



Arbitration CAS 2011/A/2478 FC Lokomotiv v. Football Union of Russia (FUR), Russian Football Premier League (RFPL), FC Rostov & FF Rostov Region, award of 31 October 2012 (operative part of 11 May 2012)

Panel: Mr Christian Duve (Germany), President; Mr Stuart McInnes (United Kingdom); Prof. Massimo Coccia (Italy)

Football

Transfer

Scope of CAS review

Conditions for the issuance of a player's certificate under the Russian rules on registration of players

Transfer of the right to register a player under the FIFA RSTP

- 1. The scope of a CAS panel's review, which is in any event limited to the scope of the appealed decision, is defined in Article R57 of the CAS Code. As the CAS panel has the full power to review the facts and the law, appeals before CAS are heard de novo. It is the duty of a CAS panel in an appeals arbitration procedure to make its independent determination of whether the Appellant's and Respondent's allegations are correct on the merits rather than to limit itself to assessing the correctness of the previous procedure and decision.**
- 2. Under the Russian rules on registration of player, a player can only participate in official matches of the Russian Premier League after a player's certificate has been issued. In order to be granted the player's certificate, it is mandatory to register the player with (i) its regional federation and with (ii) the competition organiser, in the present case the RFPL, (iii) within the registration period. If the requirements are met, the player is registered with the Regional Federation. Thus, no official registration with the FUR itself has to be conducted by the club. It is the Regional Federation that conducts the necessary changes in the player's passport.**
- 3. According to Article 5 para 2 of the FIFA Regulations on the Status and Transfer of Players, a player may only be registered with one club at a time and it is this registration that makes the player eligible to participate in organised football. It would cause a high level of legal uncertainty, if the registration depended on whether the player had been validly registered before by another football club. A transfer consists of the transfer of the right to register a player with the association or league. It is this right that is transferred but not the valid registration itself. The former club can, however, transfer its right without ever having exercised this right before.**

I. THE PARTIES TO THIS ARBITRATION

1. Joint Stock Company Football Club Lokomotiv (hereafter referred to as “*Appellant*” or “*FC Lokomotiv*”) is a Russian football club with its registered office in Moscow, Russia. The Appellant is affiliated with the Football Union of Russia, being the governing body of football in the Russian Federation and a member of FIFA (hereafter referred to as “*Respondent 1*” or “*FUR*”).
2. In the season 2011/2012, the Appellant competes in the Russian Football Premier League (hereafter referred to as “*Respondent 2*” or “*RFPL*”), organising the “*SOGAZ Russian Football Championship*”, being the top division of professional Russian football. The national Russian football league system includes the following divisions (from top to bottom): RFPL, First Division, Second Division and the Amateur Football League.
3. Football Club Rostov (hereafter referred to as “*Respondent 3*” or “*FC Rostov*”) is a Russian football club, with its registered office in Rostov, Russia. It is also affiliated with the FUR and, in the season 2011/2012, a top division club competing in the RFPL.
4. Rostov Regional Public Organization Football Federation (hereafter referred to as “*Respondent 4*” or “*Regional Federation*”) is the regional football association of the Rostov region in Russia and member of the FUR.

II. BACKGROUND

5. The Appellant has brought a dispute before the Court of Arbitration for Sport (hereafter referred to as “*CAS*”) against the Respondents by means of an appeal challenging a decision of the Players’ Status Committee of the Football Union of Russia (hereafter referred to as “*PSC*”), dated 24 May 2011, concerning the legality of (i) the transfer contract of G., a member of the Russian national youth team, born in 1990, on a loan basis from Football Club Mitoš Novočerkassk (hereinafter “*FC Mitoš*”), a club in the Second Division, to FC Rostov, and of the (ii) G.’s registration by FC Rostov with Respondents 2, 3 and 4.

A. THE TRANSFER OF G. TO FC ROSTOV

6. G. was registered as an amateur with FC Spartak Moscow (hereinafter referred as “*FC Spartak*”) from 22 November 2004 until 3 March 2010, i.e. between the age of 14 and 20, and as a professional player from 1 June 2010 until 9 March 2011, i.e. between the age of 20 and 21. On 31 December 2010, the labour agreement between G. and FC Spartak expired.
7. At the beginning of January 2011, information that G. would move to FC Rostov, after the end of the Commonwealth Cup 2011, was published on the website www.onlyfootball.ru which is devoted to Russian football news and statistics. From 4 to 14 February 2011, G. participated in a training camp with FC Rostov held in Belek, Turkey.

8. On 18 February 2011, G. concluded an employment agreement with FC Mitos (a club with which, however, G. never actually trained or played).
9. After having played for FC Rostov in friendly matches in Belek on 21 and 24 February 2011 respectively, G., by transfer agreement dated 28 February 2011, was transferred from FC Mitos to FC Rostov on a loan basis. According to the loan agreement, G. was loaned to FC Rostov from 1 March 2011 to 29 December 2011 and the employment agreement with FC Mitos was suspended for that period; FC Rostov was not obliged to pay compensation but only the wages and other remuneration of G. Following the signing of the loan agreement, on 1 March 2011, FC Rostov and G. concluded an employment agreement for the football season 2011. Upon expiry of the loan agreement, G. was expected to return to FC Mitos.

B. THE REGISTRATION OF G.

10. On 9 March 2011, FC Rostov sent the employment agreement between G. and FC Rostov and the loan agreement between FC Mitos and FC Rostov to the Regional Federation. G.'s passport dated 20 April 2011 stipulated that G. left FC Spartak, was reactivated by FC Mitos, left FC Mitos and was reactivated by FC Rostov, all on the same day, on 9 March 2011. On 10 March 2011, the registration period of the RFPL expired. During the last day of the registration period, no newspaper published news about the registration of G. by FC Rostov on 10 March 2011.
11. The parties, are in dispute about the valid registration of G. with the RFPL
12. On 11 March 2011, the Head of the Sports Department of FC Rostov wrote a letter to the FUR requesting that it register, *inter alia*, G. by FC Rostov on a loan basis. On the same date, the President of FC Mitos also wrote a letter to the FUR, requesting it to register the labour agreements concluded between FC Mitos and G.
13. On the same date, the Russian newspaper Komsomolskaya Pravda wrote that on the last day of the registration period for the Russian Championship 2011/2012, FC Rostov could not add G. to the list of its players since the club had not received all the relevant documents with regard to the player. On 14 March 2011, another Russian newspaper, Sovetsky Sport, quoted the Sports Director of FC Rostov stating that some problems with the documents for G. had occurred and therefore G. had not been registered with FC Rostov.

C. FC MITOS' CLAIM AGAINST FC SPARTAK

14. After FC Spartak refused to conclude a contract on training compensation with FC Mitos, FC Mitos filed a claim with the DRC on 22 March 2011, stating that FC Spartak intentionally avoided concluding the contract on training compensation, and requesting that the DRC resolve the dispute. On 25 March 2011, the DRC obliged FC Spartak to draw up the so-called transfer agreement with FC Mitos setting forth the amount to be paid as training compensation within 7 days from the issuance of its decision. The decision of the DRC was upheld by the decision of the PSC dated 6 April 2011.

15. After FC Spartak complied with the decision and FC Mitos paid the respective amount of training compensation to FC Spartak, the RFPL completed the registration of the contracts between G. and FC Mitos. On 1 April 2011, G. received his player's certificate. Until 1 April 2011, no information about G. had been published on the RFPL's official website.

D. G.'S PARTICIPATION IN THE MATCH ON 2 APRIL 2011 BETWEEN FC ROSTOV AND APPELLANT

16. On 2 April 2011, G. participated in the match between FC Rostov and FC Lokomotiv and scored a goal for FC Rostov. The final result of the game was 1:1.
17. At the official post-match press conference, the head coach of FC Rostov, Mr. Potrasov, stated that G. had been registered with FC Rostov "yesterday". On the same date, the information that G. had been registered with FC Rostov on 1 April 2011 also appeared on the official website of the RFPL. At some later date, the RFPL changed this information to 10 March 2011. FC Rostov's official website also published the information that (i) G. was loaned to FC Rostov by FC Mitos; (ii) FC Rostov registered G.; and (iii) FC Rostov included G. in the match sheet against FC Lokomotiv. This information was also announced in an online newspaper, Gazeta.ru.
18. On 3 April 2011, the Sports Director of the RFPL, Mr. Meschanchuk, who is responsible for the players' registration, gave an interview to Mr Artem Lokalov, reporter of the Sovetsky Sport newspaper. According to the article published, Mr. Meschanchuk indicated that (i) he refused to register G. on 10 March 2011; (ii) the RFPL waited for the DRC decision on FC Spartak/FC Mitos training compensation claim although FC Rostov had applied in due time during the registration period; (iii) based on the DRC decision of 25 March 2011, the RFPL allowed the registration of G. with FC Rostov and; (iv) the application for the registration of G. registration had been made by FC Rostov in time.
19. On 4 April 2011, Gazeta.ru reported that, with regard to his transfer to FC Rostov, G. had stated that he was registered with FC Rostov on the evening before the match.

E. FC LOKOMOTIV'S CLAIM WITH THE DCC

20. On 4 April 2011, FC Lokomotiv filed a claim with the Disciplinary Committee of the FUR (hereinafter "DCC"). According to the extract of the protocol of the DCC hearing, the DCC decided to reject FC Lokomotiv's claim and recommended that FC Lokomotiv file a claim with the DRC "with the aim to find whether there's an infringement of registration procedure of the player G."

F. APPELLANT'S CLAIM WITH THE DRC AND APPEAL WITH THE PSC

21. On 18 April 2011, FC Lokomotiv filed a claim with the DRC requesting that the DRC (i) acknowledge the transfer agreement between FC Mitos and FC Rostov as being illegal; (ii) acknowledge as illegal the registration of G. with FC Rostov on 1 April 2011; and (iii) cancel

G.'s registration by FC Rostov. The DRC dismissed the claim of FC Lokomotiv on 21 April 2011 and decided that G. was to be considered properly registered on 10 March 2011, although the League had not issued the professional player's certificate until 1 April 2011.

22. On 28 April 2011, FC Lokomotiv filed an appeal with the PSC alleging that the DRC, in its decision of 21 April 2011, had (i) failed to sufficiently examine the facts of the case and the evidence presented; and (ii) violated due process by infringing Appellant's basic procedural rights. Furthermore, FC Lokomotiv alleged that (iii) the transfer agreement between FC Mitos and FC Rostov was concluded illegally as G. was not yet registered with FC Mitos on the day of the transfer; and (iv) the registration of G. with FC Rostov was not accomplished within the registration period. On 24 May 2011 the PSC dismissed FC Lokomotiv's appeal. The PSC, *inter alia*, found no grounds to declare G.'s registration illegal and to annul the registration.

G. TRANSFER OF G. TO FC LOKOMOTIV

23. After the loan agreement between FC Mitos and FC Rostov expired, G. was transferred from FC Mitos to FC Lokomotiv and registered with the latter club as from 1 January 2012. Before that date, according to G.'s new player's passport (dated 14 February 2012), G. left FC Spartak on 31 December 2010, was reactivated by FC Mitos on 18 February 2011, left FC Mitos on 28 February 2011, was reactivated by FC Rostov on 1 March 2011 and left FC Rostov on 29 December 2011 (dates of employment agreements).

III. THE PARTIES' RESPECTIVE REQUESTS FOR RELIEF

24. Preliminarily, the Panel wishes to point out that the following short summaries of the parties' positions are only roughly illustrative and do not purport to detail the submissions of the parties. However, the Panel has thoroughly considered in its discussion and deliberation all of the evidence and arguments submitted by the parties, even if there is no specific or detailed reference to that evidence and those arguments in this award.
25. The Appellant alleges that the transfer of the Player from FC Spartak to FC Mitos and from FC Mitos to FC Rostov on a loan basis had the purpose of decreasing the amount of training compensation to be paid to FC Spartak, and that the transfers are null and void and shall have no legal bearing, i.e. it follows that all further transactions, including registrations, shall likewise be null and void.
26. The Appellant did not expect to see G. in the FC Rostov team on 2 April 2011 as the name of G. did not appear in the players' list of FC Rostov the day before the match. Furthermore, it contends that the recordings in the player's passport have been fabricated.
27. Finally, Appellant alleges that its procedural rights have been violated in the proceedings that led to the appealed decisions of the DRC and PSC and that, therefore, the requirements of the registration of G. by FC Rostov with the FUR and the RFPL have not been met.
28. In its Statement of Appeal of 7 June 2011, the Appellant requests the Panel:

- “1) *To accept this appeal against the Decision of the Player’s Status Committee of the Football Union of Russia, dated 24 May 2011.*
- 2) *To adopt an award annulling the said decision and adopting a new one declaring that:*
- a. The decision of the Dispute Resolution Chamber dated 21 April 2011 #92/11 to be annulled; and*
 - b. The transfer agreement dated 28 February 2011 between FC Mitos and FC Rostov was concluded illegally as G. (“the Player”) had not been registered with FC Mitos by the date of the agreement; and*
 - c. The Player was registered (qualified) with FC Rostov illegally and outside the registration period; and*
 - d. Player’s registration (qualification) with FC Rostov to be annulled; and*
 - e. The annulment of the registration shall have all the direct and indirect effects according to the FUR Regulations.*
- 3) *To fix a sum of 35.000 CHF to be paid by the Respondents to the Appellant, to help the payment of its legal fees and costs.*
- 4) *To condemn the Respondents to the payment of the whole CAS administration costs and the Arbitrators fees”.*
29. In its Appeal Brief of 24 June 2011, the Appellant modified a couple of its requests as follows:
- “[...]”
- d. Player’s registration with FC Rostov (made both by the League and by the Regional Federation) to be annulled; and*
 - e. The annulment of the registration shall have all the direct and indirect effects according to the FUR Regulations, including FC Rostov forfeiting the match played on 02 April 2011 against the Appellant”.*
30. In its Answer to the Appeal, the FUR and FC Rostov request the Panel to issue an award:
- “1) *ruling that the Appeal is not admissible;*
- or, in the alternative*
- 2) *rejecting the Appeal of the Appellant and confirming the decision of the FUR Player Status Committee of 24 May 2011;*
- and, in any event*

- 3) *ordering the Appellant to (i) pay any arbitration costs in full, and (ii) pay in full, or pay a contribution towards the legal fees and other expenses incurred by the Football Union of Russia and by FC Rostov in connection with these proceedings”.*
31. Respondents 1 and 3 contest the Appellant’s standing to appeal, as (i) Appellant did not file a protest after the match on 2 April 2011, pursuant to Article 125 FUR Disciplinary Regulations and (ii) the Appellant is neither a party to the employment agreement between G. with FC Mitos nor the applicant for the registration of G.
32. Respondents 1 and 3 further contend that G. was validly registered with the Regional Federation by FC Mitos and FC Rostov on 9 March 2011 and with the RFPL on 10 March 2011. G. became eligible to play on 1 April 2011 upon issuance of the player’s certificate. Respondents allege that all necessary documents have been submitted and that Mr. Meshchanchuk did stamp, date and sign all documents on 10 March 2011 and did not refuse to register G. The player’s passport, the employment agreement and the loan agreement all contain the official seal, the original signature and the date of the registration and the documents were not forged.
33. Respondents 1 and 3 also contend that the reason for Mr. Meshchanchuk not issuing G.’s professional certificate immediately was that he wanted to wait for the DRC’s decision of 25 March 2011.
34. With regard to the statements on the RFPL’s website, Respondents 1 and 3 argue that someone within the League must have mixed up the date of registration with the date of issuance of the player’s certificate, which is 1 April 2011.
35. Furthermore, Respondents 1 and 3 allege that the letters dated 11 March 2011 are cover letters for the application of the registration of the employment contract with the FUR. The registration of the employment contract with the FUR is a mere formality and does not influence or prejudice the registration procedure with the Regional Federation or the RFPL. The letter of FC Mitos was intended to inform FUR that FC Spartak refused to sign the contract on training compensation.
36. The reason that FC Mitos filed the claim with the DRC was the requirement of the conclusion of a contract on training compensation (so-called transfer agreement). However, the refusal of FC Spartak to conclude a contract on training compensation does not influence the registration or the effective date of the registration. Furthermore, the statement in the claim to DRC dated 22 March 2011, that G. had not yet been registered with FC Mitos, was made for clarification.
37. With regard to the interview of Mr. Potrasov, the head coach of FC Rostov, that took place after the match on 2 April 2011, Respondents 1 and 3 allege that Mr. Potrasov was not referring to the actual registration date but in fact to the issuance of the player’s certificate. The words “license” or “registration” are used as colloquial terms for receiving the player’s certificate, even though legally this is not correct since registration and issuance of the player’s certificate are two separate actions.

38. Furthermore, Respondents 1 and 3 allege that the allegation of the Appellant stating that Mr. Meshchanchuk affirmed that a representative of FC Rostov came to the RFPL's office on 1 April 2011 and asked for the registration of G. is false.
39. Respondents 1 and 3 point out that G.'s registrations with FC Mitos and FC Rostov have been recorded in the player's passport and that the valid registration of G. has been confirmed by the appealed decisions of the DRC and the PSC.

IV. PROCEEDINGS BEFORE THE CAS

40. On 7 June 2011, the Appellant filed its Statement of Appeal against the decisions of the DRC dated 21 April 2011 and of the PSC dated 24 May 2011, together with 6 Annexes, and on 24 June 2011 the Appellant filed its Appeal Brief, including an evidentiary request and additional 29 Annexes.
41. On 17 August 2011 and again on 13 September 2011, the Regional Federation filed a letter to CAS written by Mr Usachev, Chairman of the PSC of the Regional Federation, on 16 August 2011.
42. On 19 August 2011, Respondents 1 and 3 filed their Answer, together with 20 Exhibits, including some of the documents requested by Appellant in its first evidentiary request, (loan agreement between FC Mitos and FC Rostov; employment agreement between FC Rostov and G.; and a copy of the player's passport), including the report of Mr Usachev that had been sent to CAS on 17 August 2011.
43. On 23 November 2011, the Appellant submitted its second evidentiary request. After Respondents 1 and 3 indicated on 29 November 2011 that the Appellant had not demonstrated the relevancy of documents requested in its letter of 23 November 2011, the Panel, by letter dated 2 December 2011, invited the Appellant to comment. On 9 December 2011, the Appellant commented on its request, particularly as to the relevance of the requested documents. On 16 December 2011, 20 December 2011, and again on 22 December 2011, the parties further commented on the evidentiary request.
44. On 23 January 2012, the Panel partly dismissed the Appellant's request and made the following order:

“(1) Respondents 1, 2, 3 and 4 to bring the original letter dated 11 March 2011 sent by FC Mitos to FUR to the oral hearing on 7 March 2012;

(2) Respondents 1, 2, 3 and 4 to produce until 29 January 2012 the log of incoming and outgoing correspondence from 9 March 2011 to 2 April 2011;

(3) Respondent 2 to produce until 29 January 2012 the letter dated 28 March 2011 sent by FC Rostov to RFPL;

(4) Respondents 1, 2, 3 and 4 to produce until 29 January 2012 the employment agreement concluded between FC Mitos and Mr Grigoriev dated 18 February 2011 together with the corresponding suspension agreement;

(5) Respondents 1, 2, 3 and 4 to produce until 29 January 2012 FC Mitos' and FC Rostov's registration applications, and, if no such registration applications exist, to comment until 29 January 2012 how G. has been registered without a paper application; and

(6) Respondents 1, 2, 3 and 4 to comment until 29 January 2012 on how the suspension of the employment agreement between FC Mitos and G. was agreed and, if documents have been signed in this regard, produce such documents”.

45. On 15 February 2012, the Appellant provided a copy of the new passport of G., issued on 14 February 2012. On 20 February 2012, Respondents 1 and 3 provided the employment contract between FC Mitos and G. dated 18 February 2011 as requested by the Appellant's evidentiary request.
46. On 24 February 2012, the Appellant requested that Exhibit R12 (report of Mr. Usachev) be considered as a witness statement rather than a party's submission.
47. On 29 February 2012, the Appellant provided the Extract from Protocol # 7 (RFPL) of the FUR Disciplinary Control Committee's hearing in which the DCC rejected the Appellant's claim and recommended that the Appellant file a claim with the DRC. On the same date, Respondents 1 and 3 submitted two versions of Player M.'s (hereinafter "M.") player's passports dated 20 April 2011 and 29 February 2012 as new evidence.
48. Having been invited by the Panel, to provide an English translation of the Disciplinary Regulations of the FUR, on 1 March 2012, Respondents 1 and 3 provided the translation of the requested articles.
49. On 2 March 2012, the Appellant submitted (i) the labour contract between FC Spartak and M. dated 31 March 2008 (ii) the agreement of cancellation of the labour contract dated 22 March 2010, (iii) the labour contract between FC Spartak and M. dated 22 March 2010 and (iv) the labour contract between FC Spartak and G. dated 31 December 2007. On the same date, Respondents 1 and 3 provided a letter from the chairman of the Regional Federation confirming that Mr. Usachev is the head of the PSC of the Regional Federation and has the authority to represent the Regional Federation.
50. On 5 March 2012, Respondents 1 and 3 provided the log of incoming and outgoing correspondence that had been requested by the Appellant's evidentiary request of 23 January 2012. None of the other documents requested by Appellant have been provided by Respondents.

V. WITNESSES' EVIDENCE

51. The oral hearing and examination of witnesses took place on 7 March 2012 at the CAS premises in Lausanne. The Panel examined Mr. Meshchanchuk, Director of Respondent 2, as a party representative for Respondent 2. The Panel also heard Mr. Lokalov, called to be heard by Appellant, and G. called to be heard by Respondents 1 and 3. Mr. Sinugin, called to be heard by Respondents 1 and 3, was not available, and was replaced by Mr. Iznairu, the legal counsel to FC Mitos, who was, in the course of the oral hearing, dropped as a witness with the agreement of all parties. Mr. Belous, who was called by Respondents 1 and 3, was not able to appear before the Panel via video- or audio-conference. All parties, therefore, explicitly waived the examination of Mr. Belous.
52. G. did not have a recollection as to the date and procedure of his registrations by FC Mitos and FC Rostov. He stated that he is not familiar with the significance of the term registration and other relevant definitions and did not know whether he was or was not able to play before 1 April 2011 because his player's certificate had not been issued or because of the registration procedure.
53. Whereas Mr. Lokalov and Mr. Margulis largely confirmed the content of their respective witness statements (cf. Annexes 17 and 18), Mr. Meshchanchuk explained the requirements of a valid registration of a player with the RFPL by default and stated that all requirements had been met. Mr. Meshchanchuk stated that he issued the player's certificate only after the DRC rendered its decision on 25 March 2011 and it was a mistake not to issue the certificates immediately. He further explained that the SOGAZ do not provide for the issuance of the player's certificate on the date of registration.

VI. LAW

A. CAS JURISDICTION

54. The jurisdiction of the CAS, which has not been disputed and has been confirmed by the signing of the Order of Procedure dated 1 March 2012, derives from Article R47 of the Code of Sport-related Arbitration (the "*CAS Code*") together with Article 46 of the Statutes of the Football Union of Russia (hereinafter "*FUR Statutes*"), according to which any appeal against a final decision of the FUR may be resolved by the CAS.
55. Article 30 of the FUR Regulations on the Status and Transfer of Players 2011, in force as of 1 May 2011 (hereinafter "*FUR RSTP*"), clearly stipulates that a decision of the DRC may be appealed to the PSC and a decision of the PSC may be appealed to the CAS. However, according to Article 33 FUR RSTP:

"1. The Regulations for the Status and Transfer of Players, approved by the FUR Executive committee on 18 December 2006 are cancelled as of the day of coming into force of these Regulation, except for the case stipulated in item 2 of this Article.

2. *Before the Dispute Resolution Regulations come into force, the resolution of disputes, that emanate from the relations, regulated by these Regulations, shall be made in accordance with Chapter XVI of the Regulations for the Status and Transfer of Players, approved by the FUR Executive Committee on 18 December 2006.*

3. *Any relations which arose before the these Regulations came into force, shall be regulated by the Regulations for the Status and Transfer of Players, approved by the FUR Executive Committee on 18 December 2006 and the Dispute resolution chamber and the Players' status committee shall resolve disputes using that edition of the Regulations".*

56. Therefore, if the current dispute had to be resolved under the FUR RSTP, edition 2006, Articles 41 para 1, 49 para 4 and 50 para 6 FUR RSTP, edition 2006 (see Exhibit R1), also provided, together with Article 46 FUR Statutes, that a decision of the DRC may be appealed to the PSC and a decision of the PSC may be appealed to CAS.

B. ADMISSIBILITY

57. The Appellant was notified of the appealed decision of the PSC on 3 June 2011 and therefore, under Article R49 CAS Code, had 21 days until 27 June 2011 to file its statement of appeal, which it did file on 7 June 2011. As the appeal was filed within the stipulated deadline and complied with all other requirements of Articles R47-R49 of the Code, it is, therefore, admissible.

C. SCOPE OF REVIEW

58. The scope of the Panel's review, which is in any event limited to the scope of the appealed decision (see CAS 2005/A/808 at para 6), is defined in Article R57 CAS Code:

"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. Upon transfer of the file, the President of the Panel shall issue directions in connection with the hearing for the examination of the parties, the witnesses and the experts, as well as for the oral arguments. He may also request communication of the file of the federation, association or sports-related body, whose decision is the subject of the appeal. Articles R44.2 and R44.3 shall apply.

After consulting the parties, the Panel may, if it deems itself to be sufficiently well informed, decide not to hold a hearing. At the hearing, the proceedings take place in camera, unless the parties agree otherwise.

If any of the parties is duly summoned yet fails to appear, the Panel may nevertheless proceed with the hearing".

59. As the Panel has the full power to review the facts and the law, this case is heard *de novo*. Indeed, it is the duty of a CAS panel in an appeals arbitration procedure to make its independent determination of whether the Appellant's and Respondent's allegations are correct on the merits rather than to limit itself to assessing the correctness of the previous procedure and decision (see CAS 2009/A/1880-1881, para. 146).

60. In this connection, the Panel has taken note of the Appellant's claim that the proceedings before the FUR justice bodies – in particular, before the DRC – violated its procedural rights. However, under the established jurisprudence of the CAS, any procedural defect of the previous disciplinary process, such as the violation of the right to be heard and to be fairly treated, is cured by virtue of the *de novo* character of the CAS arbitration proceedings and the due process rights granted therein (see CAS 2011/A/2426, para. 47; CAS 2009/A/1545, para. 78; CAS 2003/O/486, para. 50; CAS 2008/A/1594, para. 109).

D. APPLICABLE LAW

61. According to Article R58 CAS Code:

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

62. As the challenged decisions were issued by the DRC and the PSC, which are both bodies of the FUR, the Panel finds that the FUR RSTP apply. When this dispute arose, at the latest on 18 April 2011 when Appellant filed its claim to the DRC, it arose prior to the entry into force of the FUR RSTP on 1 May 2011. Therefore, according to Article 33 FUR RSTP, the 2006 edition of the FUR RSTP applies to the substance of this dispute.

63. The Panel notes that applicability of FUR rules to this case is confirmed by Article 1, para 2, of the FIFA Regulations on the Status and Transfer of Players, which specifically provide as follows:

“The transfer of players between clubs belonging to the same association is governed by specific regulations issued by the association concerned [...]”.

64. The Panel also finds that, pursuant to Article R58 of the CAS Code (*supra* at 61), Russian law is applicable on a subsidiary basis.

E. PROCEDURAL ISSUES

65. According to Article R44.1 para 2 CAS Code, after the exchange of written submissions the parties are not authorised to produce further evidence unless they mutually agreed to it or the Panel exceptionally authorised it. At the oral hearing, the Appellant and Respondents 1 and 3 explicitly accepted all late submissions by the other Parties, especially, but not exclusively, the Appellant's submission of the new Player's passport of G. by letter dated 15 February 2012, Respondent 1 and 3's submission of the new Player's passport of M. by letter dated 29 February 2012, the Appellant's submission of the Letter from the Executive Director of Respondent 2 to the President of the Appellant dated 14 April 2011 and the corresponding Extract of the Protocol #07 (RFPL) by letter dated 1 March 2012, Respondent 1 and 3's submission of a letter dated 28 February 2012 (from the vice-chairman of Respondent 4) by letter dated 2 March 2012 and Appellant's submission of (i) the labour contract between FC

Spartak and M. dated 31 March 2008 (ii) the Agreement of cancellation of the labour contract dated 22 March 2010, (iii) the labour contract between FC Spartak and M. dated 22 March 2010 and (iv) the labour contract between FC Spartak and G. dated 31 December 2007 by letter dated 2 March 2012.

66. The Parties did not raise procedural issues or objections at the oral hearing. They did not make any objections either with regard to the composition of the Panel and more generally with regard to the proceedings held until the date of the hearing. At the end of the hearing, they explicitly acknowledged that they did not have any objections as to the Panel's conduct of the proceedings including the oral hearing.

F. MERITS

67. The Appellant, ultimately, seeks the annulment of the match played against FC Rostov on 2 April 2011. Therefore, Appellant requests the Panel (i) to dismiss the decisions of the PSC dated 24 May 2011 and the DRC dated 21 April 2011, and (ii) to declare the registration of G. with FC Rostov to be invalid and annulled.
68. The Panel dismisses the Appellant's appeal. There is no sufficient evidence that the formal requirements for the registration of G., as stipulated in the Russian rules on the registration of players (see *infra* under 1), by FC Rostov with the Regional Federation (see *infra* under 2) and the RFPL (see *infra* under 3) have not been met. Likewise, the Appellant was not able to substantiate and prove that G. had been registered outside the registration period after 10 March 2011 (see *infra* under 4). Furthermore, the alleged invalidity of the transfer agreement between FC Mitos and FC Rostov (see *infra* under 5) as well as the prior registration of G. with FC Mitos (see *infra* under 6) is irrelevant for a valid registration of G. with FC Rostov.
69. As the Panel considers the registration of G. by FC Rostov to be valid, the Panel has not to decide whether the annulment of the registration shall have all the direct and indirect effects according to the FUR Regulations, including FC Rostov forfeiting the match played on 2 April 2011 against the Appellant.

1. The Russian rules on the registration of players

70. A player can only participate in official matches of the Russian Premier League after a player's certificate has been issued (Article 5 paras 1 and 2 FUR RSTP, Article 12.11 para 2 of the RFPL Russian Championship Regulations; hereinafter referred to as "SOGAZ").
71. In order to be granted the player's certificate, it is mandatory to register the player with (i) its regional federation (Art. 5.1 FUR RSTP) and with (ii) the competition organiser, in the present case the RFPL (Art. 12.6.5 SOGAZ), (iii) within the registration period.
72. The English translation of Article 5 para 1 FUR RSTP reads:

“1. A professional player as well as an amateur player wishing to participate in any competition, organized or recognized by FUR, shall be registered by a regional football federation situated on the respective territorial entity of the Russian Federation (hereunder referred to as Regional Federation) on behalf of the FUR.

On behalf of FUR the relevant Association shall register (enter) players taking part in Russian competitions carried out by this Association. The players’ registration for participating in relevant competitions is carried out on the basis of the player’s application in the form approved by FUR and the employment contract and other relevant documents from the football club. Only registered players are eligible to participate in organized football. By the act of registering a player agrees to abide by the statutes and regulations of FIFA, UEFA, FUR and the relevant Association” (cf. Exhibit R1).

73. The English translation of Article 12.6.5 SOGAZ reads:

“For each player enlisted in the forms ##3A, 3B, 3C must be submitted:

- Three originals of labour contract (labour contract in foreign language must be translated into Russian language). Parties to labour contract must sign each page and Club head’s signature on the last page must be stamped by Club’s stamp;*
- Transfer contract for the player’s transfer (two originals and one copy of contract or compensation payments, or Chamber’s decision about players transfer on the loan basis – submit three originals and one copy).*

After authenticity verification originals of transfer contract with PL marks are returned to Club representative while copy is left in PL;

- standard form application stipulated by Annex #9 for regulations FUR for the status and transfer of players in cases stipulated by Regulations FUR for the status.*
- civil passport copy authenticated with club’s stamp;*
- service record copy authenticated with club’s stamp”.*

74. The English translation of Article 12.10.2 SOGAZ reads:

“Players can be registered by form # 3C (not older than 1990 year of birth) for participation in the Championship only during registration periods except for cases stipulated by the FUR Regulations for the status”.

75. Article 12.2 SOGAZ provides that:

“The first registration period is set from January 26 through March 10 (till 24.00 Moscow time) 2011”.

76. Article 5 para 2 FUR RSTP provides that:

“Players may only be registered to participate in football competitions during one of two annual registration periods; In exceptional cases such as excluding a professional football club from the competitions or

liquidating a club professional players released from this football club have a right to be registered outside this registration period ...”.

77. The registration of G. with FC Rostov is valid if all requirements of the formal registration process, as established under Art. 5.1 FUR RSTP together with Articles 12.6.5 and 12.10.2 and 12.2 SOGAZ, are fulfilled.

2. Valid registration of G. by FC Rostov with the Regional Federation pursuant to Article 5.1 FUR RSTP

78. If the requirements stipulated in Article 5.1 FUR RSTP are met, the player is registered with the Regional Federation. Thus, no official registration with the FUR itself has to be conducted by the club. It is the Regional Federation that conducts the necessary changes in the player’s passport (Art. 5.5 para 3 FUR RSTP).

79. Accordingly, Article 5 paras. 5 and 6 FUR RSTP limits the purpose of the player’s registration with the Regional Federation to changes conducted in the player’s passport. It reads:

“5. The regional federation must have for each player registered with it the Player’s Passport in the form approved by FIFA

The Player’s Passport is kept in the Regional Federation with which this player is registered. If a player has transferred from a football club of one Regional federation to a football club of another Regional federation, then the first Regional federation shall submit to the other Regional federation the respective Player’s Passport, and its copy is sent to the player.

6. The Regional federation must register players beginning with the age of 12 years who transfer from another Regional football federation only after having received the player’s Passport and the team register [or player’s list]”.

80. The wording of Article 5.1 FUR RSTP does not clearly stipulate whether the registration of a player with the Regional Federation has to be made in writing or what set of documents has to be produced in the registration procedure. However, Respondent 4 stated that in order to register a player, the documents provided for by “Circular Letter No.01.0 of March 16 March 2009” have to be submitted and Appellant and Respondents 1 and 3 agree that the employment contract and the compensation agreement, if any, have to be provided in order to register a player with the Regional Federation or FUR. Even if Article 5 para. 1 and Article 7 FUR RSTP do not explicitly provide for the submission of the employment contract and other documents to the Regional Federation, it is undisputed between the Parties, including the registering bodies, that the contracts have to be submitted.

81. Respondents 1 and 3 allege that FC Rostov sent the employment agreement between G. and FC Rostov and the loan agreement between FC Mitos and FC Rostov to the Regional Federation in order to register G. with the Regional Federation. The Appellant did not contest the submission of these documents to the Regional Federation, but contested only their submission to the RFPL within the transfer period (see below under 3 and 4).

82. The submission of the compensation agreement between FC Mitos and FC Spartak is not a requirement for G.'s registration by FC Rostov with the Regional Federation. Furthermore, any late submission of the compensation agreement shall not prevent the Regional Federation from registering a player. According to 21 FUR RSTP:

“all disputes between the two football clubs related to the amount of the compensation for education and the deadline of its payment must not influence on the sports and professional life of a player”.

83. Any non-registration of a player based on a compensation dispute between clubs may negatively influence the player's professional life. In addition, the old club could block any valid transfer of a player if the submission of the training compensation agreement would be a prerequisite for the registration and, likewise, participation of the player in official matches. This is confirmed by Annex 4, Article 3 FIFA RSTP providing that the payment for training compensation follows the registration of the player by the new club with the new association.
84. Moreover, the registration of G. with the Regional Federation is confirmed by the fact that G. has been in possession of an electronic passport dated 20 April 2011 (cf. above at para 10). The purpose of G.'s registration with the Regional Federation, i.e. enlisting G.'s transfer in the electronic passport, has been fulfilled. The updates or changes made as regards to the documented dates (see above at para 23) do not indicate that G. had not been registered with the Regional Federation or that the application had not been handed in by 9 March 2011.

3. Valid registration of G. by FC Rostov with the RFPL pursuant to Article 5 para. 1 FUR RSTP and 12 SOGAZ

85. Article 5 para. 1 FUR RSTP, in connection with Article 12 SOGAZ, distinguishes between the registration of a club with the RFPL and the registration of a single player with the RFPL for the participation in the championship.
86. With regard to the registration of a single player, the clubs are required to submit (i) three originals of the employment contract; (ii) the transfer or loan agreement and, if any, the compensation contract; (iii) the application form (Annex No 9 FUR RSTP); (iv) a copy of the player's civil passport; and (v) a copy of the employment history book of the player certified by the club (cf. Article 12.6.5 SOGAZ). The mandatory submission of the transfer contract to the Associations is also stipulated in Article 6 para 5 FUR RSTP. It reads:

“A transfer contract and all amendments and supplements thereof shall be obligatory registered with the respective Association ...”.

87. Consequently, a player has to be registered first with the Regional Federation and thereafter with the RFPL. FC Rostov did fulfil the formal requirements of an official application to the RFPL pursuant to Article 12.6.5 SOGAZ. The Respondents allege that FC Rostov, on 10 March, 2011, the last day of the registration period, submitted the employment contract between G. and FC Rostov as well as the loan agreement between FC Mitos and FC Rostov. The Appellant does not contest that both the employment contract and the loan agreement

as well as the other documents provided for under Article 12.6.5 SOGAZ have been submitted. However, the Appellant contests the date of submission (see below under 5).

88. Indeed, Article 5 para. 2 FUR RSTP provides for the submission of the “*player’s list*” or “*player’s application*” in the form approved by the FUR. From the submitted translation of the FUR RSTP, it is not clear which document or standard form Article 5 para 2 FUR RSTP refers to. Neither of the parties has submitted such form. Even after the Panel asked the Appellant to specify its evidentiary requests, The Appellant did not establish that the application form exists and that such application has not been submitted in the registration process. When the Appellant translates the respective reference to the application form as the “*player’s list*”, it refers to Article 5 para 6 FUR RSTP and Article 12.6 SOGAZ, i.e., a list in which all players of a club shall be recorded (cf. Appeal Brief at para 8). However, such list is not to be submitted for the registration of a single player. Similarly, neither the DRC nor the PSC, in their decisions of 21 April 2011 and 24 May 2011, established that such application form has or has not been submitted.
89. As a general rule, the party which pursues a claim must discharge its burden of proof, i.e. it must meet the onus to substantiate its allegations and to affirmatively prove the facts on which it relies with respect to that issue. The CAS Code sets forth an adversarial system of arbitral justice, rather than an inquisitorial one (cf. CAS TAS 2009/A/2014 at para. 86; CAS 2009/A/1919 at para 90; CAS 2003/O/506 at para. 54). Hence, if a party wishes to establish facts and persuade the deciding body, it must actively substantiate its allegations with convincing evidence (cf. CAS 2005/A/1003 at paras 49 and 51; CAS 2003/A/506 at para 54; CAS 2008/A/1468 at para 90; and CAS 2009/A/1810-1811 at para 46). In the present case, the Appellant has the burden to establish the invalid registration of G. the Appellant, however, did not substantiate the submission of an application form to be a mandatory requirement of a valid registration with the RFPL, nor did the Appellant allege that such standard application form is required by the FUR or RFPL. As a consequence, the Panel holds that the Appellant has not established and proven that such a requirement exists under FUR RSTP and that FC Rostov failed to comply with it. The Panel has no indication that FC Rostov did not submit all documents that had to be submitted for the registration of a player with the RFPL.
90. Apart from the registration of a player according to Article 5 para. 1 FUR Regulation and Article 12.6.5 SOGAZ, every employment contract between club and player has to be registered pursuant to Article 4.6 of FUR Regulation together with Annex 4 of FUR Regulation. The club has to submit (i) three originals of the employment contract; (ii) the original of the player’s employment history book; (iii) the copy of the player’s civil passport.
91. However, this registration of the employment contract does not form part of the “*Chapter III Player Registration*” described above, which is subject to the present dispute. This is clear from Annex 4 FUR RSTP that distinguishes between “*Registration of the player’s employment contract*” and “*Registration of a player for the participation in competitions*”. Therefore, any additional registration of the employment contracts does not in any way affect G.’s registration. Hence, the Panel does not have to decide whether this registration has been made by letters dated 10 March 2012 and by the competent body (cf. Annexes 5 and 6).

92. Accordingly, it is not a prerequisite for the validity of the registration of a player, that a player's passport and/or the player's certificate has been issued. In fact, no publication is necessary for the valid registration. The registration process is a formal process which is completed when all documents have been sent to the RFPL within the registration period.
93. The issuance of the player's certificate or passport follows the valid registration of the player. This is supported by Article 5 para. 5 FUR providing that "[t]he regional federation must have for each player registered with it the Player's Passport in the form approved by FIFA" (cf. Exhibit R1) and Article 12.11 SOGAZ, according to which "each player registered for participating in the Championship shall be provided with the Player professional certificate" (cf. Appeal Brief, Annex 25).

4. Registration of G. within the transfer period

94. G. had to be registered by FC Rostov with the RFPL on 10 March 2011, the end of the registration period (Articles 12.10.2 and 12.2 SOGAZ) at the latest, as no exceptional circumstances justifying G.'s registration outside the registration period have been recorded or ordered.
95. In support of his argument, the Appellant has submitted several documents that would suggest, in its opinion, that G. had not been registered by that time, but on 1 April 2011: an article from the Russian newspaper Komsomolskaya Pravda (online version), an article from the Russian newspaper Sovetskii Sport, the information from the official website of the League apparently confirmed that G. was registered on 1 April 2011; the information from the official website of FC Rostov; the transcript of the audio record of the interview of the FC Rostov's Head Coach; an article from the Russian newspaper Sovetskii Sport; an interview of the correspondent of Sovetskii Sport and the Sports Director of the League, published in the newspaper Sovetskii Sport; an article from the online Russian newspaper www.gazeta.ru and the Witness Statement of Artem Lokalov. All documents submitted seem to refer to the registration not being in time.
96. However, Respondents 1 and 3 submitted (i) G.'s passport dated 20 April 2011 displaying 9 and 10 March as the dates of registration, (ii) the employment agreement concluded between FC Rostov and G., signed and stamped by RFPL on 10 March 2011, and (iii) the transfer contract between FC Mitos and FC Rostov, signed and stamped by the League on 10 March 2011.
97. Mr. Meschchanchuk, the responsible person for the registration of players with the RFPL, stated that he did not refuse to register G. but made a mistake by not issuing the player's certificate before 1 April 2011. Such a mistake, indeed, prevented G. from participating in official matches for FC Rostov prior to 1 April 2011 pursuant to Article 5 paras. 1 and 2 FUR RSTP and Article 12.11 para. 2 SOGAZ. However, it did not influence the registration of G. that had been carried out with the submission of the relevant documents to the RFPL, as the issuance of the player's certificate and passport is not part of the registration process (see above at 4.).

98. Furthermore, Respondents 1 and 3 persuasively argue that the respective journalists, officials, coaches and players have most probably mixed up the date of registration with the date of issuance of the player's certificate, as they were not familiar with the details of the official registration process and as the basic practical requirement for a player to be fielded is the player's certificate rather than the registration. Indeed, Mr. Meschanchuk indicated that he refused to register G. and waited for the DRC decision. However, in the same interview, he explicitly stated that FC Rostov applied during the registration period and that the application for G.'s registration had been made in due time. This indicates that the documents had, indeed, been sent to RFPL and had been stamped on 10 March 2011 but the player's certificate had not been issued. Whether Mr. Meschanchuk may have considered the issuance of the player's certificate to be part of the registration process or not, does not affect the legal validity of the registration of G.
99. By submitting the stamped documents, the Respondents sufficiently substantiated their allegation that the registration had been carried out in time. The Appellant, alleges that the documents and/or stamps on the submitted documents have been fabricated. However, the Appellant did not substantiate when, how or who allegedly fabricated the documents and did not submit any evidence to that effect.
100. The Panel, considers that the Appellant did not prove that the documents were fabricated, and gives greater evidentiary weight to the submission of those documents. A decision on the formalized procedure of registration may not be based merely on the information drawn from the media and/or interviews with players and coaches. Considering the complex Russian provisions on the registration of players and the exceptional circumstances in the present case (FC Mitos' proceeding before the DRC and PSC), the Panel is of the view that the respective journalists, officials, coaches and players mixed up the date of registration with the date of issuance of the player's certificate.

5. Irrelevance of the alleged invalidity of the transfer agreement between FC Mitos and FC Rostov

101. The validity of the registration and the player's right to participate in official matches should, in general, not be affected by the validity of the background bilateral agreements between clubs. Therefore, the registration of G. by FC Rostov does not depend on the invalidity of the transfer agreement between FC Mitos and FC Rostov.
102. This is confirmed by CAS 2005/A/808 and Article 21 FUR RSTP. In CAS 2005/A/808, the Panel decided that, irrespective of the validity of the transfers between FC Varteks and FC Internazionale Milano and FC Internazionale Milan and Club Hannover 96, the player had been registered validly with Club Hannover 96 as Club Hannover 96 had met all formal conditions of a valid registration. As a consequence, from the valid registration of the player by Club Hannover 96, the Panel derived a valid transfer to Club Hannover 96 and not *vice versa*. Hence, it is the valid formal registration by FC Rostov that establishes a valid transfer of G. to FC Rostov.

103. Furthermore, it is questionable whether the registering body, within the formal registration process, should examine the validity of the transfer of the player. As the registration process is the prerequisite for a player's participation in official matches and crucial for the player's professional life and career, the registration is a formal procedure. Otherwise, any dispute about the transfer of the player would impact on the player's interest thereby preventing his participation in official matches and, therefore, might have a negative effect on his career.
104. This general rule is reflected in Article 21 FUR RSTP providing that *"in case of authorized transfer of a professional football player and signing an employment contract with a new professional football club all disputes between the two football clubs related to the amount of the compensation for education and the deadline of its payment must not influence on the sports and professional life of a player"* (cf. Exhibit R1).
105. The Panel also notes that the transfer agreement itself is not invalid because of the alleged circumvention of the rules on training compensation. As stated in CAS 2009/A/1757, the circumvention of the rules on training compensation may give reason to oblige the new club, which benefits from the training efforts invested by the previous club, to pay a higher amount of training compensation. In CAS 2009/A/1757, the Panel ruled that *"since it is Inter that has benefited from the training efforts invested by MTK, it is also Inter that should be obliged to pay any sum of training compensation determined by the Panel"* (see at para 25). Hence, the valid transfer agreement, and the registration of the player with the new club, is the legal basis for additional training compensation. If the transfer were to be considered invalid, no compensation amount would have to be paid because no transfer would have occurred. Indeed, there seems to be evidence that a circumvention of the rules on training compensation has occurred. However, even if FC Rostov intended to circumvent the rules on training compensation, such circumvention would not negatively affect the validity of the transfer contracts and G.'s registration with the new club.
106. In summary, the registration of a player, being the prerequisite of his participation in official matches, is not affected by the validity of the transfer agreement between the clubs. Therefore, even a circumvention of the rules on training compensation would not render the transfer contracts invalid.

6. No prior registration of G. with FC Mitos necessary

107. Furthermore, whether G. had been validly registered with FC Mitos before he has been registered with FC Rostov, is not a requirement for FC Rostov's valid registration of G. According to Article 5 para 2 FIFA RSTP, a player may only be registered with one club at a time and it is this registration that makes the player eligible to participate in organised football (see above). It would cause a high level of legal uncertainty, if the registration depended on whether the player had been validly registered before by another football club. Furthermore, the Panel in CAS 2010/A/2098 decided that a transfer consists of the transfer of the right to register a player with the association or league. It is this right that is transferred but not the valid registration itself. The former club can, however, transfer its right without ever having exercised this right before.

108. Therefore, the Panel does not have to decide whether G. has been validly registered with FC Mitos before he had been transferred to FC Rostov on a loan basis.
109. As the Panel found that G. was validly registered and was thus validly fielded in the match FC Lokomotiv v. FC Rostov played on 2 April 2011, the Panel is prevented from taking into consideration the possible consequences of the annulment of the registration. In particular, as already stated (*supra* at 69), the Panel does not need to decide whether one possible consequence could be the alteration of the result of that match.

ON THESE GROUNDS

The Court of Arbitration for Sport rules:

1. The appeal filed by FC Lokomotiv Moscow against the decision of the DRC of FUR on 21 April 2011 and the decision of the PSC of FUR on 24 May 2011 is dismissed.
2. The decision of the DRC of FUR on 21 April 2011 and the decision of the PSC of FUR on 24 May 2011 are confirmed.
3. (...).
4. (...).
5. All other motions or prayers of relief are dismissed.