Arbitration CAS 2014/A/3611 Real Madrid FC v. Fédération Internationale de Football Association (FIFA), award of 27 February 2015

Sole Arbitrator: Mr Michele Bernasconi (Switzerland)

Football
Transfer of minors
Time limit to appeal a decision to the CAS and specific provisions in the regulations of the sports federations
Structure and nature of the proceedings in front of the Single Judge regarding the registration of minors
Role of a federation as a "representative" in the proceedings before the FIFA Single Judge

1. **According to Art. R49 of the CAS Code, *"the statutes or regulations of the federation, association or sports-related body concerned"* may establish a time limit for the filing of a Statement of Appeal. The CAS Code confers the power to define the deadline for the filing of a Statement of Appeal against a decision primarily to the sports organisation that renders such decision. Accordingly, Art. 67 para. 1 of the FIFA Statutes states that the time limit to file a Statement of Appeal against a decision passed by FIFA's legal bodies is 21 days upon notification of the decision in question. Furthermore, Annexe 2, Art. 9 of the FIFA RSTP establishes specific provisions with respect to the registration of a minor player. In essence, the FIFA Statutes and the FIFA RSTP not only define the time limit to file a Statement of Appeal as such, but they also define, in particular by means of Annexe 2, Art. 9 para. 2, in fine, of the FIFA RSTP, the point in time when such deadline starts running. It is within the power conferred to a sports organisation to establish a deadline for appeals against its decisions to also establish when such deadlines start running.**

2. **The ultimate aim of the proceedings in front of the Single Judge regarding the registration of minors is that a minor player may be registered with a club, but that all the actions which are taken to this effect must be executed by the federation of the club concerned. In other words, in order to achieve the legal effect of registration of a minor player with a club, actions by a federation of the respective club are required.**

3. **The role of a federation in the proceedings in front of the Single Judge bears strong similarities to that of a "representative" under Swiss law, pursuant to Art. 32 of the Swiss Code of Obligations (CO). In particular, under Swiss law, it is typical for a "principal-agent" relationship that one person, the representative, may undertake actions, which cause a legal effect for another person, the principal. The actions taken by a national federation in the context of the proceedings in front of the Single Judge bear strong similarities to actions taken by a representative (or an "agent") under Swiss law, with legal effects for the respective principal. A representative under Swiss law is legally entitled not only to actively take actions with legal effect for the represented person, but that he or she can also passively receive legal statements, to the effect that such**

statements are deemed to be legally received directly by the represented person. In consequence, a legal statement received by the national federation can, from a Swiss law perspective, be deemed to be legally received directly by the club, since the national federation acted in a way strongly similar to that of a representative in the meaning of Art. 32 para. 1 CO. In consequence, by uploading a decision onto TMS, and thus by validly notifying such decision to the national federation, the decision shall be deemed legally notified to the club.

I. PARTIES

1. Real Madrid FC ("Real Madrid" or "Appellant") is a football club with its registered office in Madrid, Spain. Real Madrid is registered with the Spanish Football Federation (*Real Federación Española de Fútbol)* (the "RFEF"), which in turn is affiliated to the Fédération Internationale de Football Association ("FIFA").

2. FIFA is the governing body of football at worldwide level, whose headquarters are located in Zurich, Switzerland. FIFA is an association incorporated under Swiss law.

II. FACTUAL AND PROCEDURAL BACKGROUND

A. Background Facts

3. Below is a summary of the main relevant facts, as established on the basis of the parties' written submissions and the evidence examined in the course of the present appeals arbitration proceedings. This background is made for the sole purpose of providing a synopsis of the matter in dispute. Additional facts may be set out, where relevant, in connection with the legal discussion.

4. On 18 October 2013, the RFEF introduced in the FIFA Transfer Matching System ("TMS") a request for approval by the FIFA Players' Status Sub-Committee for the first registration of the minor player M. (the "Player"), born on 21 January 2000, in favour of Appellant.

5. The RFEF based its request on the exception provided for in Art. 19 para. 2 lit. a) of the FIFA Regulations on the Status and Transfer of Players (the "FIFA RSTP"), which reads as follows: *"The player's parents move to the country in which the new club is located for reasons not linked to football".*

6. According to a declaration submitted by the Player's parents, the objective of the family's move to Spain should serve *"the interest of the family to examine new prospects of the family business, with a special interest for the community of Madrid".*

7. The RFEF annexed to its request as *"Employment contract of the parents"* a documentation of enterprises domiciled in Barquisimeto, State of Lara, Venezuela. Equally, the RFEF attached

account statements made by the Bank of Venezuela and the Banco Bicentenario, both domiciled in Venezuela.

8. As a working permit, the RFEF submitted copies of the residential permits of the Player and his parents, issued on 24 May 2013, with a note on the backside, mentioning *"TEMPORARY INITIAL, DOES NOT AUTHORIZE TO WORK" ("TEMPORAL INICIAL, NO AUTORIZA A TRABAJAR").* Furthermore, a letter of 2 October 2013 to the RFEF was annexed, in which the father of the Player stated to have submitted documentation to the Spanish Consulate in Venezuela to obtain a *"visado no lucrativo"* (i.e. a *"non profit visa")* to legally reside in Spain.

9. According to the residence certificate, issued by the administration of Moraleja de Enmedio, Spain, the Player resides there since 5 February 2013 and his parents since 11 March 2013.

B. The Decision of the Single Judge of the FIFA Players' Status Sub-Committee

10. On 1 November 2013, the Single Judge of the FIFA Players' Status Sub-Committee (the "Single Judge") rejected the request submitted by the RFEF, in the name of Appellant, for registration of the Player with Appellant.

11. In his reasoning, the Single Judge observed that the documentation submitted as *"Employment contract"* made reference to enterprises incorporated and domiciled in Venezuela and that also the bank account statements were issued by banks domiciled in Venezuela. Furthermore, the Single Judge noted that no document had been presented, which would confirm that the Player's parents were about to examine the market to consider future investments in Spain. The Single Judge also observed that contrary to the statements of the Player's father about his motivation to move to Spain, the letter submitted to the RFEF of 2 October 2013 indicated that documentation had been submitted to the Spanish Consulate in Venezuela in order to obtain a *"visado no lucrativo"* to reside in Spain, and that the residence permits indicated that no authorization had been given to enter into employment.

12. Finally, the Single Judge noted that according to the residence certificate, the Player resided in Spain since 5 February 2013, while the parents of the Player resided there since 11 March 2013 only. Accordingly, the Single Judge observed that the Player moved to Spain one month before his parent's move, which, in combination with the above, in the Single Judge's opinion caused serious doubts whether the parents' move to Spain was not indeed based on Appellant's interest in the Player and his skills.

13. In view of all of the above, taking also into account that the Player's parents apparently do not have employment relationships in Spain nor a residence permit which would allow them to do so, the Single Judge concluded that serious doubts existed as to whether the parents' move to Spain was not linked to football.

14. Therefore, by means of a decision taken on 1 November 2013 (the "Appealed Decision"), the Single Judge decided to reject the request made by the RFEF, in the name of Appellant, for the first registration of the Player with Appellant.

15. The Appealed Decision was uploaded, in its motivated version, onto TMS on 30 April 2014. On 5 May 2014, it was forwarded by the RFEF to the Federación de Fútbol de Madrid. It is undisputed that the Appealed Decision was forwarded on the same day also to Appellant.

III. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT

16. On 26 May 2014, Appellant submitted a Statement of Appeal to the Court of Arbitration for Sport ("CAS") and requested that the case be adjudicated by a Sole Arbitrator. Appellant suggested Mr. Michele A.R. Bernasconi as Sole Arbitrator. Furthermore, Appellant requested that the proceedings in front of the CAS be conducted in Spanish.

17. By letter dated 30 May 2014, Respondent stated that it does not agree that the proceedings be conducted in Spanish. Accordingly, the CAS Court Office informed the parties, by letter dated 30 May 2014, that pursuant to Art. R29 of the Code of Sports-related Arbitration (the "CAS Code"), the language of the proceedings shall be English.

18. By letter dated 2 June 2014, Respondent informed the CAS Court Office that it does not have any objection to the nomination of Mr. Michele A.R. Bernasconi as Sole Arbitrator.

19. By letter dated 2 June 2014, Appellant requested an extension of its time limit to file the Appeal Brief of five days, referring to the necessity of considerable translation work. Such extension was granted by means of a letter of the CAS Court Office of 3 June 2014. By letter dated 9 June 2014, Appellant requested another extension of the time limit to file its Appeal Brief, which was granted by means of a letter of the CAS Court Office of 16 June 2014.

20. On 18 June 2014, Appellant filed its Appeal Brief with CAS, together with various Exhibits, numbered from 1 to 18.

21. By letter of 23 June 2014, Respondent requested an extension of the time limit to file its Answer to the Appeal, which was granted by letter of the CAS Court Office of 25 June 2014.

22. By letter of 24 June 2014, the CAS Court Office informed the parties that the Panel had been constituted as follows: Mr Michele A.R. Bernasconi as Sole Arbitrator.

23. On 4 August 2014, Respondent filed its Answer to the Appeal, accompanied by six Exhibits.

24. Upon being invited to do so by the CAS Court Office, Appellant expressed, by letter dated 11 August 2014, its preference for a hearing to be held in these proceedings, *"subject to the Sole Arbitrator's decision",* whereas Respondent, by letter dated 12 August 2014, stated that it is of the opinion that the holding of a hearing is not necessary.

25. By letter dated 13 August 2014, Appellant was invited to file an additional written submission to comment on the Prayers for Relief 1, 2 and 3 of Respondent and the respective arguments raised by Respondent in the latter's Answer to the Appeal. By letter of the CAS Court Office of 15 August 2014, Appellant was granted an extension of the deadline to file such comments.

26. On 12 September 2014, Appellant filed its additional submission.

27. On 30 September 2014, Respondent requested an extension of its deadline to file its Response to Appellant's latest submission. Such extension was granted by letter of the CAS Court Office of 1 October 2014.

28. On 3 October 2014, Respondent filed its written comments to Appellant's submission of 12 September 2014.

29. By letter dated 13 November 2014, the Sole Arbitrator informed the parties that he considers himself sufficiently well-informed and that, in accordance with Art. R57 of the CAS Code, he decided not to hold a hearing but to render a decision in the present matter on the basis of the written submissions.

30. Neither Party filed a comment to the aforementioned letter of the Sole Arbitrator.

31. The Order of Procedure of these proceedings was signed by Appellant on 26 November 2014 and, respectively, by Respondent on 2 December 2014.

IV. SUBMISSIONS OF THE PARTIES

32. Appellant's submissions in its Appeal Brief, in essence, may be summarised as follows:

- On 5 May 2014, the RFEF had sent the Appealed Decision to Appellant, in which the request for first registration of the Player was refused.

- The motivation of the Player's parents to move to Madrid was based on the fact that the circumstances of life in Venezuela had become more and more difficult, and that the situation had become worse and worse since 2011, with a corrupt judicial power and a non-working legislative body, no freedom of media, no security and a lack of Human Rights. This is supported by Human Rights Reports on Venezuela of the past years.

- Any parent would want a child to grow up somewhere else than in Venezuela. In addition, the Player's father had received different threats and was suffering possible extortion or blackmail. Therefore, the parents decided to make the move to Spain.

- The Player's parents preferred Europe for reasons of stability and, more particularly, Spain for language reasons and quality of life.

- The whole family travelled to Spain in May 2012, i.e. long before any contact with Appellant. Once the family had visited Madrid, the whole family knew that they wanted to live there.

- The Player had been playing football for as long as he can remember. Since he was five years old, he played in *"Academia Barquisimeto",* in his hometown.

- Since the Player was a football fan and played very well, he had joined the national team of Venezuela. In addition, because the family of the Player had decided to move to Spain, the Player's father organized some friendly matches in Spain. In connection with these friendly matches, the family got into contact with Mr Coira. With the family's permission, Mr Coira got in touch with Mr Roberto Martínez, who works for Appellant.

- Through this contact, try-outs of the Player with Appellant were organized. On 19 June 2013, Appellant decided to invite the Player to a try-out.

- Since the Player performed very well, and since Appellant was then informed that the Player's family would move to Madrid, Appellant informed the Player that he would be welcome to play with Appellant. However, a warning was given to the Player that this would only be possible if FIFA allows the Player's registration, which could take considerable time. Still, the family of the Player decided to stay in Madrid because the reason for their move was not linked to football.

- In the course of the year 2013, the Player participated in several non-official tournaments. In the meantime, the Player's family was establishing in Spain as regular families do.

- The financial situation of the family was *"rather healthy",* enabling them to buy a house and a car. This was supported by documentation, proving the sound financial situation, especially of the father of the Player. The family's financial situation enabled the family to apply for a *"resident visa without permission to work"*.

- On this basis, the family had no need for the Player to be a *"great football star"* in order to gain a comfortable living status, because they already had such status. This further corroborates that the reasons for the family's move were not linked to football.

- With regard to the exception stipulated in Art. 19 para. 2 lit. a) of the FIFA RSTP, especially when enforcing this article, one must be very cautious, since the possibility of a child to grow in the most beneficial environment is at stake. When applying said provision, the *"test"* must thus be to assess the true intention and motivation of the Player's parents.

- In this respect, Appellant reiterated that the decision to move to Spain was taken long before the Player even knew that he could participate in any football team. Moreover, the family knew that the Player could only play with Appellant once this would be allowed by FIFA. Since such permission is still pending, the Player is still waiting for a decision, but he has not made a single move to leave Spain. This fact again supports that the move to Spain was not linked to football.

- Appellant further referred to the decision 2013/A/3140 and held that, as in the present proceedings, also in the referred case the decision of a family to move to another country was not linked to football.

- The family of the Player decided to stay in Madrid no matter the outcome of these proceedings. Neither FIFA nor CAS should be entitled to punish a 14 years old boy because the parents did not have enough exhibits to convince FIFA that leaving Venezuela was not linked to football. FIFA is not entitled to have an opinion on how a family should move to another country, so that a child would be allowed to get in contact with a football club.

- In this respect, Appellant also invoked international Conventions and Declarations on the Rights of the Child, and Appellant emphasized that laws must always be interpreted in favor of the children, aiming at the childrens' best interest.

- In conclusion, Appellant submitted the following Requests for Relief:

  1) to annul the appealed decision;

  2) to declare that the Player may be registered with REAL MADRID.

  3) To decide that the costs of arbitration and those imposed in the Single Judge's decision are to be entirely born by FIFA, including a contribution towards the apellant's [sic] *legal fees and other expenses incurred in connection with the proceedings and, in particular, the costs of witnesses of no less than 15.000,- €.*

33. Respondent's Answer to the Appeal, in essence, can be summarised as follows:

- The only possible starting point to establish whether the applicable time limit to file a Statement of Appeal has been respected is the date, on which the Appealed Decision in its motivated version was formally and correctly notified to the party concerned (in casu, the RFEF, being the sole party involved in the procedure conducted in front of the Single Judge).

- According to Annexe 2, Art. 9 para. 2 of the FIFA RSTP, notification of a decision shall be deemed complete once the decision has been uploaded onto TMS.

- In consequence, the Appealed Decision has been formally and correctly notified to the RFEF on 30 April 2014. Thus, the deadline to submit a Statement of Appeal elapsed on 21 May 2014, pursuant to Art. 63 para. 1 (recte: Art. 67 para. 1) of the FIFA Statutes, in conjunction with Art. R49 of the CAS Code. However, the Statement of Appeal in these proceedings was filed on 26 May 2014 only and therefore outside the applicable time limit. It is therefore not admissible.

- In particular, the Sole Arbitrator should consider the untenable legal insecurity, which would be created if the present Appeal were to be considered to have been lodged in a timely manner.

- For the event that the Appeal was considered admissible, Respondent submitted the following arguments:

- On 18 October 2013, the RFEF, at the request of Appellant, submitted an application for approval of a "first registration" of the Player, i.e. it had been indicated that the Player had never been registered for another club before. In such circumstances (i.e. in case of a "first registration"), no International Transfer Certificate ("ITC") is needed, and the former association of the Player is not requested to provide its position regarding the envisaged registration.

- However, in point 8 of the Appeal Brief, it is stated that the Player had previously played with the Venezuelan club Academia Barquisimeto. Therefore, rather an application for an "international transfer" than an application for a "first registration" should have been submitted.

- Furthermore, the argumentation now brought forward by Appellant is entirely different from the arguments raised in front of the Single Judge. Therefore, by not contesting the reasoning of the Single Judge and by instead bringing forward a new line of argumentation, Appellant had accepted the Single Judge's decision and now has the intention to request approval for the Player's registration on a completely new basis. In such circumstances, not all remedies have been exhausted prior to the present Appeal proceedings, and the Appeal should thus again be deemed inadmissible.

- In addition, Appellant has no legal interest to bring the present Appeal before CAS, because it does not suffer any effects of its own, let alone prejudice, due to the Appealed Decision. Appellant's argumentation is entirely based on the situation of the Player and the alleged adverse effects on him. Appellant cannot take the place of the Player and invoke his possible/presumable argumentation. Furthermore, Appellant has not been a party to the proceedings in front of the Single Judge.

- With regard to the substance of the matter, Respondent outlined the reasoning behind the Regulations governing international transfers of minors and held that ever since October 2009, such regulations have been applied in a strict manner. The exceptions provided in Art. 19 para. 2 of the FIFA RSTP are, in principle, to be considered as exhaustive. Only by this approach, abuses of the past with regard to the international transfer of minors can be prevented. This has been confirmed by CAS on various occasions.

- With specific regard to the reasons brought forward by the Player's parents for their move to Spain, Respondent reiterated that Appellant completely changed its respective argumentation, compared to the proceedings in front of the Single Judge.

- It is telling that upon receiving the motivated decision of the Single Judge, Appellant now states that the reasons for the move are in fact completely different: While originally the family of the Player was apparently moving for reasons relating to the family business, Appellant now has gone to great lengths to demonstrate that in fact the family has *"more than enough means for living"* in Spain without work.

- On this basis, these new reasons and arguments should be completely disregarded, and therefore the entire premise of the Appeal rejected.

- However, even if such arguments had been considered already by the Single Judge, the outcome of the decision would have still been the same.

- In particular, this is corroborated by the sequence of events, as described in the Appeal Brief, notably that in the year prior to the family's move to Spain, the Player had (i) visited Spain to compete in friendly matches, (ii) taken part in try-outs with the Appellant, and (iii) then been informed that he was good enough to join Appellant. During this time, the family had also been in contract with a person involved in the development of young players and in bringing them to big professional clubs.

- These facts demonstrate that the Player had been showcased to Spanish clubs in friendly matches, directly assessed by Appellant and eventually been accepted into Appellant's youth team long before the Player's family moved to Spain. It is therefore clear, and entirely confirmed by the statements of Appellant, that the Single Judge's doubts were well placed. Since the Player's parents clearly took into account the opportunity given to the player, the Appeal should be rejected and the Single Judge's decision confirmed in its entirety.

- While acknowledging that Venezuela, as a country, was facing difficulties, Respondent also held that with all the alleged fear for the safety of the family and possible threats, the family still took the time to send the Player to Spain on various occasions to be showcased. The alleged moving away from the dangers in Venezuela, if at all, therefore clearly took second place to finding a top club for the Player.

- Respondent also rejected the argument that the Player would be denied any opportunity to play football until authorization by FIFA. Rather, the facts outlined in the Appeal Brief demonstrate that the Player has in fact been playing a lot, even after the rejection by the Single Judge was received.

- In addition, Respondent submitted further information obtained from internet and media sources, which allegedly confirms that the move of the Player's family to Spain was entirely connected to the Player's football career, specifically with Appellant. In this respect, Respondent emphasised that Mr. Miguel Coira, as referenced by Appellant, runs a football academy designed to turn talented young players into football stars as well as "football clinics" in Venezuela. Moreover, the Player appears in various promotional videos of said football academy, mentioning his try-outs and his move to Appellant.

- Consequently, the Player was actively pursuing a move to a big football club, particularly to Appellant. The family then followed suit and moved to Spain to accommodate him. In this context, Respondent particularly referred to an interview, in which the Player confirmed this assessment.

- On the basis of all of the above, Respondent submitted the following Requests for Relief:

  1. Primarily, to declare the present appeal inadmissible.

  2. Subsidiarily, to examine whether the present appeal may be addressed as the Appellant's current request and legal arguments have not been presented to the relevant first instance decision-making body. In the negative, the present procedure should be withdrawn.

  3. Additionally, to examine whether the Appellant indeed has a legitimate legal interest to bring this appeal before CAS. In the negative, the present procedure should be withdrawn.

  4. Alternatively to reject the present appeal against the decision passed by the Single Judge of the Players' Status Sub-Committee (…) on 1 November 2013 and to confirm the relevant decision in its entirety.

  5. In any case, to order the Appellant to cover all the costs incurred with the present procedure.

  6. In any case, to order the Appellant to bear all legal expenses of the Respondent related to the procedure at hand.

34. Appellant's additional submission, filed on 12 September 2014 upon the Sole Arbitrator's request, in essence, may be summarised as follows:

- It is not correct that the decision was notified to the party in these proceedings via TMS. Appellant argued that it (i.e. Appellant) is, and always has been, the relevant party to these proceedings. Therefore, only on 5 May 2014, the Appealed Decision was notified to Appellant. In compliance with the CAS Code, the relevant deadline thus elapsed 21 days after this date, and Appellant's Statement of Appeal was thus filed in a timely manner.

- The Player had indeed played football before his move to Spain, but without being registered for FIFA purposes, as many other children do around the world. CAS should request disclosure of the relevant player passport, which would confirm the aforementioned statement.

- Respondent, as the deciding body of first instance, should have automatically sent the whole case file to CAS, and only because FIFA did not do so, some aspects of this case have so far not been clarified or left unclear.

- Appellant did submit the same reasoning from the beginning. In particular, in the proceedings in front of the Single Judge, Appellant's administration had only given to Respondent what Appellant asked for by Respondent, and it can thus not be reproached to Appellant to now bring forward additional arguments.

- Appellant does have a legal interest in this matter, since it is appealing a decision that forbids the Player to play for Appellant.

35. Respondent's comments, filed on 3 October 2014 in response to the aforementioned submission, in essence, can be summarised as follows:

- Respondent reiterated its Request for Relief that Appellant's Statement of Appeal was lodged late, since the relevant deadline started to run immediately upon the Appealed Decision having been uploaded onto TMS, as stated in Annexe 2, Art. 9 para. 2 of the FIFA RSTP.

- With regard to Respondent's second Request for Relief, Respondent held that Appellant did not provide any convincing argument that would lead to a different conclusion than expressed in Respondent's Answer to the Appeal. In particular, the argumentation brought forward by Appellant is completely different from the reasoning based on which the Appellant had sought approval of the Player's registration in front of the Single Judge. Therefore, such new argumentation would have first had to be examined by the competent deciding body at first instance.

- Moreover, Respondent reiterated that the proceedings in front of the Single Judge had been formally incorrect, since it must be assumed that the Player had indeed already been registered with a club in Venezuela.

- Finally, Respondent also adhered to its third Request for Relief, since in Respondent's view, Appellant has no legal interest to bring the present Appeal before CAS.

V. JURISDICTION

36. Appellant relies on Art. 67 para. 1 of the FIFA Statutes as conferring jurisdiction on the CAS. The jurisdiction of the CAS is not contested by Respondent, and it has been confirmed by the parties' signing of the Order of Procedure.

37. Therefore, the Sole Arbitrator considers that CAS is competent to rule on this case.

VI. APPLICABLE LAW

38. Article R58 of the CAS Code reads as follows:

"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".

39. Art. 66 para. 2 of the FIFA Statutes reads as follows:

"The provisions of the CAS Code of Sports-related Arbitration shall apply to the proceedings. CAS shall primarily apply the various regulations of FIFA and, additionally, Swiss law".

40. Therefore, the Sole Arbitrator considers that the present dispute shall be resolved on the basis of the applicable FIFA Regulations and, additionally, based on Swiss Law.

VII. ADMISSIBILITY

41. In view of Respondent's Request for Relief No. 1, the Sole Arbitrator must first address the question of admissibility of the present Appeal. In particular, the Sole Arbitrator must decide whether the deadline, as set out in Art. 67 para. 1 of the FIFA Statutes, in conjunction with Art. R49 of the CAS Code, has been met.

42. In this respect, the Sole Arbitrator acknowledged that it has remained undisputed that the Appealed Decision has been uploaded onto TMS on 30 April 2014 and that it has been communicated via fax to Appellant on 5 May 2014. Likewise, the Sole Arbitrator noted that it is not disputed between the parties that the Statement of Appeal has been filed with CAS on 26 May 2014.

43. In consequence, the Sole Arbitrator must assess at which precise point in time the deadline to file a Statement of Appeal against a decision of the Single Judge of the FIFA Players' Status Sub-Committee concerning the registration of a minor player starts to run.

44. In this respect, the Sole Arbitrator recalled that according to Art. R49 of the CAS Code, *"the statutes or regulations of the federation, association or sports-related body concerned"* may establish a time limit for the filing of a Statement of Appeal.

45. In other words, the CAS Code confers the power to define the deadline for the filing of a Statement of Appeal against a decision primarily to the sports organisation that renders such decision (cf. CAS 2008/A/1708).

46. Accordingly, Art. 67 para. 1 of the FIFA Statutes states that the time limit to file a Statement of Appeal against a decision passed by FIFA's legal bodies is 21 days upon notification of the decision in question.

47. Furthermore, Annexe 2, Art. 9 of the FIFA RSTP establishes the following with respect to an Appeal against a decision rendered by the Single Judge of the FIFA Players' Status Sub-Committee concerning the registration of a minor player:

"1. The association(s) concerned shall be legally notified of the sub-committee's decision via TMS. Notification will be deemed complete once the decision has been uploaded into TMS. Such notification of decisions shall be legally binding.

2. The association(s) concerned will be notified of the findings of the decision. At the same time, the association(s) shall be informed that they have ten days from notification in which to request, in writing via TMS, the grounds of the decision, and that failure to do so will result in the decision becoming final and binding. If an association requests the grounds of the decision, the motivated decision will be notified to the association(s) in full, written form via TMS. The time limit to lodge an appeal begins upon such notification of the motivated decision".

48. In other words, the applicable Regulations (i.e. the FIFA Statutes and the FIFA RSTP) not only define the time limit to file a Statement of Appeal as such, but they also define, in particular by means of Annexe 2, Art. 9 para. 2, *in fine,* of the FIFA RSTP, the point in time when such deadline starts running.

49. It is the Sole Arbitrators view that it is within the power conferred to a sports organisation to establish a deadline for appeals against its decisions to also establish when such deadlines start running. On this basis, the Sole Arbitrator is satisfied that the Appealed Decision was indeed notified (in the meaning of Art. 67 para. 1 of the FIFA Statutes, in conjunction with Art. R49 of the CAS Code) on 30 April 2014, and that the applicable deadline to file a Statement of Appeal with CAS against such decision therefore started running on 1 May 2014, pursuant to Art. R32 para. 1 of the CAS Code.

50. Accordingly, the time limit to file a Statement of Appeal against the Appealed Decision elapsed on 21 May 2014. Appellant's Statement of Appeal, filed with CAS on 26 May 2014, was therefore filed outside the applicable deadline.

51. In the Sole Arbitrator's view, this assessment is further corroborated by the following considerations based on FIFA rules and on Swiss law.

52. First, one shall consider the structure and nature of the proceedings in front of the Single Judge regarding the registration of minors: the ultimate aim of these proceedings is that a minor player may be registered with a club (*in casu* the Appellant), but that all the actions which are taken to this effect must be executed by the federation of the club concerned (*in casu* the RFEF). In other words, in order to achieve the legal effect of registration of a minor player with a club, actions by a federation of the respective club are required.

53. Second, in the Sole Arbitrator's assessment, such procedural setting, in particular the role of a federation in the proceedings in front of the Single Judge, bears strong similarities to that of a "representative" ("représentant", "Stellvertreter", "rappresentante") under Swiss law, pursuant to Art. 32 of the Swiss Code of Obligations (CO). In particular, under Swiss law, it is typical for a "principal-agent" relationship that one person, the representative, may undertake actions, which cause a legal effect for another person, the principal (cf. WATTER R., in: Basler Kommentar, Obligationenrecht I, Basel 2012, N 1 ad Art. 32 CO).

54. In this respect, one shall also note that under Swiss law, it is possible that one person takes actions with legal effect for another person not only in legal transactions *stricto sensu,* but also in *quasi*-contractual relationships or *quasi*-legal transactions (so-called "rechtsgeschäftsähnliche Handlungen"; see WATTER R., in: Basler Kommentar, Obligationenrecht I, Basel 2012, N 1 ad Art. 32 CO).

55. In view of the above, it is the Sole Arbitrator's view that the actions taken by the RFEF in the context of the proceedings in front of the Single Judge bear strong similarities to actions taken by a representative (or an "agent") under Swiss law (*in casu* the RFEF), with legal effects for the respective principal (*in casu* the Appellant).

56. The Sole Arbitrator considers that this view is confirmed, on the one hand, by a statement of Appellant in its submission of 12 September 2014, in which Appellant stated that *"The party in this case is (and always has been) Real Madrid Club de Fútbol (…)",* i.e. that the actions taken by the RFEF in the proceedings in front of the Single Judge were, legally speaking, actions which the RFEF took on behalf of Appellant.

57. On the other hand, it is also corroborated by the wording of the Appealed Decision, which expressly states in its para. III. that the request of the RFEF *"in the name of its affiliated club Real Madrid CF" ("en nombre de su club afiliado Real Madrid CF")* for approval of the first registration of the Player was rejected, i.e. that the RFEF indeed acted on behalf of Appellant.

58. Finally, the above assessment is confirmed by evidence submitted, according to which has remained undisputed that the decision of the Single Judge, without grounds, was indeed notified by FIFA by uploading it onto TMS on 1 November 2013 and that within a 10-day deadline as from such uploading, the grounds of such decision were requested. Moreover, from the evidence submitted, the Sole Arbitrator noted that the request for a motivation of the respective decision was submitted directly by the RFEF, and not by Appellant.

59. In the Sole Arbitrator's view, this further displays that (i) already in previous stages of the proceedings, uploading a decision onto TMS served as notification of such decision and that (ii) relevant procedural steps in the proceedings before the Single Judge were already previously taken directly by the RFEF for the benefit of, and with legal effects for, Appellant.

60. The Sole Arbitrator further considered that a representative under Swiss law is legally entitled not only to actively take actions with legal effect for the represented person, but that he or she can also passively receive legal statements, to the effect that such statements are deemed to be legally received directly by the represented person (ZÄCH R., Berner Kommentar, Obligationenrecht, Stellvertretung, Art. 32-40 OR, Zürich/New Haven 2014, Vorbemerkungen zu Art. 32-40, N 3).

61. In consequence, a legal statement received by the RFEF can, from a Swiss law perspective, be deemed to be legally received directly by Appellant, since the RFEF acted in a way strongly similar to that of a representative in the meaning of Art. 32 para. 1 CO. In other words: Just as much as the RFEF was indeed able take the necessary steps in front of the Single Judge to

seek the registration of the Player for Appellant, the respective decision of the Single Judge could be notified to the RFEF for the attention of Appellant.

62. In consequence, also when applying principles of Swiss Law in connection with the role of the RFEF, the Sole Arbitrator is of the view that by uploading the Appealed Decision onto TMS, and thus by validly notifying such decision to the RFEF, the Appealed Decision shall be deemed legally notified to Appellant.

63. As an overall consequence, on the basis of both Annexe 2, Art. 9 para. 2 of the FIFA RSTP, in conjunction with Art. 67 para. 1 of the FIFA Statutes and Art. R49 of the CAS Code, and taking into account general principles of the Swiss Code of Obligations, the Appealed Decision was indeed notified to Appellant on 30 April 2014.

64. Therefore, the Statement of Appeal filed with CAS by Appellant on 26 May 2014 was filed outside the applicable time limit pursuant to Art. 67 para. 1 of the FIFA Statutes, in conjunction with Art. R49 of the CAS Code, since such time limit elapsed on 21 May 2014 already.

65. It follows that the Appeal of Appellant lacks timeliness, and it is thus inadmissible.

66. In consequence, the Sole Arbitrator does not need to address the further arguments and the further Requests for Relief submitted by the parties.

ON THESE GROUNDS

The Court of Arbitration for Sport rules:

1. The appeal filed on 26 May 2014 by Real Madrid FC against the Decision issued on 1 November 2013 by the Single Judge of the Players' Status Sub-Committee of the Fédération Internationale de Football Association is inadmissible.

2. (…).

3. (…).