086 per season, gross (roughly EUR 11,000 net). The offer was never accepted and the Minor Player remained as an amateur player, without a contract, registered to Albinoleffe.
10. On 18 December 2013, the Minor Player informed Albinoleffe that he had decided to cease playing football.
11. Towards the end of January 2014, the Minor Player, his father and the Agent were seen boarding a plane from Bergamo (Italy) to Portugal. Two other former Albinoleffe players were on the same flight.
12. On 25 January 2014, the Minor Player signed an employment contract with Beira Mar for two and a half years, paying EUR 27,500 for the first 6 months, EUR 80,000 for the next year and EUR 100,100 for the final year.
13. On 8 February 2014, the President of Albinoleffe sent a letter to the FIGC informing them he had grounds to fear that the Minor Player had been poached by a foreign club using the Agent.
14. On 20 February 2014, Albinoleffe sent a formal complaint to the FIGC Disciplinary Prosecutor against the Minor Player and the Agent.
15. On 24 February 2014, Albinoleffe sent a letter to Beira Mar and the Minor Player pointing out their “illegitimate conduct” and invited the Minor Player to immediately resume his duties with Albinoleffe.
16. On 7 April 2014, the FPF submitted an application in the Transfer Matching System (“TMS”) requesting the approval of FIFA PSC Sub Committee on Minors (“PSC SCM”) prior to the international transfer of the Minor Player.
17. On 7 May 2014, the PSC SCM issued a decision holding (“the PSC SCM Decision”):

“The application of the Federacao Portuguesa Futebol (TMS reference-G-0000645) on behalf of its affiliated club, SC Beira Mar, for the approval prior to the request for the International Transfer Certificate (“ITC”) of the Minor Player, C. (Italy), is ACCEPTED”.
18. Finally on 2 July 2014, the FIGC informed Albinoleffe that the FPF, on behalf of Beira Mar, requested the ITC of the Minor Player, and give Albinoleffe 5 days to provide its response. On the same date, Albinoleffe requested the Minor Player’s attendance at the first day of training set for 14 July 2014.
19. On 7 July 2014, Albinoleffe issued a formal objection to the release of the Minor Player’s ITC.

20. On 8 July 2014, the FIGC notified Albinoleffe of the PSC SCM Decision.
21. On 9 July 2014, Albinoleffe sent a further letter to the FIGC reiterating its objections to the release of the Minor Player's ITC and requesting the FIGC to provide the grounds for the PSC SCM Decision.
22. On 10 July 2014, Sassuolo mandated the Agent to procure the transfer of the Minor Player from Beira Mar.
23. On 17 July 2014, Beira Mar registered the Minor Player on a provisional basis.
24. On 18 July 2014, Sassuolo and Beira Mar concluded an agreement for the definitive transfer of the Minor Player to Sassuolo for the consideration of EUR 220,000.
25. On 24 July 2014, Albinoleffe sent a letter to FIGC reiterating its opposition to the issuance of the Minor Player's ITC to Beira Mar.
26. On 31 July 2014, the FIGC informed Albinoleffe that the Minor Player was still registered with Albinoleffe; that it did not issue an ITC; but that the Minor Player was appearing in the FIFA TMS as provisionally registered with the FPF, for Beira Mar.
27. On 1 August 2014, Albinoleffe sent a letter to the FIGC alleging negligence and raising the non-authorised training that the Minor Player was having with Sassuolo.
28. On 15 August 2014, FIFA informed the FIGC that although the strenuous opposition of Albinoleffe is noted:

"... according to the information contained in the TMS, on 7 April 2014 the Federacao Portuguesa de Futebol (FPF) submitted an application in the TMS requesting the approval of the sub-committee prior to the international transfer of the minor player, C., and on the same day the application was approved by your federation. Said application of the FPF was then accepted by the Single Judge of the Sub-committee with the decision dated 7 May 2014, the findings of which were uploaded in the TMS on 7 May 2014 and duly notified to both the requesting and former associations, i.e. the FPF and your federation.

Therefore, it would appear that our services are not in a position to intervene in the present matter anymore".

29. On 28 August 2014, the employment contract between the Minor Player and Sassuolo was signed ("the Sassuolo Contract"). The Sassuolo Contract contained the following clauses regarding the term and salary:

***Art. 1** – The Player undertakes, as a FIGC registered member, to provide his sports services in favour of the Club from **27/08/2014** to **30.6.2017**, starting on **28/08/2014**.*

***Art. 2** – The Club, under art. 4.1 of the Collective Agreement, undertakes to pay a salary to the Player (for multiyear contracts please specify the agreed amount for each football season). Gross amount it to be stated:*

a) Fixed part

S.S. 2014/2015 Euro 88.500,00 gross amount;

S.S. 2015/2016 – 2016/2017 Euro 108.000,00 gross amount”.

30. On 4 September 2014, the Single Judge of the PSC SCM issued a decision (“the Second PSC SCM Decision”) holding:

“The application of the Federazione Italiana Giuoco Calcio (TMS reference G-0000759) on behalf of its affiliated club, US Sassuolo Calcio, for the approval prior to the request for the International Transfer Certificate of the Minor Player, C. (Italy), is ACCEPTED”.

31. On 23 September 2014, the Minor Player was registered with Sassuolo.
32. On 26 September 2014, the FIGC informed Albinoleffe of the Second PSC SCM Decision and that the Minor Player had been registered with Sassuolo. Albinoleffe subsequently responded to the FIGC indicating a serious fault on behalf of the FIGC and requested that the registration of the Minor Player was immediately suspended.
33. On 31 January 2015, Albinoleffe wrote to the FIGC and requested a formal update in relation to the disciplinary proceedings.
34. On 2 February 2015, the Minor Player was transferred by Sassuolo to Juventus for EUR 1,500,000.

B. Proceedings before FIFA

35. On 10 March 2015, Albinoleffe requested that FIFA annul the provisional registration of the Minor Player due to several violations, which had affected the previous approval by the FIFA PSC SCM of the Minor Player’s application to be registered with the FPF/Beira Mar. The following prayers for relief were requested:

“A) Ascertain the violation and declare null and void the procedure of issuance of the ITC requested by FPF in relation to the registration of the minor player C., born 30 March 1997 in favour of Beira Mar;

B) Ascertain the violation and declare null and void the provisional registration and the employment contract of the minor player concluded with Beira Mar;

C) Ascertain the violation and declare null and void the following release by the FPF and/or the FIGC of the ITC for the registration of the young Player in favour of SASSUOLO participating to the Italian football championship Serie A;

D) Ascertain the violation and declare null and void the further transfer and registration of the young Player for SASSUOLO to JUVENTUS in the current football season 2014/2015;

E) Ascertain the violation and declare null and void all the acts and/ or measures, provisions related or following the disputed ITC received by the FPF and the consequent provisional registration of the young Player in favour of BEIRA MAR;

G) The Respondents shall bear all the procedural costs of these proceedings;

H) The Respondents shall compensate ALBINOLEFFE for the legal costs and other costs incurred in these proceedings, in an amount to be determined at the discretion of the FIFA Players' Status Committee”.

36. On 1 April 2015, Sassuolo sent Albinoleffe the amount of EUR 3,348.40 as a ‘solidarity contribution’ for the Minor Player’s transfer from Beira Mar. Albinoleffe subsequently returned the payment and put Sassuolo on notice to pay EUR 350,875.00 as ‘training compensation’.
37. On 2 April 2015, FIFA informed the FIGC that they were unable to deal with Albinoleffe’s requests, *inter alia*:

“According to the information contained in the Transfer Matching System (TMS), it would appear that the applicable provisions of the Regulations on the Status and Transfer of Players (hereinafter: the Regulations) for the international transfer of the minor player C. from your affiliated club, UC Albinoleffe, to the Portuguese club, SC Beira Mar, in July 2014 and the subsequent international transfer back to your affiliated club, US Sassuolo Calcio, have been duly respected.

... we would like to highlight that the only valid reason for an association to refuse the issuance of an ITC is the existence of a contractual dispute between the professional player and the former club.

... Additionally, we kindly draw your attention to art.8.2 par.6 of Annex 3 of the regulations, according to which if the new association does not receive a response to the ITC within 15 days of the ITC request being made, it shall immediately register the professional player with the new club on a provisional basis. This provisional registration shall become permanent one year after the ITC request. In this respect the Players’ Status Committee may withdraw the provisional registration, if, during this one-year period, the former association presents valid reasons explaining why it did not respond to the ITC request.

In this respect and according to the information contained in the TMS with regard to the relevant transfer instruction (TMS 92158), it appears the your federation failed to respond to the FPF’s ITC request within 15 days and therefore, the FPF provisionally registered the player for its affiliated club, SC Beira Mar.

Having said that, we must emphasise that no valid reason as to why your federation did not respond to the ITC request seem to have been provided nor invoked. What is more, your federation does not appear, in any case to have had a valid reason to reject the ITC request for the FPF since the player was apparently not under contract with your affiliated club, UC Albinoleffe, but he rather had the amateur status of “Giovane di Serie”.

As far as the subsequent international transfer from SC Beira Mar to your affiliated club, US Sassuolo Calcio is concerned, we wish to inform you that according to the Information contained in the TMS, on 29 August 2014, your federation submitted an application in the TMS for the approval of the sub-committee, which was approved by the said body on 4 September 2014. Furthermore, on 12 September 2014, your federation

requested the ITC for the player concerned for the FPF (TMS 102564) and apparently registered him for the club in question after receipt of the relevant ITC.

With regard to the domestic transfer of the minor player concerned for your affiliated club, US Sassuolo Calcio, to Juventus FC, we would like to point out that transfers of players between clubs belonging to the same association are governed by specific regulations issued by the association concerned....

In view of the above, we regret to inform you that our services do not appear to be in a position to comply with any of your affiliated club's requests.

Finally, please take note that this information is of a general nature and is only based on the information provided, and thus is without prejudice whatsoever. In particular, it is without prejudice to any formal decision which the competent deciding body might be called to take as to the substance of a potential financial decision”.

38. On 9 July 2015, Albinoleffe filed a claim before the FIFA Dispute Resolution Chamber (the “DRC”) against Beira Mar and Sassuolo to obtain compensation for the Minor Player’s training. The following prayers for relief were requested:

I. US Sassuolo Calcio Srl is ordered to pay Albinoleffe EUR 351.000 (THREE THOUSAND FIFTY ONE THOUSAND Euros), plus interest at 5% per year as of 16 August 2014.

II. US Sassuolo Calcio Srl shall bear the all the procedural costs of this procedure.

III. US Sassuolo Calcio shall compensate Albinoleffe for the legal and other costs incurred in connection with this procedure in an amount to be determined at the discretion of the FIFA Dispute Resolution Chamber.

On a subsidiary basis

IV. SC Beira Mar is ordered to pay Albinoleffe EUR 351.000 (THREE THOUSAND FIFTY ONE THOUSAND Euros), plus interest at 5% per year as of 16 August 2014.

V. SC Beira Mar shall bear the all the procedural costs of this procedure.

VI. SC Beira Mar shall compensate Albinoleffe for the legal and other costs incurred in connection with this procedure in an amount to be determined at the discretion of the FIFA Dispute Resolution Chamber”.

39. On 25 August 2015, Albinoleffe sent a first reminder to FIFA requesting the opening of the relevant dispute.

40. On 1 October 2015, FIFA sent Albinoleffe a letter (“the FIFA Letter”) stating the following:

“Training compensation for the player C.

(UC Albinoleffe, Italy / US Sassuolo, Italy and Beira Mar, Portugal)

...

...as a general rule FIFA decision-making bodies are competent to deal with cases concerning training compensation between clubs belonging to different associations only.

In light of the foregoing, we kindly inform you that the decision-making bodies of FIFA are not competent to intervene in cases related concerning training compensation in which both parties belong to the same association, as in the matter at hand.

On account of the above, we have to inform you that our services do not appear to be in a position to intervene in the present matter.

Finally, please take note that all of the above information, based on the documentation we have received from you, is of a general nature only and, thus, without prejudice whatsoever.

Yours faithfully

FIFA

...

...

Director of legal Affairs

Head of Players' Status”

III. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT

41. On 22 October 2015, pursuant to Article R47 of the Code of Sports-related Arbitration (the “CAS Code”), Albinoleffe filed a Statement of Appeal against Beira Mar, Sassuolo and FIFA at the Court of Arbitration for Sport (the “CAS”). The Statement of Appeal contained the following requests for relief:

- i. The appeal by UC Albinoleffe is upheld;*
- ii. The decision issued by FIFA on 01 October 2015 is replaced.*
- iii. US Sassuolo Calcio S.r.l is ordered to pay UC Albinoleffe EUR 351,000 (THREE HUNDRED FIFTY ONE THOUSAND/00 Euros), plus interest at 5% per year as of 16 August 2014.*

On a subsidiary basis

- iv. SC Beira Mar SAD is ordered to pay UC Albinoleffe EUR 351,000 (THREE HUNDRED FIFTY ONE THOUSAND/00 Euros), plus interest at 5% per year as of 16 August 2014.

On an alternative basis

- v. US Sassuolo Calcio S.r.l and SC Beira Mar SAD shall jointly and severally to pay UC Albinoleffe EUR 351,000 (THREE HUNDRED FIFTY ONE THOUSAND/00 Euros), plus interest at 5% per year as of 16 August 2014.

In any case

- vi. FIFA is ordered to reimburse UC Albinoleffe the procedural costs for the proceeding before FIFA amounting to CHF 5.000 (FIVE HUNDRED THOUSAND/00 Swiss Francs) plus 5% per year interests as of 9 July 2015;
- vii. FIFA and/or US Sassuolo Calcio S.r.l and/or SC Beira Mar SAD shall bear all the procedural costs of this arbitration procedure.
- viii. FIFA and/or US Sassuolo Calcio S.r.l and/or SC Beira Mar SAD shall compensate UC Albinoleffe for all legal and other costs incurred in connection with the arbitration in an amount to be determined at the discretion of the Panel”.

42. In its Statement of Appeal, Albinoleffe nominated Mr. Petros C. Mavroidis, Professor, as an Arbitrator.
43. On 29 October 2015, FIFA wrote to the CAS Court Office advising that their letter to Albinoleffe dated 1 October 2015 was merely an informative communication and does not constitute an appealable decision in front of CAS. FIFA stated that a “misunderstanding” had occurred with regard to the content of FIFA’s aforementioned correspondence. Further, FIFA stated:

“... the [FIFA Letter] is nothing more than an informative communication addressed to the Appellant and does not constitute an appealable decision in accordance with the [CAS Code]...”

... Nevertheless, should the Appellant wish to adhere to its claim in front of FIFA, we would obviously start with the relevant investigation.

In continuation, we believe that by lodging an appeal in the matter at hand, and in particular considering its requests, the Appellant has already indicated that it intends to adhere to its claim against the second Respondent as well as against SC Beira Mar Futebol SAD, i.e. the First Respondent.

Therefore, we wish to inform the CAS as well as the Appellant that FIFA is ready to start with the relevant investigation in the matter in dispute. It will then be up to the relevant decision-making body to address the question as to whether it is competent to deal with the Appellant’s above-described claim.

As we trust that the aforementioned should lead the Appellant to withdraw its appeal, and pending the submission of the Appellant's position in this regard, we hereby request CAS to suspend all the time limits it granted to the third Respondent in relation to the appeal procedure at hand via its correspondence dated 23 October 2015".

44. On 2 November 2015, pursuant to Article R51 of the CAS Code, Albinoleffe filed its Appeal Brief with the CAS Court Office and reiterated the requests for relief contained in its Statement of Appeal.
45. On 4 November 2015, Sassuolo wrote to the CAS Court office, advising that they agreed with the stance of FIFA and were of the opinion that a dispute between all the clubs involved could, and should, be primarily decided by FIFA. It requested that the relevant deadlines in relation to Sassuolo be suspended until such a time as the issue of the prosecution of the proceedings had been resolved.
46. On 10 November 2015, Albinoleffe wrote to the CAS Court office confirming their rejection of FIFA's arguments that the FIFA Letter was "*nothing else than an informative communication*" and argued there was not an alleged "*misunderstanding*" on the part of Albinoleffe. Albinoleffe stated:

"... In light of all the above, Appellant hereby refuses the kind proposal set forth by FIFA in its position, and consented by Sassuolo, to send back the matter and open other new investigations for the possible of a new decision at the first instance level in the present matter.

Thus the Appellant courteously requests that the suspension of the time-limits for the second and third respondents be lifted and that CAS continues this proceeding with immediate effect".
47. On 12 November 2015, Sassuolo nominated Mr. Ulrich Haas, Professor in Zurich, Switzerland, as an Arbitrator. The CAS Court Office provided Beira Mar and FIFA with a deadline of 5 days to confirm whether they agreed to jointly nominate Mr. Haas as an Arbitrator and that their silence would be deemed as an agreement.
48. On 12 November 2015, the CAS Court Office informed the parties that despite repeated attempts, it had been unable to deliver the Statement of Appeal and Appeal Brief to Beira Mar and had been unable to contact them either. The CAS Court Office proposed that all future correspondence was sent to Beira Mar by email only.
49. On 17 November 2015, FIFA confirmed they would take a passive stance in these CAS proceedings.
50. On 18 January 2016, pursuant to Article R55 of the CAS Code, Sassuolo filed its Answer containing the following requests for relief:

“Primarily

- “1. DECLARING the inadmissibility of the current appeal proceedings, since the FIFA letter challenged by Albinoleffe is not subject to appeal.

ALTERNATIVELY, without prejudice to the above prayer for relief

2. DECLARING that the current appeal proceedings should be limited to the scope of the FIFA Letter only.
3. CONFIRMING that the FIFA letter contains only the decision on FIFA’s jurisdiction to handle the dispute between clubs belonging to the same association.
4. RECOGNISING that Albinoleffe has no standing to sue against Sassuolo within the current appeal proceedings and all its claims against Sassuolo shall be dismissed.
5. CONFIRMING that FIFA was correct when denying its jurisdiction to decide on the dispute between Albinoleffe and Sassuolo in relation to training compensation.
6. CONFIRMING that CAS shall not deal with the merits of the dispute and, alternatively SENDING the case back to FIFA for further consideration.

ALTERNATIVELY, without prejudice to the above prayer for relief

7. CONFIRMING that CAS has no jurisdiction to assess the training compensation dispute between Albinoleffe and Sassuolo.
8. DECLARING Albinoleffe’s claims pertaining to the merits (lit. iii, iv and v, Appeal Brief, page 22) inadmissible
9. CONFIRMING that Sassuolo did not attempt to circumvent the application of the provisions regarding payment of training compensation.
10. CONFIRMING that the Player signing his first professional contract with Beira Mar and his subsequent transfer to Sassuolo does not constitute a ‘bridge transfer’.
11. CONFIRMING that Sassuolo is not liable to pay training compensation to Albinoleffe.
12. REJECTING any and all claims of Albinoleffe in relation to Sassuolo.

IN ANY EVENT

13. ORDERING the Appellant to bear all procedural costs incurred in these proceedings.
14. ORDERING Albinoleffe to cover the Second Respondent’s legal costs related to the proceedings, in the highest possible amount”.

51. On 27 January 2016, Albinoleffe informed the CAS Court Office that they considered a hearing was necessary.
52. On 28 January 2016, Sassuolo informed the CAS Court Office that they did not deem a hearing necessary and that the Panel should decide based the matter on the documents at its disposal.
53. On 29 January 2016, pursuant to Article R54 of the CAS Code and on behalf of the President of the CAS Appeals Arbitration Division, the CAS Court Office informed the Parties that the Panel appointed to this case was constituted as follows:
54. On 30 March 2016, the CAS Court office informed the parties that the Panel had determined to convene a hearing on 21 June 2016.
55. On 1 April 2016, the CAS Court Office wrote to the parties and provided them with a copy of a Redfern Schedule to complete. Albinoleffe was provided with a deadline of 15 April 2016 to complete the relevant sections of the Redfern Schedule applicable to it, and the Respondents were given a deadline of 30 April 2016 to complete their sections.
56. On 4 April 2016, Albinoleffe sent the Minor Player and Mr Giovanni Carnevali a ‘witness summon’, claiming that they were summoned to testify at the hearing on 21 June 2016 pursuant to Articles 182 and 184.2 of the Swiss Private International Law Act (“PILA”), Article R57 of the CAS Code and Articles 160 of the Swiss Civil Procedural Code.
57. On 15 April 2016, Albinoleffe submitted its completed version of a Redfern Schedule to the CAS Court Office. The CAS Court Office then sent a copy to Sassuolo (and also Beira Mar and FIFA, even though it was taking a passive stance in the proceedings) to complete the remainder of the document.
58. On 27 April 2016, Albinoleffe wrote to the CAS Court Office requesting that the Panel require Sassuolo to produce Mr. Giovanni Carnevali, C., and Mr. Giorgio Parretti as witnesses during the hearing.
59. On 29 April 2016, Sassuolo wrote to the CAS Court Office objecting to Albinoleffe’s request that the Panel produce Mr. Giovanni Carnevali, C., and Mr. Giorgio Parretti as witnesses during the hearing.
60. On 29 April 2016, Sassuolo submitted its completed version of a Redfern Schedule to the CAS Court Office.
61. On 2 May 2016, FIFA submitted its completed version of a Redfern Schedule to the CAS Court Office.
62. On 13 May 2016, the CAS Court Office wrote to the Parties referring them to Article R44.2 of the CAS Code and reminding them that the Panel has no power to compel witnesses to participate at the hearing.

63. On 31 May 2016, Albinoleffe, Sassuolo and FIFA all filed a signed Order of Procedure with the CAS Court Office, modified with handwritten amendments.

IV. THE HEARING

64. A hearing was held on 21 June 2016 at the CAS premises in Lausanne, Switzerland. The parties did not raise any objection as to the composition of the Panel. The Panel were all present and was assisted by Mr Fabien Cagneux, Counsel to the CAS. The following persons attended the hearing:

- i. Albinoleffe: Mr Gianfranco Andreoletti, President; Mr Luca Tettamanti, Mr Eduardo Chiacchio and Mr Federico Venturi Ferriolo, all external counsel; and Ms Linda Andreoletti, interpreter.
- ii. Sassuolo: Mr Paolo Lombardi, and Mr Lucas Pastore, both external counsel.

65. Mr Andreoletti, was there as a party representative, also gave evidence before the Panel as a witness at the hearing. Mr Andreoletti was invited by the President of the Panel to tell the truth subject to the sanctions of perjury. The Parties and the Panel had the opportunity to examine and cross-examine the witness. The Parties then were given the opportunity to present their cases, to make their submissions and arguments and to answer questions posed by the Panel. After the Parties' final, closing submissions, the hearing was closed and the Panel reserved its detailed decision to this written award.

66. Upon closing the hearing, the Parties expressly stated that they had no objections in relation to their respective rights to be heard and that they had been treated equally in these arbitration proceedings. The Panel has carefully taken into account in its subsequent deliberation all the evidence and the arguments presented by the Parties, both in their written submissions and at the hearing, even if they have not been summarised in the present award.

V. SUBMISSIONS OF THE PARTIES

67. Upon closing the hearing, the Parties expressly stated that they had no objections in relation to their respective rights to be heard and that they had been treated equally in these arbitration proceedings. The Panel has carefully taken into account in its subsequent deliberation all the evidence and the arguments presented by the Parties, both in their written submissions and at the hearing, even if they have not been summarised in the present award.

A. Albinoleffe's Submissions

68. In summary, Albinoleffe submitted the following in support of its Appeal:

i. The applicable edition of the FIFA RSTP

69. Albinoleffe submitted that the 2012 edition of the FIFA Regulations on the Status and Transfer of Players (“FIFA RSTP”) is applicable to the merits of this case.
70. Albinoleffe submitted that “*the strategy pursued by Beira Mar and Sassuolo commenced with the registration of the Player for Beira Mar **on 17 July 2014** and the immediate retransfer to Sassuolo **on the following day 18 July 2014***” (emphasis added by Albinoleffe).
71. In support of its argument, Albinoleffe cited *CAS 2014/A/3500*, which states in relevant part:
*“The amount of compensation must be determined by the **regulations that were in place at the time during which the Player trained with his club of origin**, irrespective of future changes. A difference exists between the moment on which the right for compensation is born and can be duly exercised, which happens when the Players signs his first professional contract or is subsequently transferred, **and the determination of the contents of such right, that must be done according to the Regulations in force at the time during which a player trains as an amateur with his club of origin**”* (emphasis added by Albinoleffe).
72. Accordingly, for all of the reasons above, Albinoleffe requested that the Panel find that the 2012 edition of the FIFA RSTP is applicable to the matter at hand.

ii. The FIFA Letter was a decision rendered by FIFA

73. Albinoleffe submitted that the FIFA Letter was not merely “an informative letter,” and instead, constituted a decision.
74. Albinoleffe referred to its Statement of Appeal for its arguments on why the FIFA Letter is a decision complying with Article 47 of the CAS Code.
75. Article R47 of the CAS Code provides as follows:
“An appeal against a decision of a federation, association or sports related body may be filed with CAS if the statutes or regulations of the said body so provide or if the parties have concluded a specific arbitration agreement and if the Appellant has exhausted the legal remedies available to him prior to the appeal, in accordance with the Statutes or regulations of that body”.
76. The FIFA Letter contains all of the elements inherent to an appealable “decision”.
77. Citing *CAS 2004/A/748*, *CAS 2005/A/899*, *CAS 2007/A/1251*, and *CAS 2008/A/1633*, Albinoleffe submitted that the form of a decision is irrelevant, and therefore a letter may be considered a decision. In relevant part, the aforementioned Panels found that:

“The form of the communication has no relevance to determine whether a decision exists or not. In particular, the fact that a communication is made in the form of a letter does not rule out the possibility that it constitutes a decision subject to appeal”.

78. Albinoleffe also pointed out that the FIFA Letter bears the signatures of both the Director of Legal Affairs and also the Head of Players’ Status.

79. Albinoleffe quoted *CAS 2004/A/748* and *CAS 2005/A/899* again, which state, in relevant part:

“in principle, for a communication to be a decision, it must contain a ruling, whereby the body issuing the decision intends to affect the legal situation of the addressee of the decision or other parties”.

80. Albinoleffe submitted that FIFA made a clear ruling when it determined that it was not *“in a position to intervene in the present matter”*.

81. Albinoleffe also submits that the FIFA Letter deeply affected its legal situation. The FIFA Letter had the effect of a refusal to open this matter and also a rejection of Albinoleffe’s request to be granted the training compensation it is due.

82. Albinoleffe had no further opportunities to seek redress within FIFA’s internal channels. As a result, the only remedy left to Albinoleffe against FIFA’s decision was an appeal to the CAS.

iii. FIFA erred in its decision that it lacked jurisdiction

83. Albinoleffe submitted that in the FIFA Letter, FIFA erred in deciding that it lacked the jurisdiction to hear the case.

84. Albinoleffe referred to the FIFA Letter, which states, in relevant part:

“In this respect, we kindly draw your attention to the contents of art. 22 lit. d) of the Regulations on the Status and Transfer of Players, according to which, as a general rule, FIFA decision-making bodies are competent to deal with cases concerning training compensation between clubs belonging to different associations only.

In light of the foregoing, we kindly inform you that the decision-making bodies of FIFA are not competent to intervene in cases related to training compensation in which both parties belong to the same association, as in the matter at hand” (emphasis added by FIFA).

85. Albinoleffe submitted that its claim contained prayers for relief directed at both Beira Mar and Sassuolo. Beira Mar is associated to the FPF, and Albinoleffe and Sassuolo associated to the FIGC. This matter, therefore, relates to three clubs located in two different associations (the FPF and FIGC) and linked together by two subsequent international transfers of the Minor Player.

86. Albinoleffe further submitted that the content of its claim detailed the connection of Beira Mar and Sassuolo against Albinoleffe's interests. Albinoleffe pointed out that FIFA was aware of this, as the FIFA Letter makes reference to both Beira Mar and Sassuolo.

iv. *The CAS should deal with the merits of this dispute*

87. By issuing its decision, FIFA had already made clear its final position in the matter at hand. It would be illogical if the case were to be referred back to FIFA. In support of its argument, Albinoleffe cited *CAS 2009/A/2000*, in which the Panel states, in relevant part:

“how could FIFA pass a decision in the present case at a later stage for instance when it clearly states that it cannot intervene in this very same case?”

v. *Sassuolo is liable to pay training compensation*

88. Pursuant to Article 3(1) of Annex 4 of the FIFA RSTP, training compensation is due, amongst other situations, when a player is registered for the first time as a professional before the end of the season of his 23rd birthday. In this case, every club with which the player has contributed to his training, starting from the season of his 12th birthday, has the right to receive training compensation from the player's new club.

89. Albinoleffe noted that were the CAS to strictly apply the FIFA RSTP, Beira Mar would be considered as the club that registered the Minor Player for the first time. Albinoleffe submitted that in this case, Beira Mar would owe EUR 30,000 per year of training to Albinoleffe.

90. However, Albinoleffe characterises this approach as “*simplistic*”, and refuted it in favour of a more nuanced approach, taking all factors into account, that would lead to Sassuolo being liable to pay Albinoleffe training compensation in the amount of EUR 90,000 per year of training.

91. Pursuant to FIGC Rules pertaining to “serial youngsters”, only the club affiliated to the FIGC they are registered to have the right to conclude their first professional player contract. Further, a serial youngster, such as the Minor Player, is not free to transfer to another Italian club without his current club's consent.

92. Applied to the situation at hand, Albinoleffe had the right to conclude the first professional contract with the Minor Player. Further, the Minor Player was not permitted to transfer to another Italian club without Albinoleffe's consent. Therefore, Sassuolo was not permitted to register the Minor Player without Albinoleffe's consent, which Albinoleffe never gave.

93. Rather than a strict application of the FIFA RSTP, Albinoleffe submitted that the CAS should consider the “*new club*” obligated to pay training compensation as the club which effectively benefits from such training, rather than the club that simply registers the player. In the case at hand Sassuolo should be the “*new club*”. Albinoleffe cited *CAS 2009/A/1757* in support of its argument.

94. Albinoleffe submitted that with the help of the Agent, Beira Mar and Sassuolo conspired to cause the Minor Player to sign an employment contract with Beira Mar and be registered with the FPF and immediately transfer him back to Sassuolo. Albinoleffe submitted that this was done in order for Sassuolo to do the following:
- “(i) breach the Minor’s registration as a serial youngster of Albinoleffe at FIGC – **a violation for which the Player was even lately condemned by the FIGC sporting tribunal (Exhibit A30), and***
- (ii) clean the costs of his training using a vehicle club managed by a trust Italian management whose FIFA categorization was much minor than Sassuolo’s one”* (emphasis added by Albinoleffe).
95. Albinoleffe submitted that there was no rational sporting explanation for the Minor Player’s transfer to Beira Mar, and further, that it was certain that the Minor Player alone would not have been able to concoct such an “*international scheme*”. Albinoleffe noted that the player was registered with Beira Mar on 17 July 2014. Albinoleffe further noted that Beira Mar immediately signed a transfer agreement with Sassuolo the following day, on 18 July 2014.
96. Albinoleffe submitted that Sassuolo attempted to circumvent both the FIGC Rules and the obligation to pay training compensation by engaging Beira Mar to participate in this scheme.
97. To support its claim that the CAS should condemn the club that effectively benefited from the Minor Player’s training, *i.e.* Sassuolo, to pay training compensation, Albinoleffe cites *CAS 2012/A/2968*, which states, in relevant part:
- “The club responsible for paying the training compensation must be the club that reaped the benefit of a player’s training. Therefore, **the club to which a player has only been transferred for a mere day and with which he has never trained or played any exhibition or competitive matches can also not be considered to have reaped the benefit of the player’s training. Consequently, it must be the club for which the player actually played following his transfer that reaped the benefit of the player’s education and training**”* (emphasis added by Albinoleffe).
98. The standard of balance of probabilities means that Albinoleffe bears the burden of persuading the Panel that the occurrence of the circumstances on which it relies is more probably than their non-occurrence or more probable than other possible explanations. Albinoleffe submitted that it is *per se* evident that scenario described was what has occurred, and therefore the Panel should be comfortably satisfied that the FIGC and FIFA Rules were circumvented to Albinoleffe’s detriment.
99. Accordingly, for all the reasons listed above, Albinoleffe requested that the CAS hold Sassuolo liable in respect of the payment of the Minor Player’s training compensation.

vi. Calculation of training compensation

100. Albinoleffe noted that Sassuolo was a Category I club while Albinoleffe was a Category III club, at the relevant time.
101. Albinoleffe noted that Article 6 of Annex 4 of the FIFA RSTP holds that for transfers within the EU/EEA, if a player moves from a lower category club to a higher category club, the calculation shall be based on the average training costs of the two clubs. However, Albinoleffe submitted that in light of *“the scheme created by Sassuolo (and Beira Mar) to circumvent the FIGC and FIFA rules and to obtain an undue advantage both in terms of registration of the Player and of the amount of training compensation”* the Panel should disregard this provision. Rather, Sassuolo should be condemned to pay the maximum amount possible under the FIFA RSTP. This was necessary in order to dissuade clubs from violating the rules regarding minors and training compensation.
102. In the event that Beira Mar should be found liable to pay training compensation to Albinoleffe instead of Sassuolo, the same principle should apply.
103. In accordance with the dates on the Minor Player’s player passport (from 23 August 2010 until 16 July 2014), Albinoleffe submitted the amount of training compensation is calculated as follows:

| Season | Player’s age | Effective Registration | Amount |
|---------|--------------|------------------------|------------|
| 2010/11 | 14 | From 23/08/2010 | EUR 77,000 |
| 2011/12 | 15 | | EUR 90,000 |
| 2012/13 | 16 | | EUR 90,000 |
| 2013/14 | 17 | | EUR 90,000 |
| 2014/15 | 18 | Until 16/07/2014 | EUR 4,000 |

104. Accordingly, for all of the reasons above, Albinoleffe requested that the CAS order Sassuolo to pay training compensation in the amount of EUR 351,000.

B. Beira Mar’s Submissions

105. Beira Mar did not take part in these CAS proceedings and therefore did not make any submissions.

C. Sassuolo's Submissions

106. In summary, Sassuolo submitted the following in support of its Appeal:

i. The applicable edition of the FIFA RSTP

107. Sassuolo submitted that the 2014 edition of the FIFA RSTP is applicable to the merits of this case, as the transfer of the Minor Player from Beira Mar to Sassuolo took place on 23 September 2014.

108. Sassuolo also cited *CAS 2014/A/3500*, but unlike Albinoleffe, used it in support of its argument that the 2009, 2010 and 2012 editions of the RSTP shall apply for the relevant time framework and only in relation to the training compensation calculation.

ii. The FIFA Letter cannot be considered a decision

109. Sassuolo submitted that the FIFA Letter was “*a mere informative letter*”, rather than a decision rendered by FIFA.

110. In its own correspondence dated 29 October 2015, FIFA expressed the intention of the FIFA Letter and stated that it did not constitute an appealable decision in accordance with the CAS Code, being only of informative nature without any binding character.

111. The text of the FIFA Letter itself further indicated that it was merely an informative letter. Sassuolo highlighted the use of the conditional tense “*appear*” as incompatible with a decision. Further, FIFA explicitly stated that the FIFA Letter “*is of a general nature only*”, and “*without prejudice whatsoever*”.

112. Sassuolo submitted that a careful analysis of the content of the FIFA Letter showed that it is unsustainable that it was the final decision at FIFA level.

113. The procedure before FIFA was not conducted in the correct way established by the applicable regulations to reach a decision. As the proceedings were handled by the FIFA administration rather than a competent judicial body, the relevant procedural rules were not followed.

114. Sassuolo cited *CAS 2007/A/1251* which states, in relevant part:

“FIFA has a clear system whereby its general secretariat has no authority to decide on issues of competence but must dispatch the claims to the DRC and the PSC according to their respective scope of jurisdiction under the rules and regulations”.

115. Sassuolo submitted that the position of the Panel in *CAS 2007/A/1251* extended to the Director of Legal Affairs and the Head of Players' Status in the matter at hand.

116. Sassuolo also cited *CAS 2011/A/2586* and *CAS 2007/A/1298, 1299, & 1300* to support its argument that an administrative body of FIFA, namely the Director of Legal Affairs and the Head of Players' Status, were not competent to decide on the question of jurisdiction of the Players' Status Committee or the FIFA Dispute Resolution Chamber.
117. For the reasons listed above, Sassuolo submitted that the FIFA Letter cannot be considered a decision and therefore, it was not subject to appeal. Sassuolo requested that the present appeal be declared inadmissible by the Panel.
118. However, should the Panel deem that the FIFA Letter was a final decision, Sassuolo submitted that the FIFA Letter exclusively concerns the issue of jurisdiction, and only with respect to an eventual dispute between Sassuolo and Albinoleffe.
119. The boundaries of the FIFA Letter included only the issue of FIFA's jurisdiction pertaining to Sassuolo. The second and third paragraphs of the FIFA Letter exclusively refer to the competence issue, and the reason why FIFA was not in a position to deal with Albinoleffe's claim against Sassuolo.
120. The FIFA Letter was final only in relation to FIFA's jurisdiction over the training compensation claim between Albinoleffe and Sassuolo, but did not constitute a final decision as to the merits of the dispute or as to the jurisdiction over Beira Mar. Sassuolo submits that *"at no point did the FIFA Letter deny the jurisdiction in relation to Beira-Mar, mention that the training compensation claim should be rejected as a whole, or deal anyhow with the merits of the case"*.
121. In light of the above, Sassuolo submitted that *"the only issue that may be subject to the current appeal proceedings, initiated on the basis of the FIFA Letter, is whether FIFA indeed lacks the competence to deal with the dispute between Albinoleffe and Sassuolo regarding training compensation pursuant to the provisions of the FIFA Regulations"*.

iii. FIFA correctly denied its jurisdiction to handle the training compensation dispute

122. Sassuolo submitted that FIFA was correct in denying its jurisdiction to intervene in the training compensation dispute between Albinoleffe and Sassuolo. Under Article 22 lit. d) of the FIFA RSTP, FIFA does not have jurisdiction to decide on issues of training compensation between two clubs that belong to the same national association.
123. Sassuolo and Albinoleffe are both affiliated to the FIGC, which has its own internal mechanism and judicial bodies to resolve disputes between Italian clubs. If Albinoleffe has a claim against Sassuolo, the proper forum would be the judicial bodies provided under the statutes and regulations of the FIGC, which have exclusive jurisdiction for such matters.
124. Albinoleffe's allegation about the existence of a *"bridge transfer"* is ill-founded and cannot be a reason to justify the competence of FIFA to resolve a dispute beyond the scope of the unambiguous and exhaustive list of Article 22 of the FIFA RSTP. Sassuolo submits that

“establishing whether or not a certain dispute falls under the scope of Article 22 lit. d) is very straightforward: it is enough to analyse the affiliation of the clubs involved in the dispute”.

iv. CAS should not deal with the merits of the dispute

125. Sassuolo submitted that the CAS should limit itself to addressing only the issue of FIFA’s jurisdiction to handle the matter between Albinoleffe and Sassuolo. At no point did FIFA touch upon the merits of its case in the FIFA Letter. Therefore, any arbitral award within the current appeal proceedings should deal exclusively with the matter appealed against, *i.e.* the FIFA Letter.
126. Referring to Article R57 of the CAS Code, Sassuolo submitted that the Panel has the power to “*review*’ the facts and the law, rather than to act as a *first instance* instead of the initial deciding body” (emphasis added by Sassuolo). When a decision concerned only one specific issue, as it does here, the CAS is limited within that scope to issue a new decision replacing the challenged one.
127. Training compensation issues are dealt with by FIFA in the investigation phase when dealing with training compensation disputes. Bypassing FIFA and looking into the merits of the dispute without first obtaining the necessary evidence from the relevant associations would jeopardise the correctness, fairness and completeness of the decision.
128. For the reasons listed above, Sassuolo requested that the Panel not deal with the merits of the dispute, and rather, solely focus on the issues contained in the FIFA Letter.
129. However, should the Panel decide to deal with the merits of the dispute, Sassuolo submitted the following reasons why it will still not be liable to pay training compensation to Albinoleffe.

v. Lack of CAS jurisdiction

130. Should the Panel act as a first instance authority and deal with the merits of the dispute, the CAS would bear the same scope of jurisdiction as FIFA, and Article 22 of the FIFA RSTP would apply. As stated in lit. d), FIFA has no jurisdiction to decide on issues of training compensation between two clubs that belong to the same national association.
131. As a result, Sassuolo requested that the Panel deny its jurisdiction to handle the training compensation dispute between it and Albinoleffe.

vi. Admissibility

132. Albinoleffe has failed to exhaust internal available remedies in order to be entitled to bring the claim to the CAS. Albinoleffe hasn’t filed a claim before the FIGC. Additionally, FIFA has never rendered a final decision on the merits of this dispute, nor denied the possibility of looking into the merits, particularly in terms of Albinoleffe’s claims against Beira Mar.

133. As a result, Sassuolo requested that the Panel deems inadmissible all of Albinoleffe's claims pertaining to the merits of this case.

vii. Merits of the training compensation dispute

134. Sassuolo submitted that allegations of undue agent involvement and the Minor Player's move to Beira Mar as an attempt to circumvent FIFA and FIGC regulations "*are incongruous and do not correspond to the basic principles adopted by football regulations*".

135. Referring to Article 2 of the FIFA RSTP, Sassuolo noted that players can be either amateurs or professionals, *i.e.* one or the other. It is undisputed that the Minor Player was an amateur while registered with Albinoleffe and any notion of a requirement that the Minor Player obtain prior consent from Albinoleffe to be transferred elsewhere "*contradicts the concept itself of an amateur player*" (emphasis added by Sassuolo).

136. As an amateur player, the Minor Player was not obliged to remain with Albinoleffe and was free to choose to sign his first professional contract with another club. Any provisions contradicting the above would undermine the entire system implemented by FIFA and violate the basic principle of freedom of movement, particularly as relates to minors.

137. The only relevant fact for the purpose of training compensation is that the Minor Player's first professional contract was signed on 25 January 2014 with Beira Mar.

138. Regarding Albinoleffe's accusation that Sassuolo and Beira Mar engineered a bridge transfer to circumvent the training compensation system, Sassuolo submitted that Albinoleffe has failed to present any evidence to confirm its allegation.

139. Sassuolo referred Swiss law and *CAS 2007/A/1380*, *CAS 2010/A/2319*, and *CAS 2009/A/1956*, in which the Panels hold that "*each party must, if the law does not provide for the contrary, prove the facts it alleges to derive its right*".

140. Sassuolo noted that the PSC SCM had analysed the documents for the Minor Player's transfer approval twice and did not find any circumvention of the FIFA RSTP and/or of the training compensation system.

141. Regarding the liability to pay training compensation, Sassuolo referred to Article 2 of Annex 4 of the FIFA RSTP. Sassuolo submitted that it is Beira Mar that is liable to pay training compensation, as the Minor Player signed his first professional contract with Beira Mar.

142. Albinoleffe failed to explain why Sassuolo should be liable to pay training compensation instead of Beira Mar. Under Articles 2 and 3 of Annex 4 of the FIFA RSTP, the only training compensation Sassuolo may be liable to pay is to Beira Mar. Sassuolo has already duly settled that obligation.

143. For the reasons listed above, Sassuolo requested that the Panel find Sassuolo not liable to pay training compensation to Albinoleffe.

D. FIFA's Submissions

144. As FIFA took a passive stance in these CAS proceedings, it did not file an Answer nor make any submissions, other than by way of correspondence with the CAS Court Office detailed above.

VI. JURISDICTION OF THE CAS

145. Article R47 of the CAS Code provides as follows:

“An appeal against a decision of a federation, association or sports related body may be filed with CAS if the statutes or regulations of the said body so provide or if the parties have concluded a specific arbitration agreement and if the Appellant has exhausted the legal remedies available to him prior to the appeal, in accordance with the Statutes or regulations of that body”.

146. The Panel noted that on 18 January 2016, Sassuolo challenged the jurisdiction of the CAS.

147. The Panel noted that Albinoleffe submitted that, in order to comply with Article R47 of the CAS Code, it must show (1) that the FIFA Letter constituted a decision; (2) FIFA's Statutes provide for an appeal of such decision to the CAS; and (3) that it had exhausted all other legal remedies available to it.

148. Taking these out of sequence, and looking at the second limb of this Article, the jurisdiction of the CAS derives from Article 67(1) of the FIFA Statutes (2015 edition) as it determines that:

“Appeals 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”.

149. On the first limb, the Panel noted that FIFA denied that the FIFA Letter constituted a decision and further noted the conflicting positions of the Appellant and the Second Respondent.

150. The Appellant contended that the FIFA Letter constitutes a final decision, leaving the Appellant with no other recourse but to appeal the decision before the CAS. In support, the Appellant –

- Noted that the FIFA Letter bears the signatures of both the Director of Legal Affairs and also the Head of Players' Status.
- Submitted that FIFA made a clear ruling when it determined that it was not *“in a position to intervene in the present matter”*.

- Submitted that the FIFA Letter had the legal effect of a rejection of its request to be granted the training compensation Albinoleffe claims that it is due.
 - Submitted that it had no further opportunities to seek redress within FIFA's internal channels.
151. The Second Respondent contended that the FIFA Letter constitutes a “*mere informative letter*”. In support, the Second Respondent –
- Highlighted certain language used in the FIFA Letter, including the use of the conditional tense “*appear*” as incompatible with a decision and the fact that FIFA states that the FIFA Letter “*is of a general nature only*”, and “*without prejudice whatsoever*”.
 - Referred to FIFA correspondence dated 29 October 2015, in which FIFA stated that the FIFA Letter does not constitute an appealable decision in accordance with the CAS Code, and is only of informative nature without any binding character.
 - Submitted that the Director of Legal Affairs and the Head of Players' Status are not competent to decide on the question of jurisdiction of the Players' Status Committee or the FIFA Dispute Resolution Chamber.
152. The Panel considered the previous CAS jurisprudence which had previously considered whether letters from FIFA were communications or decisions. In *CAS 2013/A/3148* and *CAS 2015/A/4213* the panels examined the following characteristics:
- The form of the communication has no relevance to determine whether there exists a decision or not.
 - In principle, for a communication to be a decision, the communication must contain a ruling, whereby the body issuing the decision affects or intends to affect the legal situation of the addressee of the decision or other parties.
 - A decision is a unilateral act, sent to one or more determined recipients and is intended to produce legal effects.
 - An appealable decision of a sport association or federation is normally a communication of the association directed to a party and based on an “*animus decidendi*”, i.e. an intention of a body of the association to decide on the matter.
153. The Panel notes the “form” of the FIFA Letter. On the one hand, it is not labelled as a decision, and contains the standard wording that it is a communication and “*without prejudice*”; but on the other hand, it was titled “*Training compensation for the player C.*” and was signed off by FIFA's Director of Legal Services and by its Head of Players' Status. In any event, the Panel notes the previous jurisprudence that elevates substance over form, and decides to do the same.

154. The FIFA Letter was issued in response to a claim filed by the Appellant before the DRC some 3 months earlier. Rather confusingly it referred to the 3 clubs, 2 from Italy and the other from Portugal, in its title, yet then concluded that the case related to a dispute where “*both parties belong to the same association*”. It went on to state that “*our services do not appear to be in a position to intervene in the present matter*”. The Appellant had turned to FIFA to determine on its claim for training compensation against both Sassuolo or Beira Mar. Its position was that these clubs had worked in concert to move a minor player abroad and then back to Italy to avoid the FIGC’s Regulations and that training compensation was due to it from one of these clubs. The Panel agrees with the Appellant that the FIFA Letter contained a ruling, which then affected the Appellant’s situation, as it could not take the 2 clubs to the FIGC, as it would likely say the mirror opposite of FIFA, claiming that it could not hear training compensation cases against a club from a different association. This clearly affected the legal situation of the Appellant. It was left in “limbo” by the FIFA Letter and as such it appealed this decision to the CAS.
155. Looking at the third limb, it was put to the Appellant that the letter from FIFA of 29 October 2015 could be seen as an offer to continue with the first instance proceedings and that to refuse such an offer would mean the Appellant had not exhausted all the legal remedies available to it, as required by Article R47 of the CAS Code. The Appellant submitted that it viewed FIFA’s correspondence as submissions in the CAS matter at hand. The Panel concurs with this point of view. Having come to the determination that the FIFA Letter was a decision, then the complaint of the Appellant before the DRC had been concluded and it would not be possible for the DRC to reopen that case and take back such a decision, to then carry on and take a second decision. The legal remedies at FIFA had been exhausted.
156. It follows that the CAS has jurisdiction to hear this dispute.

VII. ADMISSIBILITY

157. The Statement of Appeal, which was filed on 22 October 2015, complied with the requirements of Articles R48 and R64.1 of the CAS Code, including the payment of the CAS Court Office fee.
158. It follows that the Appeal is admissible.

VIII. SCOPE

159. The Panel noted the position of the Second Respondent in that it argued that the Panel, despite Article R57 of the CAS Code, would be limited to addressing “*FIFA’s jurisdiction to handle the matter between Albinoleffe and Sassuolo*”, which the Second Respondent considered to be the only matter addressed by the FIFA Letter. The Second Respondent was of the position that at no point did FIFA touch upon the merits of the Appellant’s case in the FIFA Letter.

160. The Panel noted the Appellant's position in that the DRC did consider the merits, which were set forth in the Appellant's claim before the DRC in the form of several arguments and prayers for relief, but ultimately rejected the claim entirely.

161. Article R57 of the CAS Code provides the following:

"The Panel shall have full power to review the facts and the law. It may issue a new decision which replaces the decision challenged or annul the decision and refer the case back to the previous instance".

162. The Panel takes the view that the DRC did consider the merits. The FIFA Letter was clearly titled *"Training compensation for the player C."*. Further the title went onto refer to both Beira Mar and Sassuolo. Whilst the DRC closed the matter on procedural grounds (clubs from the same association), it referred to the merits of the claim with this reference and the Panel determines that the DRC closed the matter on the merits too.

163. As such, the Panel is free to exercise its *de novo* powers and to render a new decision in this Award that replaces the decision of the DRC in the FIFA Letter.

IX. OTHER PROCEDURAL ISSUES

164. The Panel noted that two of the Respondents failed to respond or took a passive stance in the matter at hand, however, pursuant to Article R55 (2) of the CAS Code, if one (or more) of the Respondents fails to submit its answer, the Panel may nevertheless proceed with the arbitration and deliver an award; as such, the Panel decided to nevertheless proceed.

X. APPLICABLE LAW

165. 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 Panel deems appropriate. In the latter case, the Panel shall give reasons for its decision".

166. The Panel notes that the case at hand has claims by one Italian club against another and against a Portuguese club. Any domestic claims would need to be considered under the FIGC Regulations, whereas any with an international dimension would fall under the FIFA Regulations, namely the FIFA RSTP.

167. There was a dispute as to which version of the FIFA RSTP is applicable, the 2012 or the 2014 version. The Panel notes that the 2014 version came into being on 1 August 2014, so will apply the appropriate version when it determines the date of the event that triggers any payment of training compensation, below.

168. The Panel considers the FIGC International Organisational Rules, specifically Article 33, relating to “serial youngsters” as relevant for understanding the internal procedures in Italy, but not relevant to the matter at hand, as will be seen below.
169. The appealed decision was contained in the FIFA Letter and was rendered by the DRC, with its seat in Switzerland. As such, the Panel determines to apply Swiss law to fill in any gaps or *lacuna*, when appropriate, in the FIFA RSTP.

XI. LEGAL DISCUSSION

A. Merits

170. The Panel notes that there are three Respondents in the matter at hand. There are issues as to whether the Appellant should or could bring an appeal against all three. In addition, at the heart of this dispute is whether any (or more than one) of these Respondents are liable to the Appellant for training compensation relating to the Minor Player. Finally, if so, which one, for how much and whether interest should be due on any late payment.

a. *Standing to be sued*

171. The Panel notes that Sassuolo argued that it had no standing to be sued, despite the first prayer for relief from the Appellant being for Sassuolo to pay it EUR 351,000 plus interest. The Panel notes that whilst the Appellant does not specify what such sum relates to in that prayer, it is implicit that it represents the training compensation claimed by it, calculated pursuant to the FIFA RSTP.
172. Sassuolo notes, as did the DRC, that it is from the same Association as Albinoleffe. To counter that, Albinoleffe submitted that Sassuolo had enlisted Beira Mar, a club from a different Association, in an effort to circumvent FIFA rules on training compensation and the FIGC rules on the transfer of serial youngsters.
173. As stated above, the Panel notes the unusual position the Appellant finds itself in. If Beira Mar has been used by Sassuolo to circumvent certain regulations, where does it take the dispute? If to the FIGC, then it would say it has no jurisdiction over Beira Mar; if to FIFA, then, as per the FIFA Letter, it would say it can't deal with a claim against 2 Italian clubs; so should the Appellant take one claim against Beira Mar with FIFA and another claim against Sassuolo with the FIGC? Could both claims run at once, as the Appellant could end up with 2 lots of training compensation? The Panel notes that in previous cases (such as *CAS 2009/A/1757* and *CAS 2012/A/2968*) the club claiming monies from the club that eventually utilises the player's services, having involved a third club for a short time, only brought the claim against club that eventually utilises the player's services. In the case at hand, the Appellant has claimed against both clubs (and FIFA). As is set out below, there are differences between the case at hand and those other cases (primarily that the third club (Beira Mar) had a longer involvement with the Player). In the case at hand, the Panel determines that

Sassuolo could have standing to be sued if it was acting in partnership with a club from another Association, but a review of the merits and the evidence is required to make a decision as to whether it has any liability to the Appellant, which is done below.

174. For the sake of good order, as Sassuolo submitted that FIFA had no standing to be sued either, the Panel addresses that issue. The Panel notes that FIFA itself wished to remain passive in this procedure. The issue at stake here is who, if anyone, should pay training compensation to the Appellant. The Panel is satisfied that the one Respondent that should not pay anything is FIFA. Under its Statutes and Regulations, its dispute bodies have been established to render first instance decisions, in certain circumstances, on such issues. However, the Panel can understand that the Appellant would feel “safer” in including FIFA as a Respondent, and, indeed, FIFA did not actually remain totally passive, as it filed its letter of 29 October 2015 with the CAS Court Office and completed the Redfern Schedule. Whilst FIFA could have argued itself that it lacked standing to be sued, it did participate in this procedure and acted upon the interest it has to govern and oversee international disputes, so, in the opinion of the Panel, has acted as a Respondent in the matter at hand, even though it perhaps need not have done so.
175. The main issue is to determine which, if any, of the other two Respondents has any liability to the Appellant.

b. *Position of Beira Mar*

176. The Panel notes that the Appellant’s primary claim is for training compensation from Sassuolo and then, in the alternative from Beira Mar. This may well be as the Appellant doubtless would get a higher amount of compensation from Sassuolo than from Beira Mar (taking their relevant categories into account) and would prefer to pursue another club in its own country, as it may prove easier to enforce any award or judgment there. However, the Panel starts with the FIFA RSTP and then applies these Regulations in a chronological order.

177. Article 20 of the RSTP states that:

“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 ...”.

178. Article 2.1 of Annex 4 of the RSTP further states that:

“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”.

179. The Panel notes that the Minor Player and Beira Mar signed a professional contract on 25 January 2014 and that this was eventually registered with the FPF on 17 July 2014. The Panel notes that pursuant to the FIFA RSTP, this should trigger the payment of training compensation to the Appellant from Beira Mar. Beira Mar declined to participate in the matter at hand. The Panel is satisfied that a *prima facie* obligation to pay training compensation to the Appellant was triggered and the club that would be responsible for the payment should be Beira Mar, unless the Appellant could prove to the reasonable satisfaction of the Panel that another club (in this case, Sassuolo) should bear that responsibility instead.

c. Any reason to make Sassuolo liable?

180. The Appellant went to great lengths to explain to the Panel how it had been the victim of a plan by the Agent, the Minor Player and possibly a number of clubs, to deprive it of its right to sign the Minor Player as a professional pursuant to the FIGC Regulations and, by taking him abroad for just enough time to register him there, then immediately to bring him straight back to Italy, to enable another Italian club (or clubs, as the Minor Player soon left Sassuolo for Juventus) to sign him as a professional. The overseas club was never interested in utilising the Minor Player’s services, rather it was there just to handle his registration and his first “real” professional contract (that should therefore trigger training compensation) was the one he signed on 18 July 2014 with Sassuolo, who then registered him with the FIGC on 23 September 2014. As such, the Panel is asked to recognise Sassuolo as the “new club” and to order it to pay training compensation to the Appellant.

181. The Panel is aware of CAS jurisprudence where a third club has been utilised as part of a “bridge transfer” or a vehicle through which the club that eventually utilises the player’s services moves the player in order to avoid some financial obligation to the training club(s).

182. The first case cited by the Appellant was *CAS 2009/A/1757* which concerned the movement of a young player from Hungary to Italy, via Malta. In that case, the player was with the Maltese club for 9 days, signed a professional contract on EUR 580 per month, but did not play for them. The Italian club then paid a EUR 90,000 transfer fee for him. The Italian club was a category 1 club, the Hungarian training club, was category 2 and the Maltese club, category 3. That CAS panel observed:

“... that the rationale for the provisions in the FIFA Regulations regarding training compensation is that clubs should be encouraged to train players and those clubs that carry out the training process successfully should be rewarded for their training efforts. By the same token, those other clubs which enjoy the fruits of that training process should be obliged to pay something in compensation for the training efforts engaged in by others”.

183. That panel found it difficult to understand why a promising young player, that captained the Hungarian U19 team, would move to a lower category club in Malta. This was an “*unusual pattern of movement*”. Ultimately, the panel awarded training compensation to the Hungarian training club from the Italian club, thus treating the Italian club as the “new club”, rather than

the Maltese club, noting that the Maltese club could not be seen as the one benefiting from the training efforts and commenting:

“... having regard to the fundamental principle of fair play and bearing in mind the spirit of the Olympic Charter on which the CAS itself is based, the aims of sporting justice would not be served if [the Hungarian training club] were to be denied training compensation in this case”.

184. In *CAS 2012/A/2968* the Panel notes that the player was trained in Brazil, spent 1 day with another Brazilian club, then was transferred from there to Turkey for USD 200,000. The player didn't even set foot on the premises of the second Brazilian club, let alone play football for or trained with it. The player had received an interim court order in Brazil that allowed him to sign a new contract of employment with whatever entity he pleased. It appeared that he did sign a contract with the second Brazilian club, but was in Turkey at the time. This was just a paper transaction. The Panel notes that this case looked to see if the first Brazilian club was the “former club”, rather than determining which was the “new club”, but in a chain of 3 clubs, it is the same issue. The CAS panel in this case, followed the panel in *CAS 2009/A/1757* and looked to see whether the second Brazilian club could be deemed the *bona fide* and substantial “former club”. It was clear to that panel, that investing 1 day, compared with the 5 years the first Brazilian club had invested in training the player, could not result in it being treated as the “former club”. The outcome was that the Turkish club was condemned to pay training compensation to the first Brazilian club.
185. From the review of these cases, the Panel notes that the key issues are: (1) how long the player remains with the middle club; (2) does that club derive any benefit from his training with the training club(s), *i.e.* does he play and/or train with that club; (3) does this appear an “unusual pattern of movement”; and (4) does there appear to be an effort to manipulate the training compensation mechanism under the FIFA RSTP?
186. The issue is then a question of proof. Can the Appellant satisfy the burden of proof that it was in reality the “former club” (or Sassuolo the “new club”) and that Beira Mar was, to quote the panel in *CAS 2012/A/2968* a vehicle of “artificial transit” for the player? The Panel notes that the Appellant attempted to subpoena the Agent, the Minor Player and others involved in the Minor Player's moves, but to no avail – none of them attended the CAS hearing and subjected themselves to examination.
187. However, the Panel could see that the Minor Player and Beira Mar did sign a 3 year contract and that this was for more money than the Appellant was willing to pay the Minor Player. Further, the Minor Player was with Beira Mar for almost 6 months. There was no evidence that he was not in Portugal during this time, that he was not paid and did not train with Beira Mar. He was not registered until July 2014 and, as he transferred to Sassuolo the next day, the Panel can assume he never played for Beira Mar. Sassuolo confirmed at the hearing that it paid Beira Mar the transfer fee to register him with them.
188. The Panel notes that this was not a 1 or 9 day stay, but for a far longer period of time, but equally the Panel has some concerns as to whether the delay was due to the time it took Beira

Mar to register the Minor Player. At the hearing, Sassuolo submitted that it only approached the Agent in July 2014, 5 months after the Minor Player had been with Beira Mar, to enquire about a potential move.

189. Further, the Panel notes that the pattern of movement was perhaps not unusual. Whilst the Minor Player was also an international for his age group, his move was from the Appellant (a category 4 club) to Beira Mar (a category 3 club) and to one that would pay him more money. Perhaps a more usual move would have been to stay in Italy, but therein is a problem for young Italians. The FIGC Regulations apply if an Italian club seeks to prise away a “serial youngster” from another Italian club, which has led to a number of promising young players going abroad for a period of time, only to return later to a rival Italian club. The FIGC Regulations could have been drafted so as to impose a period of time in which a player has to spend abroad to avoid the effect of the regulations should he return to Italy, but do not do so. If a player seeks to avoid the FIGC Regulations, then he goes abroad, but once abroad, he falls under the jurisdiction of the FIFA RSTP. There is an international dimension, and the training compensation regulations within the FIFA RSTP apply once he signs his professional contract abroad and that contract is registered.
190. This is seen elsewhere in the World. In England, for example, if young players (under 23's) come to the end of their contracts and look to move to another English club, then the Professional Football Compensation Committee will award the training club a sum that is far closer to a transfer fee, rather than a sum equivalent to the indicative amounts that FIFA would award for training compensation. As such, players could chose to go abroad (even to Scotland) and the training club would only be entitled to receive training compensation, pursuant to the FIFA RSTP.
191. The FIFA RSTP does not stipulate how long a player must remain under contract or registered with the overseas club, just that he must sign his first professional club and be registered there. Moves of this type aren't unusual, nor are they designed to manipulate the FIFA RSTP. Rather, the jurisdiction changes from a domestic case to an international one, and the FIFA RSTP comes into play.
192. The CAS jurisprudence cited above would allow a CAS Panel to see through a “bridge transfer” or the use of a third club to avoid training compensation, in whole or in part, if the intention was to “play with” the FIFA RSTP and to reduce the amount payable. An example would be by using a third club with a lower category to briefly take the player, then to pass him on to the club that the player always intended to join and to save that club money, by it effectively paying a transfer fee to the bridge club, that is less than the training compensation it would have had to pay if it had taken the player directly from the training club. Effectively, the Appellant must prove to the Panel that Beira Mar was a “bridge” or a “stooge” and that Sassuolo involved Beira Mar to avoid the full force of the FIFA RSTP and to save money at the expense of the Appellant.
193. The Panel did learn of Beira Mar's financial position. It may have seen a talented young player, persuaded him to join them, on far more money than the Appellant was going to pay him. It

may then have received an offer from Sassuolo that it needed to accept, so sold him to that club. On coming back to Italy, Juventus may have seen this and decided to make a significant offer to Sassuolo for the Minor Player. All the Panel has is scenarios of what might have been the reason for the Minor Player to move abroad and then back home, but nothing concrete for it to be reasonably satisfied that the Agent, the Minor Player, Beira Mar and Sassuolo acted in concert to avoid the FIGC regulations and the FIFA RSTP to the detriment of the Appellant. In conclusion, the facts at hand are very different from those in *CAS 2009/A/1757* and *CAS 2012/A/2968* and the Appellant has not been able to discharge its burden of proof that it was the “former club” to the satisfaction of the Panel.

194. The Panel therefore cannot go beyond awarding training compensation to the Appellant from Beira Mar alone. The Panel notes the transfers to Sassuolo and then to Juventus should then trigger the solidarity mechanism under the FIFA RSTP, which would give rise to separate claims by the Appellant than are before this Panel.

d. Calculation of Training Compensation

195. At the relevant time (being the 25 January 2014, when the Minor Player signed his first professional contract with Beira Mar) the Appellant was a Category 4 club and Beira Mar a Category 3 club. Both clubs belonged to Associations within the EU/EEA and therefore, Article 6 of Annex 4 of the FIFA RSTP (version 2012) applies. Article 6.1(a) states as follows:

“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”.

196. Despite the submissions of the Appellant, the Panel sees no reason to move away from that position. Further, whilst the Panel can agree with the Appellant as to the date that the training period of the Minor Player with the Appellant started, it ended when the Minor Player walked away from them, on 18 December 2013.
197. Training compensation is calculated as follows:

| Season | Player's age | Beira Mar amount | Albinoleffe amount | Effective training Periods | Training compensation amount |
|---------|--------------|------------------|--------------------|----------------------------|------------------------------|
| 2010/11 | 14 | 30,000 | 10,000 | From 23/08/2010 | EUR 17,095.89 |
| 2011/12 | 15 | 30,000 | 10,000 | | EUR 20,000 |
| 2012/13 | 16 | 30,000 | 10,000 | | EUR 20,000 |
| 2013/14 | 17 | 30,000 | 10,000 | Until 13/12/2013 | EUR 9,095.89 |

198. The amount of training compensation Beira Mar owes to the Appellant is EUR 66,191.78.

e. Interest

199. The Panel notes that Beira Mar registered the Minor Player on 17 July 2014 and thereby triggered the obligation to pay the training compensation to the Appellant. The Panel notes FIFA's longstanding practice of awarding interest at the rate of 5% per annum on training compensation from the day after it fell due; and determines to award interest at such rate from 18 July 2014 until the day of actual payment.

B. Conclusion

200. Based on the foregoing, and after taking into due consideration all the evidence produced and all submissions made, the Panel finds that SC Beira Mar Futebol SAD shall pay the sum of EUR 66,191.78 as training compensation to U.C. Albinoleffe s.r.l, together with interest at the rate of 5% per annum from 18 July 2014 until the day of actual payment.

ON THESE GROUNDS

The Court of Arbitration for Sport rules that:

1. The appeal of U.C. Albinoleffe s.r.l dated 22 October 2015 against the decision of FIFA's Dispute Resolution Chamber in its letter dated 1 October 2015 is partially upheld.
2. The decision of FIFA's Dispute Resolution Chamber in its letter dated 1 October 2015 is set aside and replaced with this award.
3. SC Beira Mar Futebol SAD shall pay the sum of EUR 66,191.78 as training compensation to U.C. Albinoleffe s.r.l, together with interest at the rate of 5% per annum from 18 July 2014 until the day of actual payment.
4. (...).
5. (...).
6. All other motions or prayers for relief are dismissed.